GOOGLE & THE COURTS

GOOGLE HABITUALLY DELETED OR IMPROPERLY SHIELDED COMMUNICATIONS RELEVANT TO LAWSUITS AGAINST THEM

THE DEPARTMENT OF JUSTICE SAID GOOGLE URGED EMPLOYEES TO DISCUSS SENSITIVE TOPICS USING THEIR INTERNAL INSTANT MESSAGE PLATFORM THAT AUTOMATICALLY DELETED CHATS AFTER 24 HOURS

- ***The DOJ accused Google of failing to suspend a feature of the chat platform deleting internal chats every 24 hours even when they anticipated litigation.*** The DOJ said Google "urged" employees to discuss sensitive topics via chats that would be automatically deleted after 24 hours. The DOJ said Google "systematically destroyed" instant message chats every 24 hours, which violated federal rules requiring the preservation of potentially relevant communications for litigation. The DOJ said Google failed to timely suspend their policy of allowing the automatic and permanent deletion of employee chat logs. The DOJ further said Google should have turned off the auto-delete feature for internal chats in 2019, "when the company reasonably anticipated" the DOJ's litigation. The DOJ said Google had "falsely" told the U.S. that it had suspended the auto-deletion feature and was preserving chats as required under a court rule on electronically stored information.

- ***The DOJ said Google taught its employees to include an attorney, a privilege label, and request for councils advice on any sensitive business communications.*** The DOJ said the move was a way for Google to shield sensitive communications from discovery. The DOJ asked a judge to rule that Google's policy was an abuse of attorney-client privilege and an attempt to avoid turning over documents. According to the DOJ, "often, knowing the game, the in-house counsel included in these communicate-with-care emails [did] not respond at all." The DOJ said the false claims of privilege allowed Google to "improperly" withhold thousands of documents relevant to the DOJ's antitrust suits against Google. The DOJ said Google had spent years "intentionally mislabeling documents – to hide significant information from civil discovery." During the DOJ's antitrust case against Google, Google claimed 140,000 documents were protected under attorney-client privilege but quickly changed course and turned over 98,000 of the 140,000 documents over to the government.

EPIC SAID GOOGLE WAS AUTO-DELETING INTERNAL CHATS DESPITE ANTICIPATING THEIR LAWSUIT

- ***During their lawsuit, Epic said Google was auto-deleting internal chats despite anticipating Epic's lawsuit.*** In a joint statement by Epic, Match, the State of Utah and DOJ, the Parties accused Google of telling employees not to conduct certain communications on platforms that were subject to preservation - like emails and group chats. The Parties said Google employees warned each other not to conduct the sensitive communications on platforms that have communication preservation turned on. The Parties claimed that Google continued to auto-delete employee chats "even after this litigation commenced." Google denied that it was required to automatically preserve every chat from every custodian regardless of relevance. Google falsely claimed that it did not have the ability to change default chat preservation settings for individual custodians within their company. It also claimed it had no idea how many of the recipients of the litigation hold for internal chats had personally elected to turn chat history preservation on – or when they chose to do so. Google later argued that Epic should not be allowed to present evidence of Google's lack of preservation of chats.

MATCH INC SIMILARLY SAID GOOGLE DID NOT MONITOR OR ENFORCE EMPLOYEE COMPLIANCE WITH LEGAL HOLD FOR THEIR COMMUNICATIONS

- ***Match claimed that Google employees weren't "sufficiently familiar" with the details of their case to know what to preserve.*** Match accused Google of "destroying chats that may have been relevant to this case" over the course of many years. Match further said that Google had falsely told the court that it did not have the ability to change default settings of communication custodians to preserve chat history. Google admitted that it did not automatically preserve off the record chats even though custodians of the chats were subject to other litigation holds with relevant subject matter. Match said Google had not administratively turned off the auto-deletion feature even after litigation began, which they believed kept relevant messages from being preserved. Match said it was "highly likely" that many communications relevant to the suit had been automatically deleted after Google had "reasonably anticipated this litigation."

- ***During their 2011 copyright lawsuit regarding Java, Oracle said Google refused to answer questions about their non-mobile business.*** Google rejected Oracle's request on grounds that the information was not relevant to the case.

THE DOJ SAID DURING DISCOVERY IN THEIR ANTITRUST LAWSUIT, GOOGLE REFUSED TO DRAFT SEARCH TERMS THAT CORRESPONDED WITH THE DOJ'S DEMANDS

- ***The DOJ said Google refused to negotiate a search and custodian protocol that corresponded with information sought in the DOJ's requests.*** The DOJ said Google had "taken an impermissible approach to drafting search terms" for discovery. They said Google had "drafted search strings for broad categories" which made it "difficult to discern which (if any) search strings" were "sufficient to locate responsive information." They said Google's approach "conflict[ed] with the federal rules of civil procedure." The DOJ said that Google "ignored the structure of the plaintiffs specific requests for documents" and had instead "fused plaintiffs individual requests into twelve general categories and one 'catch all' category."

- ***The DOJ said Google continuously delayed providing the DOJ with aggregated search data or the contents of hyperlinks found in discovery documents.*** Google failed to meet its promised production schedule with the DOJ regarding more aggregated search data. The DOJ said delays by Google "ha[d] been indicative of this process." Google also refused to provide the DOJ with access to the contents of hyperlinks found in discovery documents, even when the linked-to documents appeared directly relevant to the litigation. DOJ: "Plaintiffs have attempted to negotiate a compromise on this issue, but Google has not offered a meaningful solution." The DOJ said that in some cases, Google had either not produced the linked-to document or had produced the document "without metadata sufficient to connect it to the parent document." When the DOJ alerted Google to issue, Google reportedly "adopted a narrow interpretation of its obligation" and "often provided untimely or incomplete information" according to the DOJ.

DURING FEDERAL INVESTIGATIONS, GOOGLE REPEATEDLY REFUSED TO PROVIDE THE INVESTIGATING AGENCY WITH DATA NECESSARY FOR THEIR INQUIRY

GOOGLE REFUSED TO PROVIDE THE DEPARTMENT OF LABOR WITH COMPENSATION DATA DURING AN INVESTIGATION INTO GENDER-PAY DISCRIMINATION AT THE COMPANY

- ***Google tried to refuse the data request, even though they were required to under law because they were a federal contractor.*** Google argued it was too financially burdensome and logistically challenging to compile and hand over the salary records the DOL requested. However, as a federal contractor Google was required to comply with equal opportunity laws and had to allow investigators to review records. Google continued to stonewall the DOL, forcing the department to sue Google over their refusal. The DOL said that Google had failed to respond to their data request for months.

IN 2012, GOOGLE "DELIBERATELY IMPEDED AND DELAYED" AN INVESTIGATION BY THE FCC INTO GOOGLE'S UNLAWFUL COLLECTION OF PERSONAL DATA DURING THEIR STREET VIEW MAPPING

- ***The FCC censured Google for obstructing their investigation into the street view program.*** In 2012, the FCC said Google had "deliberately impeded and delayed" an investigation into the personal information that was collected by the cars Google used to map streets. In an official report, the FCC said Google "willfully and repeatedly violated Commission orders to produce certain information and documents" the FCC required for its investigation. The FCC said Google had repeatedly failed to respond to their request for emails and had refused to identify the employees involved with the project. Once Google finally did respond, the company told the FCC that searching its employees' emails would be "a time-consuming and burdensome task." Google finally turned over the data requested by the FCC after the agency threatened to subpoena the information. When the FCC was able to question the engineer in charge of the street view program, the engineer invoked his 5th amendment right and declined to talk. Separately, Google neglected to delete the data it illegally collected while mapping streets in Europe despite promising to delete it.

