

Overview of Pending Anti-Trust Litigation Against Google et al

Disclaimer: The information contained in this presentation is for educational purposes only and does not, and is not intended to, provide legal advice or take a position as to the strength or deficiencies of the various cases discussed.

Litigation Overview

A. Digital Advertising Practices At Issue

1. Search Advertising – Ads linked to a word or phrase triggered when a consumer actively initiates an online search.
2. Display Advertising – Ads embedded in online sites including banners, images, and videos that are displayed without a directly expressed interest in that product or service.

B. Cases

1. Government-Initiated Litigation
2. Publisher Class Actions
3. Advertiser Class Action
4. Individual Publisher Case

Government-Initiated Litigation

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U.S. Department of Justice et al v. Google LLC

Case No. 20-cv-03010 in the U.S. District Court for the District of Columbia

- **Case Filed:** 10/20/20
- **Plaintiffs:** U.S. DOJ and 11 State Attorneys General from Arkansas, Florida, Georgia, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Montana, South Carolina, and Texas.
- **Defendant:** Google LLC
- **Practice At Issue:** Alleges anti-competitive and exclusionary practices in **search, search advertising, and general search text advertising markets.**
- **Status:** Discovery has begun and the case is set for a **September 2023** trial.
- **Relief Sought:** Prospective injunctive relief to eliminate alleged monopolies.

Government-Initiated Litigation

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State of Colorado et al v. Google LLC

Case No. 20-cv-03715 in the U.S. District Court for the District of Columbia

- **Case Filed:** 12/17/20
- **Plaintiffs:** 38 States including Colorado, Nebraska, Arizona, Iowa, New York, North Carolina, Tennessee, Utah, Alaska, Connecticut, Delaware, District of Columbia, Territory of Guam, Hawaii, Idaho, Illinois, Kansas, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Dakota, Vermont, Virginia, Washington, West Virginia, and Wyoming.
- **Defendant:** Google LLC
- **Practices At Issue:** Alleges three forms of anti-competitive behavior to maintain Google's **search and search advertising** monopolies: (1) deals with competitors like Apple to keep it as a default search engine, (2) using its dominant search ad marketing tool to thwart competitors in its marketplace, and (3) disadvantaging search results for rivals who operate more specialized search platforms like those for travel or restaurants.
- **Status:** Consolidated with U.S. DOJ suit 20-cv-3010 on **January 7, 2021**.
- **Relief Sought:** Prospective injunctive relief to eliminate alleged monopolies, as well as “any relief” needed to cure any anti-competitive harms.

Government-Initiated Litigation

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State of Texas et al v. Google LLC

Case No. 20-cv-00957 in the U.S. District Court for the Eastern District of Texas, Sherman Division

- **Case Filed:** 12/16/20
- **Plaintiffs:** 10 State Attorneys General from Texas, Arkansas, Idaho, Indiana, Kentucky, Mississippi, Missouri, North Dakota, South Dakota, and Utah.
- **Defendant:** Google LLC
- **Practice At Issue:** Alleges anti-competitive conduct and manipulation of the **display advertising market**, focusing on the ads displayed on third-party sites. The alleged anti-competitive tactics include tying its ad server and buying tools together: Google requires publishers to license its ad server and trade on its exchange in order to receive bids from advertisers using its buying tool.
- **Status:** Google filed its Answer on **February 22, 2021**.
- **Relief Sought:** (1) Affirmative injunctive relief, to restrain the anti-competitive actions alleged, (2) civil fines and penalties pursuant to various state laws, and (3) “monetary damages.”

Publisher Class Actions



Sweepstakes Today, LLC et al v. Google LLC et al

Case No. 20-cv-08984 in the U.S. District Court for the Northern District of California, San Francisco Division

- **Case Filed:** 12/15/20
- **Plaintiff:** Sweepstakes Today LLC, an online publisher, individually and on behalf of all others similarly situated. Represented by Robbins Geller Rudman & Dowd LLP et al.
- **Defendants:** Google LLC, Alphabet Inc., and Youtube, LLC
- **Practices At Issue:** Alleges anti-competitive conduct and manipulation of **display and search advertising** within the online advertising market, including (1) designing auctions to weaken competitive sources and advantage itself; (2) manipulative and technological blocking, exclusion, and downgrading; (3) denial of interoperability and purposeful incompatibility; (4) cross-subsidizing various functions of the Ad Tech Stack and predatory pricing; (5) unilateral setting and altering of technological standards; (6) using Google's significant data advantage to disadvantage competitors; (7) illegal tying and bundling of services; (8) Google affirmatively interfering with competitors using data harvested from its monopolies; (9) preferential treatment of Google products and services; (10) exclusive dealing and anti-competitive contracts; and (11) manipulation of the patent process.
- **Status:** Case Management Conference set for **April 8, 2021**. An Order to Show Cause Why Related Publisher Cases Should Not Be Consolidated signed by Judge Freeman on **March 2, 2021**.
- **Relief Sought:** (1) Class certification of plaintiffs on behalf of all persons and entities who sold digital advertising space; (2) Injunctive relief; (3) Award of monetary damages, including treble damages and punitive damages.