DURING A DOJ INVESTIGATION INTO A CRIMINAL CRYPTOCURRENCY EXCHANGE, GOOGLE REFUSED TO PROVIDE THEM WITH DATA THEY REQUESTED IN A SEARCH WARRANT THEN WORKED TO HIDE THE DATA OVERSEAS

- ***During a DOJ investigation into the cryptocurrency exchange, Google actively worked to conceal information requested in a search warrant by the DOJ.*** The DOJ said Google had failed to preserve data they requested. Google responded by saying that because the data the DOJ sought was stored on overseas servers, the U.S. government lacked authority to seize the records under the Stored Communications Act. When a Second Circuit Court Of Appeals declared the warrant did not reach data stored outside the U.S., Google actively worked to create new tools that would prevent the requested data from being repatriated. A year later, Congress clarified that Stored Communications Act did indeed reach data that U.S. providers stored overseas, but

according to the DOJ, "in the intervening time, data responsive to the warrant was lost." Following Google's actions, the DOJ filed a stipulation and agreement that forced Google to agree to reform and upgrade its legal process compliance program. Google had to retain an independent compliance professional to serve as an outside third-party related to Google's compliance enhancements.

GOOGLE WITHHELD DOCUMENTS NEEDED BY PLAINTIFFS BEFORE DEPOSITIONS AND ACTED CHILDISHLY DURING LEGAL PROCEEDINGS

THE DOJ SAID GOOGLE "IMPROPERLY WITHHELD DOCUMENTS" AHEAD OF WITNESS DEPOSITIONS, PUT FORTH NEW WITNESSES AT THE LAST MINUTE AND ENGAGED IN "DISCOVERY MISCONDUCT"

- ***The DOJ said Google had "improperly withheld documents from a large number of significant witnesses" and only produced the documents after witnesses were deposed.*** The DOJ said Google's improper withholding of documents had prevented them from completing a review of Documents ahead of depositions.

- ***Google told Epic they planned to put forth a new witness to be deposed without giving Epic the opportunity to conduct a pre-hearing deposition or providing the witnesses background.*** The witness Google put forth for Epic to depose was entirely new to the litigation and had not been mentioned once in the 3 million documents produced during discovery. Epic called for a pre-hearing deposition, saying it would allow them to prepare "a more informed cross examination."

- ***During a lawsuit regarding Google's unlawful tracking of users in incognito mode, Google was sanctioned for "discovery misconduct."*** Google was ordered to pay more than $971,000 in the plaintiffs legal fees as a penalty for litigation misconduct. The judge in the case found that Google had failed to "timely identify witnesses, additional documents and data sources" relevant to the privacy suit.

DURING A 2010 DEPOSITION, LARRY PAGE CONTINUALLY CLAIMED THAT HE DIDN'T RECALL CRUCIAL CONVERSATIONS OR NEGOTIATIONS WHEN GOOGLE BOUGHT YOUTUBE

- ***Page said he couldn't recall whether he even was in favor of the purchase or if - as President of Products - he oversaw YouTube after it was acquired, atop other lost memories…*** When Page was asked whether he -as President of Products – presided over YouTube, Page merely said "Google ha[d] a wide variety of products." He refused to answer whether he was in favor of the acquisition of YouTube, saying he couldn't "remember [his] exact thinking," but he didn't think he was "tremendously upset by" the acquisition. Page later refused to answer whether or not he could remember any conversation with Sergey Brin or Eric Schmidt about Google's acquisition of YouTube. Page said he couldn't recall whether he was kept advised of negotiations with Viacom over a deal regarding YouTube, saying "again, same answer. I don't recall." Page also claimed that he didn't recall whether Google was in discussions with the Motion Picture Association about copyright compliance issues with YouTube or whether he was advised of full movies being uploaded to YouTube. He also claimed not to know whether Google gave search preference to YouTube in search results or whether Google could block pirating sites like Bit Torrent.

GOOGLE MADE A HABIT OUT OF DELETING OR IMPROPERLY SHIELDING COMMUNICATIONS RELEVANT TO LAWSUITS AGAINST THEM

THE DOJ SAID GOOGLE URGED EMPLOYEES TO DISCUSS SENSITIVE TOPICS VIA AUTOMATICALLY DELETED CHATS

GOOGLE "URGED" ITS EMPLOYEES TO DISCUSS SENSITIVE TOPICS VIA CHATS, BECAUSE THEY WOULD BE DELETED AFTER 24 HOURS…

The DOJ Said Google "Urged" Employees To Discuss Sensitive Topics Via Chats That Would Be Automatically Deleted After 24 Hours. "Alphabet Inc.'s Google urged employees to discuss sensitive topics via chats that would be automatically deleted after 24 hours and the company should face penalties for failing to preserve records needed for an antitrust suit, Justice Department lawyers told a federal court. Google assured the government's lawyers that it was maintaining all records starting in November 2019, according to a Feb. 10 court filing that was unsealed Thursday." [Bloomberg Law, 2/23/23]

…BUT THE DOJ SAID GOOGLE FAILED TO SUSPEND AUTOMATIC CHAT DELETIONS, VIOLATING FEDERAL RULES AND A 2019 COMMITMENT BY GOOGLE TO DO SO

The DOJ Said Google "Systematically Destroyed" Instant Message Chats Every 24 Hours, Which Was In Violation Of Federal Rules To Preserve Potentially Relevant Communications For Litigation. "Google 'systematically destroyed' instant message chats every 24 hours, violating federal rules to preserve potentially relevant communications for litigation, the Department of Justice alleged in a filing that became public on Thursday. As a result of Google's default to preserve chats for only 24 hours unless an employee opts to turn on history for the conversation, 'for nearly four years, Google systematically destroyed an entire category of written communications every 24 hours,' the department wrote in the filing." [CNBC, 2/23/23]

The DOJ Said Google Failed To Timely Suspend A Policy Allowing The Automatic, Permanent Deletion Of Employees Chat Logs. "U.S. Justice Department lawyers say that Alphabet Inc's Google destroyed internal corporate communications and have asked a federal judge to sanction the company as part of the government's antitrust case over its search business. The DOJ asserted in a court filing unsealed in a Washington, D.C., federal court on Thursday that Google failed to timely suspend a policy allowing the automatic, permanent deletion of employees' chat logs. The government said Google 'falsely' told the U.S. in 2019 that it had suspended 'auto-deletion' and was preserving chat communications as it was required to do under a federal court rule governing electronically stored information." [Reuters, 2/23/23]

The DOJ Said Google Should Have Turned Off Auto-Deletion In 2019, "When The Company Reasonably Anticipated" The DOJ's Litigation. "As a result of Google's default to preserve chats for only 24 hours unless an employee opts to turn on history for the conversation, 'for nearly four years, Google systematically destroyed an entire category of written communications every 24 hours,' the department wrote in the filing. According to the DOJ, Google should have adjusted its defaults in mid-2019 "when the company reasonably anticipated this litigation." Instead, it relied on individual employees to decide when chats were potentially relevant to future litigation, the department said. "Few, if any," did, according to DOJ." [CNBC, 2/23/23]

The DOJ Alleged That Google Had "Falsely" Told The U.S. In 2019 That It Had Suspended Auto-Deletion And Was Preserving Chat Communications As It Was Required To Do Under A Court Rule On Electronically Stored Information. "U.S. Justice Department lawyers say that Alphabet Inc's Google destroyed internal corporate communications and have asked a federal judge to sanction the company as part of the government's antitrust case over its search business. The DOJ asserted in a court filing unsealed in a Washington, D.C., federal court on Thursday that Google failed to timely suspend a policy allowing the automatic, permanent deletion of employees' chat logs. The government said Google 'falsely' told the U.S. in 2019 that it had suspended 'auto-deletion' and was preserving chat communications as it was required to do under a federal court rule governing electronically stored information." [Reuters, 2/23/23]

THE DOJ SAID GOOGLE TAUGHT ITS EMPLOYEES TO AD AN ATTORNEY, PRIVILEGE LABEL AND REQUEST COUNCILS ADVICE ON ANY SENSITIVE BUSINESS COMMUNICATIONS

THE DOJ SAID THE MOVE WAS A WAY FOR GOOGLE TO HIDE THE COMMUNICATIONS FROM DISCOVERY…

The DOJ Said Google Taught Its Employees To Add An Attorney, A Privilege Label And A Generic Request For Counsel's Advice To Any Sensitive Business Communications It Wished To Hide From Discovery. "For almost a decade, Google has trained its employees to use the attorney-client privilege to hide ordinary business communications from discovery in litigation and government investigations," the Justice Department said. It further claimed that 'Google teaches its employees to add an attorney, a privilege label, and a generic `request' for counsel's advice to any sensitive business communications the employees or Google might wish to shield from discovery.' Google said its practices are aboveboard and comparable to other big corporations." [WSJ, 3/21/22]

…WHICH THEY SAID AMOUNTED TO ABUSE OF ATTORNEY-CLIENT PRIVILEGE DESIGNATIONS

The DOJ Asked A Judge To Find That The Company Had Abused An Attorney-Client Privilege Designation To Avoid Turning Over Documents. "The U.S. Justice Department, which has accused Alphabet Inc's Google of breaking antitrust law in its search business, asked a judge to find that the company abused an attorney-client privilege designation to avoid turning over documents. In a court filing, the Justice Department asked for Google to be sanctioned for creating a "Communicate with Care" program that trains workers to include an attorney and a request for advice when writing about sensitive business matters. 'Often, knowing the game, the in-house counsel included in these Communicate-with-Care emails does not respond at all,' the department said, adding that many of the emails had to do with revenue share agreements that Google had struck with other companies." [Reuters, 3/21/22]

- **The DOJ Said "Often, Knowing The Game, The In-House Counsel Included In These Communicate-With-Care Emails [Did] Not Respond At All."** "The U.S. Justice Department, which has accused Alphabet Inc's Google of breaking antitrust law in its search business, asked a judge to find that the company abused an attorney-client privilege designation to avoid turning over documents. In a court filing, the Justice Department asked for Google to be sanctioned for creating a "Communicate with Care" program that trains workers to include an attorney and a request for advice when writing about sensitive business matters. 'Often, knowing the game, the in-house counsel included in these Communicate-with-Care emails does not respond at all,' the department said, adding that many of the emails had to do with revenue share agreements that Google had struck with other companies." [Reuters, 3/21/22]

THE DOJ SAID THE FALSE CLAIMS OF PRIVILEGE ALLOWED GOOGLE TO "IMPROPERLY" WITHHOLD THOUSANDS OF DOCUMENTS RELEVANT TO THEIR ANTITRUST SUIT

The DOJ Alleged That During Their Antitrust Suit Regarding Google Search, Google Had "Improperly Withheld Thousands Of Documents Under False Claims Of Privilege." "The DOJ's attorneys and lawyers for the states, including a team from the Colorado Attorney General's office, said the new round of questioning was warranted because Google only recently turned over new documents that the company previously had said could be kept from the plaintiffs. 'Google improperly withheld thousands of documents under false claims of privilege,' DOJ attorney Kenneth Dintzer told the court in a new filing. 'Google's withholding of these documents was the culminating effort — following years of intentionally mislabeling documents — to hide significant information from civil discovery.'" [Reuters, 7/13/22]

- **The DOJ Said Google Had Spent Years "Intentionally Mislabeling Documents – To Hide Significant Information From Civil Discovery."** "The DOJ's attorneys and lawyers for the states, including a team from the Colorado Attorney General's office, said the new round of questioning was warranted because Google only recently turned over new documents that the company previously had said could be kept from the plaintiffs. 'Google improperly withheld thousands of documents under false claims of privilege,' DOJ attorney Kenneth Dintzer told the court in a new filing. 'Google's withholding of these documents was the culminating effort — following years of intentionally mislabeling documents — to hide significant information from civil discovery.'" [Reuters, 7/13/22]

During The DOJ's Antitrust Case Against Google, Google Said 140,000 Documents Were Protected Under Attorney Client Privilege But Quickly Changed Course, Turning 98,000 Of Them Over To The Government. "The department had asked Judge Amit Mehta in a court filing to sanction Google, saying the company's 'Communicate with Care' program, which asked employees to add a lawyer to many emails, was sometimes a 'game' to shield communications that did not genuinely fall under attorney-client privilege. Google responded that it did nothing wrong. Mehta, of the U.S. District Court for the District of Columbia, said that there were an 'eye-popping' 140,000 documents originally slated as falling under attorney-client privilege but that 98,000 or those were quickly given to the government. But he also said that he was 'not sure a federal court has the authority' to sanction that practice since it occurred before the government filed its lawsuit." [Reuters, 4/8/22]

EPIC SAID GOOGLE WAS AUTO-DELETING INTERNAL CHATS DESPITE ANTICIPATING THEIR LAWSUIT

EPIC SAID GOOGLE DID NOT TURN OFF AUTO-DELETION FOR INTERNAL CHATS RELEVANT TO THEIR CASE DESPITE HAVING AN OBLIGATION TO DO SO

In The Epic V. Google Case, Google Did Not Turn Off Auto-Deletion For Internal Chats Despite Having The Obligation To Start Preserving Documents In Anticipation Of The Lawsuit. "MR. BYARS: […] The issue of what was said in -- what Google told their employees with respect to document preservation and a hold notice, I think it is irrelevant for this particular issue. I mean, they have an auto-delete mechanism that they didn't turn off. That didn't become clear until a February meet-and-confer that we had after the interrogatory responses. THE COURT: If I may, this is all kind of

moot, because they're gone now. All the chats are gone. You're not going to -- I mean, it seems to me that you would have been most interested in the historical chats preceding the filing of But the pre-lawsuit things are gone. So I don't know what it is you would want me to do. There's just no way for Google to do anything with -- MR. BYARS: There are a couple of matters here. One, we think, based on the evidence that's been shown, that they had an obligation to start preserving documents well in advance of these lawsuits being filed. So I don't think the date of preservation obligations is the filing of -- THE COURT: No, it's true, reasonably anticipated litigation is when the duty comes in. I mean, that's an extremely fuzzy concept, but I'm not saying you're wrong. All I'm saying is you're not going to get the chats." [Pacer, Case: 3:20-cv-05671-JD, Doc 245, 5/13/22]