Publisher Class Actions

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Genius Media Group, Inc. et al v. Alphabet Inc. et al

Case No. 20-cv-09092 in the U.S. District Court for the Northern District of California, San Jose Division

- **Case Filed:** 12/16/20
- **Plaintiffs:** Genius Media Group, Inc., a digital media company that maintains a repository of music lyrics; The Nation Company, L.P., the owner of a weekly magazine and customer of Google's advertising products; and The Progressive, Inc., an online magazine and customer of Google's advertising products. Represented by Korein Tillery LLC and Boies Schiller Flexner LLP.
- **Defendants:** Alphabet Inc., Google LLC, and Youtube, LLC.
- **Practices At Issue:** Alleges anti-competitive conduct in the **display and search advertising marketplace**, including: (1) manipulative and unfair bidding processes, (2) raising the costs for rivals to tax its competition, (3) bundling products to raise barriers to entry, (4) excluding rivals under the guise of policing malicious code, and (5) using its ad server to impose rate structures that raise rivals' costs.
- **Status:** Motion Hearing set for **April 1, 2021** to rule on consolidation Order and potentially appoint lead counsel.
- **Relief Sought:** (1) Class certification of persons receiving revenue from Google using either Google's Ad Exchange Services or Ad Network Services; (2) Injunctive relief; (3) Award of monetary damages, including treble damages and punitive damages.

Four Additional California-Based Publisher Cases

- *Sterling International Consulting Group v. Google LLC*, No. 5:20-cv-09321-BLF
- *Astarita v. Google LLC, et al.*, No. 5:21-cv-00022-BLF
- *JLaSalle Enterprises LLC v. Google LLC*, No. 5:21-cv-00748-BLF
- *Mikula Web Solutions, Inc. v. Google LLC*, No. 5:21-cv-00810-BLF

Advertiser Class Action



In re Google Digital Advertising Antitrust Litigation

Case No. 20-cv-03556 in the U.S. District Court for the Northern District of California, San Jose Division

- **Case Filed:** 5/27/20; Amended Complaint Filed 9/25/20
- **Plaintiffs:** Grand Atlas LLC, Surefreight Global LLC, Hanson Law Firm PC, Michael Devaney, Michael Stellman, and Vitor Lindo. Represented by Girard Sharp LLP and Ahdoot & Wolfson PC.
- **Defendants:** Google LLC, Alphabet Inc.
- **Practices At Issue:** Alleges anti-competitive conduct in the **display advertising marketplace**, including: (1) dominance and control of digital advertising service markets, (2) using its market power to create and maintain a monopoly for display advertising services, (3) creating and maintaining its monopoly by restricting the ability of rivals to compete on equal footing, and (4) supporting its monopoly with anti-competitive and harmful conduct.
- **Status:** Case Management Conference set for **June 10, 2021** to rule on consolidation Order.
- **Relief Sought:** (1) Class certification of persons who used Google's display advertising services to place an ad on a website operated by another entity (advertisers) or who placed an ad from a third-party on their own website (publishers); (2) Injunctive Relief, (3) Monetary damages, including treble damages and restitution.

Individual Publisher Case

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HD Media Company, LLC v. Google LLC and Facebook Inc.

Case No. 21-cv-00077 in the U.S. District Court for the Southern District of West Virginia

- **Case Filed:** 1/29/21
- **Plaintiffs:** HD Media Company, LLC, owner of West Virginia's Charleston Gazette-Mail newspaper. Represented by Farrell & Fuller, LLC, Herman Jones LLP, Robbins Geller Rudman & Dowd LLP, and Fitzsimmons Law Firm, PLLC.
- **Defendants:** Google LLC and Facebook, Inc.
- **Practice At Issue:** Alleges anti-competitive conduct and manipulation of the **search and display digital advertising markets** to stifle competition.
- **Status:** Assigned to Judge Chambers on **January 29, 2021**.
- **Relief Sought:** Injunctive relief, including treble damages, punitive damages, and restitution.