In A Joint Statement By Epic, Match, The State Of Utah And Lawyers In Antitrust Lawsuits, Google Was Accused Of Telling Employees Not To Conduct Certain Communications On Platforms That Were Subject To Preservation Like Emails And Group Chats. "Google employees, including the custodians in this case, communicate, or communicated during their tenure at Google, by instant messaging via Google Chat, often daily […] Google employees, including the custodians in this case, routinely use or used Google Chat to hold substantive business conversations, including regarding the subject matter of this litigation […] Google employees were aware that their chats typically were not preserved, and often warned each other not to conduct certain communications on platforms that were subject to preservation, such as e-mail or group chats where preservation was set to 'history on.'" [Pacer, Case 3:22-cv-02746-JD, Doc 45, 5/27/22]

- **The Plaintiffs Said Google Employees Warned Each Other To Not To Conduct The Communications That Had Communication Preservation "On."** "Google employees, including the custodians in this case, communicate, or communicated during their tenure at Google, by instant messaging via Google Chat, often daily […] Google employees, including the custodians in this case, routinely use or used Google Chat to hold substantive business conversations, including regarding the subject matter of this litigation […] Google employees were aware that their chats typically were not preserved, and often warned each other not to conduct certain communications on platforms that were subject to preservation, such as e-mail or group chats where preservation was set to 'history on.'" [Pacer, Case 3:22-cv-02746-JD, Doc 45, 5/27/22]

EPIC SAID GOOGLE CONTINUED TO AUTO-DELETE CHATS EVEN AFTER LITIGATION COMMENCED

Epic And State AGs Said Google Had Deleted Employee Chats "Even After This Litigation Commenced." "Google has produced information including contracts, emails, transactional data and other records as part of the litigation. Last month, the plaintiffs' lawyers leading cases against Google jointly asked Donato to punish Google for the alleged destruction of 'substantive' chat-related information relevant to the pending antitrust claims. The attorneys argued Google deleted employee chats 'even after this litigation commenced.' In its response, Google said it has disclosed 'thousands of chats and millions of other documents in this litigation.' The company denied that it was required to 'automatically preserve every chat from every custodian, regardless of relevance.'" [Reuters, 11/7/22]

- **Google Denied That It Was Required To Automatically Preserve Every Chat From Every Custodian, Regardless Of Relevance.** "Google has produced information including contracts, emails, transactional data and other records as part of the litigation. Last month, the plaintiffs' lawyers leading cases against Google jointly asked Donato to punish Google for the alleged destruction of 'substantive' chat-related information relevant to the pending antitrust claims. The attorneys argued Google deleted employee chats 'even after this litigation commenced.' In its response, Google said it has disclosed 'thousands of chats and millions of other documents in this litigation.' The company denied that it was required to 'automatically preserve every chat from every custodian, regardless of relevance.'" [Reuters, 11/7/22]

GOOGLE FALSELY CLAIMED IT DID NOT HAVE THE ABILITY TO CHANGE DEFAULT CHAT PRESERVATION SETTINGS FOR INDIVIDUALS AT THE COMPANY…

During The Epic Lawsuit, Google Falsely Claimed That It Did Not Have The Ability To Change Default Chat Preservation Settings For Individual Custodians Within Their Company. "Google also does not explain its October 18, 2021 representation that it has "no reason to believe that Google's production of relevant instant messages for all agreed-upon custodians for the agreed-upon time periods is in any way deficient." (Id. ¶ 21.) Google also fails to explain the misrepresentations that it made after its failure to suspend its 24-hour purge policy came to light on October 21, 2021. For example, Google does not address its false statement in a November 11, 2021 letter that "Google does not have the ability to change default settings for individual custodians with respect to the chat history setting." (Id. ¶ 25.) And finally, Google does not explain or even acknowledge the statement it made to the Court in the December 9, 2021 Joint Case Management Statement (Dkt. 159). Specifically, in response to concerns Plaintiffs raised about Google's failure to preserve relevant Chats, Google represented that it employed "all available preservation methods via its legal hold tool,

and active management by legal counsel at every step of the process."" [Pacer, Case 3:20-cv-05671-JD, Doc 377, 1/27/23]

…AND HAD NO KNOWLEDGE OF HOW MANY RECIPIENTS OF THE LITIGATION HOLD HAD PERSONALLY ELECTED TO TURN CHAT PRESERVATION ON

During The Epic Lawsuit, Google Said They Had No Idea How Many Of The Recipients Of The Litigation Hold For Internal Chats Had Personally Elected To Turn Chat History Preservation To On - Or When They Chose To Do So. "To Answer Whether Their Litigation Hold Reci Google's response to the Court's first question dances around and attempts to distract from what would otherwise be a simple answer: It has no idea how many 'recipients of the litigation hold notice in this case personally elected to turn the history to 'on,'' or when they chose to do so. (Dkt. 415 at 1; Google Br. 1-2.) Google previously represented to Plaintiffs in sworn interrogatory responses that it "has no way to systematically track which Custodians preserved Chats by turning 'history on' or in any other manner." (Zaken Decl Ex. 1 at 14.) Its response now confirms that Google 'does not ordinarily maintain the information to answer this question for any meaningful time period.'" [Pacer, Case 3:20-cv-05671-JD, Doc 377, 1/27/23]

GOOGLE ARGUED THAT EPIC SHOULD NOT BE ALLOWED TO PRESENT EVIDENCE THAT IT DID NOT PRESERVE CHATS

Google Argued That Epic Should Not Be Allowed To Present Evidence Of Google's Lack Of Preservation Of Chats. "In a last-ditch effort to keep its destruction of documents far away from the factfinder, Google argues that certain remedies that the Court proposed and Plaintiffs had asked for (in addition to a jury instruction)—namely, prohibiting Google from asserting a defense based on Plaintiffs' lack of evidence and allowing Plaintiffs to present evidence on Google's lack of preservation—are inappropriate. Google's arguments against both remedies are unpersuasive. While Plaintiffs do not think these remedies alone are sufficient to remedy the harm caused by Google's misconduct, they are appropriate supplements to Plaintiffs' proposed jury instruction." [Pacer, Case 3:20-cv-05671-JD, Doc 377, 1/27/23]

MATCH INC SIMILARLY SAID GOOGLE DID NOT MONITOR OR ENFORCE EMPLOYEE COMPLIANCE WITH LEGAL HOLDS FOR THEIR COMMUNICATIONS

MATCH FURTHER CLAIMED THAT GOOGLE EMPLOYEES WEREN'T "SUFFICIENTLY FAMILIAR" WITH THE DETAILS OF THE CASE TO KNOW WHAT TO PRESERVE

Match Inc Said Google Did Not Monitor Or Enforce Employees Compliance With The Legal Hold For Their Communications. "Google employees were not sufficiently familiar with the details of the case to decide what should be preserved; and (6) Google never monitored or enforced employees' compliance with the legal hold. Google provides no explanation for why it concealed the true state of facts for months. Google's pattern of deception and misdirection belies its insistence that it took appropriate steps to preserve relevant evidence. To the contrary, Google's conduct makes clear that its failure to preserve relevant Chats was intentional and unreasonable." [Pacer, Case 3:22-cv-02746-JD, Doc 129, 1/27/23]

- **Match Inc Said Google Employees Were Not "Sufficiently Familiar With The Details Of The Case To Decide What Should Be Preserved."** "Google employees were not sufficiently familiar with the details of the case to decide what should be preserved; and (6) Google never monitored or enforced employees' compliance with the legal hold. Google provides no explanation for why it concealed the true state of facts for months. Google's pattern of deception and misdirection belies its insistence that it took appropriate steps to preserve relevant evidence. To the contrary, Google's conduct makes clear that its failure to preserve relevant Chats was intentional and unreasonable." [Pacer, Case 3:22-cv-02746-JD, Doc 129, 1/27/23]

MATCH SAID GOOGLE FALSELY TOLD THE COURT THAT IT DID NOT HAVE THE ABILITY TO CHANGE THE DEFAULT DELETION SETTINGS FOR THOSE WITH A LITIGATION HOLD

Match Said Google Falsely Told The Court That It Did Not Have The Ability To Change Default Settings Of Communication Custodians To Preserve Chat History. "And finally, Google does not explain or even acknowledge the statement it made to the Court in the December 9, 2021 Joint Case Management Statement (Dkt. 159). Specifically, in response to concerns Plaintiffs raised about Google's failure to preserve relevant Chats, Google represented that it employed 'all available preservation methods via its legal hold tool, and active management by legal counsel at every step of the process.' (Dkt. 428-1 ¶ 29 (emphasis added).) That was simply false; Google could have enabled Chat history for

its litigation hold recipients, but it chose not to. (Tr. 58:19-21 (Lopez) ('Q. Technologically, Google could change the default to history on for all custodians; right? A. That's right.').) Google also represented to the Court that 'relevant instant message or chat communications are subject to preservation, and Google in fact took reasonable steps to preserve such messages.'" [Pacer, Case 3:22-cv-02746-JD, Doc 129, 1/27/23]

MATCH SAID GOOGLE HAD BEEN DESTROYING RELEVANT CHATS "FOR MANY YEARS" AND CONTINUED TO DO SO AFTER LITIGATION BEGAN…

Match Inc Said Google Had Been "Destroying Chats That May Have Been Relevant To This Case For Many Years." "Google admits that it has not automatically preserved "off the record" Chats for relevant individuals in any case filed in the United States in the past five years. (Google Br. 2.) Because many of the custodians in this case were also subject to other litigation holds in cases with related subject matter, Google has been destroying Chats that may have been relevant to this case for many years. Plaintiffs can only assume that Google successfully concealed its systematic deletion of Chats in other cases (and in federal, state and foreign regulatory investigations), just as it attempted to do here. This course of conduct further confirms that Google's destruction of Chats was knowing and intentional." [Pacer, Case 3:22-cv-02746-JD, Doc 129, 1/27/23]

Match Inc Claimed That During Their Lawsuit, Google Had Not Administratively Turned Communication On The Feature That Retained Communications Even After Litigation Began, Keeping Relevant Messages From Being Preserved. "Google's Administrative Help page for Google Chat explains that administrators of Google Chat "can control whether to keep chat history for users in [their] organization" and provides instructions on how to turn "history on" administratively […] Google has not administratively turned "history on" at any point since this litigation began, including after it became clear that its failure to do so was resulting in ongoing deletion of relevant chat messages […] Many Google custodians in this case have not turned "history on" to preserve their relevant chats […] It is highly likely that many Google Chats with information relevant to this litigation have been deleted automatically by Google after it reasonably anticipated this litigation." [Pacer, Case 3:22-cv-02746-JD, Doc 45, 5/27/22]

- **Match Inc Stated It Was "Highly Likely" That Many Communications Relevant To The Suit Had Been Automatically Deleted After Google Had "Reasonably Anticipated This Litigation."** "Google's Administrative Help page for Google Chat explains that administrators of Google Chat "can control whether to keep chat history for users in [their] organization" and provides instructions on how to turn "history on" administratively […] Google has not administratively turned "history on" at any point since this litigation began, including after it became clear that its failure to do so was resulting in ongoing deletion of relevant chat messages […] Many Google custodians in this case have not turned "history on" to preserve their relevant chats […] It is highly likely that many Google Chats with information relevant to this litigation have been deleted automatically by Google after it reasonably anticipated this litigation." [Pacer, Case 3:22-cv-02746-JD, Doc 45, 5/27/22]

…WHICH GOOGLE ESSENTIALLY ADMITTED

Google Admitted That It Did Not Automatically Preserve Off The Record Chats Even Though Custodians Of The Chats Were Subject To Other Litigation Holds With Related Subject Matter. "Google admits that it has not automatically preserved "off the record" Chats for relevant individuals in any case filed in the United States in the past five years. (Google Br. 2.) Because many of the custodians in this case were also subject to other litigation holds in cases with related subject matter, Google has been destroying Chats that may have been relevant to this case for many years. Plaintiffs can only assume that Google successfully concealed its systematic deletion of Chats in other cases (and in federal, state and foreign regulatory investigations), just as it attempted to do here. This course of conduct further confirms that Google's destruction of Chats was knowing and intentional." [Pacer, Case 3:22-cv-02746-JD, Doc 129, 1/27/23]

ORACLE SAID GOOGLE WASN'T ANSWERING QUESTIONS ABOUT THEIR NON-MOBILE BUSINESS BECAUSE THEY CLAIMED THEY WERE NOT RELEVANT

During Their Copyright Lawsuit Against Google, Oracle Told The Judge That Google Was Not Providing Answers To Questions About Their Non-Mobile Businesses On Claims That They Were Not Relevant. "Ryu is also allowing Oracle to depose two of its other targets, Bob Lee and Tim Lindholm. Oracle this week complained to Ryu that Google is not providing answers to questions about the Mountain View, California-based company's non-mobile businesses. Oracle wants Google to reveal details such as total search volume broken down by keywords and the Web content it indexes. Google has resisted with the reasoning that those facts are not relevant to the case because Android powers smartphones and tablet computers, according to Oracle." [Phys.org, 7/22/11]

THE DOJ SAID GOOGLE REFUSED TO DRAFT SEARCH TERMS THAT CORRESPONDED WITH THEIR DEMANDS DURING DISCOVERY FOR THEIR ANTITRUST LAWSUIT

During The U.S. Antitrust Case Against Google, Google Refused To Negotiate A Search And Custodian Protocol That Corresponded With The U.S.'s Demands, And Instead Drafted Search Strings For Broad Categories Of Information. "Google (1) has not attempted to identify search terms that address many of Plaintiffs' document requests, (2) has declared that it will not accept any of the currently disputed custodians Plaintiffs' propose, and (3) has unilaterally limited the date ranges for which it is willing to pull responsive information. Google has failed to provide significant justification for these actions, and its general claims of burden are quickly dispelled given the reasonable documents counts yielded by Plaintiffs' Current Search Proposal. Aside from Google's unwillingness to negotiate a search-and-custodian protocol that would result in a reasonably sized document production, Google has taken an impermissible approach to drafting search terms. Instead of offering search terms that correspond to Plaintiffs' specific discovery demands, Google has drafted search strings for broad categories of information—categories created by Google, unilaterally. A troubling byproduct of Google's approach is that the proposal is opaque and difficult to analyze for sufficiency. Specifically, Google's approach makes it impossible to track Google's search terms to the Plaintiffs' actual document requests." [Pacer, Case 1:20-cv-03010-APM, Doc 118, 3/18/21]

THE DOJ AND STATE AGS SAID GOOGLE HAD TAKEN "AN IMPERMISSIBLE APPROACH TO DRAFTING SEARCH TERMS" AND BROKE FEDERAL RULES OF CIVIL PROCEDURE

The DOJ & State AGs Alleged That Google Had "Taken An Impermissible Approach To Drafting Search Terms" For Discovery. "Aside from Google's unwillingness to negotiate a search-and-custodian protocol that would result in a reasonably sized document production, Google has taken an impermissible approach to drafting search terms. Instead of offering search terms that correspond to Plaintiffs' specific discovery demands, Google has drafted search strings for broad categories of 1 information—categories created by Google, unilaterally. A troubling byproduct of Google's approach is that the proposal is opaque and difficult to analyze for sufficiency. Specifically, Google's approach makes it impossible to track Google's search terms to the Plaintiffs' actual document requests. For many individual requests, it is difficult to discern which (if any) search strings Google is offering as sufficient to locate responsive information. This approach, moreover, conflicts with the Federal Rules of Civil Procedure; as a responding party, Google cannot simply rewrite Plaintiffs' discovery requests as it sees fit." [Pacer, Case 1:20-cv-03010, Doc 118, 3/18/21]

- **The Plaintiffs Said Google Had "Drafted Search Strings For Broad Categories" Which Made It "Difficult To Discern Which (If Any) Search Strings" Were "Sufficient To Locate Responsive Information."** "Aside from Google's unwillingness to negotiate a search-and-custodian protocol that would result in a reasonably sized document production, Google has taken an impermissible approach to drafting search terms. Instead of offering search terms that correspond to Plaintiffs' specific discovery demands, Google has drafted search strings for broad categories of 1 information—categories created by Google, unilaterally. A troubling byproduct of Google's approach is that the proposal is opaque and difficult to analyze for sufficiency. Specifically, Google's approach makes it impossible to track Google's search terms to the Plaintiffs' actual document requests. For many individual requests, it is difficult to discern which (if any) search strings Google is offering as sufficient to locate responsive information. This approach, moreover, conflicts with the Federal Rules of Civil Procedure; as a responding party, Google cannot simply rewrite Plaintiffs' discovery requests as it sees fit." [Pacer, Case 1:20-cv-03010, Doc 118, 3/18/21]

- **The Plaintiffs Said The Approach "Conflict[ed] With The Federal Rules Of Civil Procedure."** "Aside from Google's unwillingness to negotiate a search-and-custodian protocol that would result in a reasonably sized document production, Google has taken an impermissible approach to drafting search terms. Instead of offering search terms that correspond to Plaintiffs' specific discovery demands, Google has drafted search strings for broad categories of 1 information—categories created by Google, unilaterally. A troubling byproduct of Google's approach is that the proposal is opaque and difficult to analyze for sufficiency. Specifically, Google's approach makes it impossible to track Google's search terms to the Plaintiffs' actual document requests. For many individual requests, it is difficult to discern which (if any) search strings Google is offering as sufficient to locate responsive information. This approach, moreover, conflicts with the Federal Rules of Civil Procedure; as a responding party, Google cannot simply rewrite Plaintiffs' discovery requests as it sees fit." [Pacer, Case 1:20-cv-03010, Doc 118, 3/18/21]

The DOJ Said Google Had "Ignored The Structure Of The Plaintiffs Specific Requests For Documents" And Instead Had "Fused Plaintiffs Individual Requests Into Twelve General Categories And One 'Catch All' Category. "On March 4th, Google provided Plaintiffs with an updated search protocol for how it would locate information responsive to the Plaintiffs Second RFP.2 In this proposal, Google ignored the structure of the Plaintiffs' specific requests for documents; instead, Google fused Plaintiffs' individua l requests into twelve general categories and one "catch all"

category, sometimes placing individual requests in multiple categories.3 Google then proposed multiple search strings for each category. On March 18, Google proffered a modified version of this proposal. Google's March 18 Proposal retains the same unwieldy "category" framework." [Pacer, Case 1:20-cv-03010, Doc 118, 3/18/21]

GOOGLE CONTINUOUSLY DELAYED PROVIDING THE DOJ WITH AGGREGATED SEARCH DATA OR THE CONTENTS OF HYPERLINKS FOUND IN DISCOVERY DOCUMENTS

THE DOJ SAID GOOGLE'S DELAYS WERE "INDICATIVE OF THIS PROCESS"

Google Failed To Meet Its Promised Production Schedule With The DOJ Regarding More Aggregated Search Data. "Google routinely prepares launch reports that describe the changes it makes to its search engine results page and related experiments it conducts, for example, when it tries out a new feature. These reports are critically important because Plaintiff States plan to use the reports to identify important Google changes that their expert economists will analyze, which will inform certain full-fledged data requests they intend to make. On July 9, after discussing launch reports during five meet and confers, Google stated that it would try to produce most launch reports by the end of July. Letter from F. Rubinstein to J. Conrad at 2, July 9, 2021. Yet despite this commitment, Google informed Plaintiff States on July 22 that the production of launch reports has been delayed and most reports will not be produced until mid-August or the end of August. These types of delays have been indicative of this process." [Department of Justice, Case 1:20-cv-03010-APM, Doc 361, 6/16/22]

- **The DOJ Said Delays By Google "Ha[d] Been Indicative Of This Process."** "Google routinely prepares launch reports that describe the changes it makes to its search engine results page and related experiments it conducts, for example, when it tries out a new feature. These reports are critically important because Plaintiff States plan to use the reports to identify important Google changes that their expert economists will analyze, which will inform certain full-fledged data requests they intend to make. On July 9, after discussing launch reports during five meet and confers, Google stated that it would try to produce most launch reports by the end of July. Letter from F. Rubinstein to J. Conrad at 2, July 9, 2021. Yet despite this commitment, Google informed Plaintiff States on July 22 that the production of launch reports has been delayed and most reports will not be produced until mid-August or the end of August. These types of delays have been indicative of this process." [Department of Justice, Case 1:20-cv-03010-APM, Doc 361, 6/16/22]

GOOGLE REFUSED TO PROVIDE THE DOJ ACCESS TO HYPERLINKS IN THE DISCOVERY DOCUMENTS EVEN WHEN THEY APPEARED RELEVANT TO THE LITIGATION

Google Refused To Provide The DOJ With Access To Documents That Were Hyperlinked In Documents Produced During Discovery, Even When The Linked-To Documents Appeared Directly Relevant To The Litigation. "Google employees routinely use hyperlinks to share company documents internally. Because of this practice, many significant documents in this case contain hyperlinks to other Google documents. In some cases, Google employees include hyperlinks in emails to transmit documents much like including an attachment would. In other cases, employees include hyperlinks in non-email documents (such as memoranda, presentations, or spreadsheets) as a means of providing additional detail or context on the subject of the document. For both of these categories, the linked documents are often necessary for the proper interpretation of the parent documents. Despite Plaintiffs' request, Google has not produced many of these linked-to documents and largely refuses to do so, even in cases where the linked-to documents appear directly relevant to the litigation. Plaintiffs have attempted to negotiate a compromise on this issue, but Google has not offered a meaningful solution." [Department of Justice, Case 1:20-cv-03010-APM, Doc 361, 6/16/22]

- **DOJ: "Plaintiffs Have Attempted To Negotiate A Compromise On This Issue, But Google Has Not Offered A Meaningful Solution."** "Despite Plaintiffs' request, Google has not produced many of these linked-to documents and largely refuses to do so, even in cases where the linked-to documents appear directly relevant to the litigation. Plaintiffs have attempted to negotiate a compromise on this issue, but Google has not offered a meaningful solution. For the reasons discussed below, the Court should order Google to (1) produce the linked-to documents contained within the set of materials that Google and its vendors have already collected for purposes of this case, and (2) produce up to 1,000 additional linked-to documents that Plaintiffs may identify on a case-by-case basis no later than December 31. 2022" [Department of Justice, Case 1:20-cv-03010-APM, Doc 361, 6/16/22]

The DOJ Said That In Some Cases, Google Had Either Not Produced The Linked-To Document Or Had Produced The Document "But Without Metadata Sufficient To Connect It To The Parent Document." "Due to this practice, hyperlinks appear within both emails and non-email documents throughout Google's productions in this case. For some hyperlinks, Google has produced the linked-to document and associated metadata connecting the linked document to the

parent document. But for others, Google either (1) has not produced the linked-to document, or (2) has produced the linked-to document but without metadata sufficient to connect it to the parent document. In these instances, without appropriate metadata, Plaintiffs have no indication of whether the linked-to document is missing, withheld for privilege, or located elsewhere in the production set." [Department of Justice, Case 1:20-cv-03010-APM, Doc 361, 6/16/22]

WHEN THE DOJ ALERTED GOOGLE OF THE ISSUE, GOOGLE PROVIDED UNTIMELY OR INCOMPLETE INFORMATION

The DOJ Said When It Alerted Google To The Issue, Google "Adopted A Narrow Interpretation Of Its Obligation To Do So And Often Provided Untimely Or Incomplete Information." "Recognizing this issue, during fact discovery Google agreed to a protocol to identify and produce documents linked within responsive emails.4 But even after Google applied this protocol, many of the hyperlinks within both emails and non-email documents Google produced did not have corresponding linked-to documents in the production set. Accordingly, as Plaintiffs came across these materials (such as the documents described above) Plaintiffs identified them for Google and requested the linked-to documents on a case-by-case basis. Although Google generally responded to these requests, it adopted a narrow interpretation of its obligation to do so and often provided untimely or incomplete information. Given Google's posture and the pervasiveness of this issue, Plaintiffs issued their Thirteenth Request for Production of Documents, Request No. 1 (the "RFP") on April 5, 2022." [Department of Justice, Case 1:20-cv-03010-APM, Doc 361, 6/16/22]

DURING FEDERAL INVESTIGATIONS, GOOGLE REPEATEDLY REFUSED TO PROVIDE THE INVESTIGATING AGENCY WITH DATA NECESSARY FOR THEIR INQUIRY

GOOGLE REFUSED TO PROVIDE THE DEPARTMENT OF LABOR WITH COMPENSATION DATA DURING A GENDER-PAY DISCRIMINATION INVESTIGATION

GOOGLE SAID COMPILING AND HANDING OVER THE REQUESTED SALARY RECORDS WAS FINANCIALLY BURDENSOME AND LOGISTICALLY CHALLENGING

Google Tried To Refuse A Legal Request By The Department Of Labor For Compensation Data During A Gender-Pay Discrimination Investigation. "Google argued that it was too financially burdensome and logistically challenging to compile and hand over salary records that the government has requested, sparking a strong rebuke from the US Department of Labor (DoL), which has accused the Silicon Valley firm of underpaying women. Google officials testified in federal court on Friday that it would have to spend up to 500 hours of work and $100,000 to comply with investigators' ongoing demands for wage data that the DoL believes will help explain why the technology corporation appears to be systematically discriminating against women." [The Guardian, 5/26/17]

- **Google Argued That It Was Too Financially Burdensome And Logistically Challenging To Compile And Hand Over Salary Records The Government Requested.** "Google argued that it was too financially burdensome and logistically challenging to compile and hand over salary records that the government has requested, sparking a strong rebuke from the US Department of Labor (DoL), which has accused the Silicon Valley firm of underpaying women. Google officials testified in federal court on Friday that it would have to spend up to 500 hours of work and $100,000 to comply with investigators' ongoing demands for wage data that the DoL believes will help explain why the technology corporation appears to be systematically discriminating against women." [The Guardian, 5/26/17]

AS A FEDERAL CONTRACTOR, GOOGLE WAS REQUIRED TO ALLOW INVESTIGATORS TO REVIEW RECORDS…

As A Federal Contractor, Google Was Required To Comply With Equal Opportunity Laws And Allow Investigators To Review Records. "The current court battle stems from the DoL's lawsuit filed against Google in January, accusing the company of violating federal laws by refusing to provide salary history and contact information of employees as part of a government audit. As a federal contractor, Google is required to comply with equal opportunity laws and allow investigators to review records. Labor officials have said they uncovered pay disparities in a 2015 snapshot of salaries and that investigators needed an earlier snapshot and compensation history of the employees to better understand the wage gap." [The Guardian, 5/26/17]

…YET THEY STONEWALLED THE DOL ENOUGH THAT THE AGENCY SUED TO ENSURE THEY RECEIVED THE COMPENSATION DATA

The Department Of Labor Sued Google For Refusing To Provide Compensation Data As Part Of An Anti-Discrimination / Compliance Audit. "Google has been sued by the Department of Labor for withholding data in an ongoing audit. In a complaint filed today, the Department says Google refused to provide compensation data as part of an anti-discrimination audit, and seeks a court order forcing the company to comply. The case stems from Google's federal contracting business, which provides advertising and cloud computing services to a number of federal agencies." [The Verge, 1/4/17]

- **The Department Of Labor Said That Google Failed To Respond To Their Data Request For Months.** "The lawsuit doesn't allege that Google actually engaged in discrimination, only that it dragged its heels as the Department of Labor conducted the necessary audit. According to the complaint, officers launched the audit in September 2015, requesting a series of compensation snapshots drawn from current Google employees that could be compared over time. A few months later, Google replied with a letter declining to produce the some of the data. Google says it withheld that data for privacy reasons, but has produced hundreds of thousands of records over the course of the audit." [The Verge, 1/4/17]

GOOGLE "DELIBERATELY IMPEDED AND DELAYED" AN INVESTIGATION BY THE FCC INTO THEIR STREET VIEW MAPPING PROGRAM COLLECTING PERSONAL DATA

GOOGLE WAS CENSURED BY THE FCC FOR OBSTRUCTING THEIR INVESTIGATION INTO THE STREET VIEW PROGRAM

In 2012, The FCC Said Google Had "Deliberately Impeded And Delayed" An Investigation Into The Personal Information That Was Collected By The Cars That Google Used To Map Streets. "When Google first revealed in 2010 that cars it was using to map streets were also sweeping up sensitive personal information from wireless home networks, it called the data collection a mistake. On Saturday, federal regulators charged that Google had "deliberately impeded and delayed" an investigation into the data collection and ordered a $25,000 fine on the search giant. The finding, by the Federal Communications Commission, and the exasperated tone of the report were in marked contrast to the resolution of a separate inquiry two years ago. That investigation, by the Federal Trade Commission, accepted Google's explanation that it was 'mortified by what happened' while collecting information for its Street View project, and its promise to impose internal controls." [NY Times, 4/15/12]

The FCC Said Google Had "Willfully And Repeatedly Violated Commission Orders To Produce Certain Information And Documents" It Required For Its Investigation. [FCC, 4/13/12]

> 4. For many months, Google deliberately impeded and delayed the Bureau's investigation by failing to respond to requests for material information and to provide certifications and verifications of its responses. In this Notice of Apparent Liability for Forfeiture (NAL), we find that Google apparently willfully and repeatedly violated Commission orders to produce certain information and documents that the Commission required for its investigation. Based on our review of the facts and circumstances before us, we find that Google, which holds Commission licenses,[10] is apparently liable for a forfeiture penalty of $25,000 for its noncompliance with Bureau information and document requests.

The FCC Censured Google For Obstructing An Inquiry Into Their Street View Project. "One of the most audacious projects ever to come out of Google was the plan to photograph and map the inhabited world, one block at a time. But a report over the weekend from federal regulators has rekindled questions over exactly what the company was doing — questions the search giant has spent years trying not to answer. The Federal Communications Commission censured Google for obstructing an inquiry into the Street View project, which had collected Internet communications from potentially millions of unknowing households as specially equipped cars drove slowly by. But the investigation, described in an interim report, was left unresolved because a critical participant, the Google engineer in charge of the project, cited his Fifth Amendment right and declined to talk." [NY Times, 4/16/12]

GOOGLE REPEATEDLY FAILED TO RESPOND TO THE FCC'S REQUESTS FOR INFORMATION RELATING TO THEIR STREET VIEW PROGRAM…

The FCC Said Google Had Repeatedly Failed To Respond To Requests For Emails And Refused To Identify The Employees Involved." The finding, by the Federal Communications Commission, and the exasperated tone of the report

were in marked contrast to the resolution of a separate inquiry two years ago. That investigation, by the Federal Trade Commission, accepted Google's explanation that it was 'mortified by what happened' while collecting information for its Street View project, and its promise to impose internal controls. But since then, the F.C.C. said, Google repeatedly failed to respond to requests for e-mails and other information and refused to identify the employees involved. 'Although a world leader in digital search capability, Google took the position that searching its employees' e-mail 'would be a time-consuming and burdensome task,'' the report said." [NY Times, 4/15/12]

…AND WHEN THEY FINALLY DID RESPOND, GOOGLE SAID COMPILING THE REQUESTED INFORMATION WOULD BE "TIME-CONSUMING AND BURDENSOME"

Google Told The FCC That Searching Its Employees' Emails Would Be "A Time-Consuming And Burdensome Task." "But since then, the F.C.C. said, Google repeatedly failed to respond to requests for e-mails and other information and refused to identify the employees involved. "Although a world leader in digital search capability, Google took the position that searching its employees' e-mail 'would be a time-consuming and burdensome task,' " the report said. The commission also noted that Google stymied its efforts to learn more about the data collection because its main architect, an engineer who was not identified, had invoked his Fifth Amendment right against self-incrimination." [NY Times, 4/15/12]

- **Google Finally Turned Over The Information After The FCC Threatened To Subpoena Them.** "When Google was repeatedly asked if it had searched for all responsive documents and provided complete and accurate answers to all the F.C.C.'s questions, it declined to respond, Michele Ellison, chief of the F.C.C.'s Enforcement Bureau, said in an interview. Google ultimately provided the information requested under threat of subpoena. The F.C.C. orders fines on companies for impeding investigations about once a year. The commission found that Google had violated provisions of the Communications Act of 1934." [NY Times, 4/15/12]

WHEN THE FCC WAS ABLE TO QUESTION THE ENGINEER IN CHARGE OF STREET VIEW, THE ENGINEER INVOKED HIS FIFTH AMENDMENT RIGHTS

When The Google Engineer In Charge Of Street View Was Questioned By The FCC About The Program's Obtaining People's Personal Data, The Engineer Cited His 5th Amendment Right And Declined To Talk. "The Federal Communications Commission censured Google for obstructing an inquiry into the Street View project, which had collected Internet communications from potentially millions of unknowing households as specially equipped cars drove slowly by. But the investigation, described in an interim report, was left unresolved because a critical participant, the Google engineer in charge of the project, cited his Fifth Amendment right and declined to talk. It is unclear who else at Google might have known about the data gathering, or when they might have known. Google maintains that the data gathering was unauthorized, according to a person with knowledge of the matter, but the engineer is maintaining that other people at the company knew about it." [NY Times, 4/16/12]

Google Neglected To Delete The Data It Illegally Collected While Mapping Streets In Europe Despite Promising To Delete It. "We told you before about the Google Street View vehicles that illegally collected data from unprotected Wi-Fi devices while they took pictures of the streets in Europe, Australia and the United States. We told you that the cars slurped passwords and emails and pictures and web searches. We told you about the apology and the fact that Britain found Google broke laws […] The AP reports that the company admits that it has kept a "small portion" of the 600 gigabytes of personal data it collected and had promised to delete back in 2010. The AP adds: 'Google apologizes for this error,' Peter Fleischer, Google's global privacy counsel, said in the letter, which the ICO published. 'The ICO said in a statement that Google Inc., based in Mountain View, California, had agreed to delete all that data nearly two years ago, adding that its failure to do so 'is cause for concern.'" [NPR, 7/27/12]

GOOGLE DIVERTED DATA THE DOJ REQUESTED IN A SEARCH WARRANT TO FOREIGN SERVERS BECAUSE THE GOVERNMENT COULDN'T SEIZE DATA STORED OVERSEAS

DURING A DOJ INVESTIGATION INTO A CRIMINAL CRYPTOCURRENCY EXCHANGE, GOOGLE ACTIVELY WORKED TO CONCEAL INFORMATION THE DOJ REQUESTED

The DOJ Said Google Had Failed To Preserve Data They Held Requested In A DOJ Search Warrant That Was Related To An Investigation Into A Criminal Cryptocurrency Exchange. As detailed in the Statement of Facts accompanying today's agreement, in 2016, the United States obtained a search warrant in the Northern District of California for data held at Google related to the investigation of the criminal cryptocurrency exchange BTC-e. The warrant

was issued under the SCA, the federal statute that requires providers such as Google to disclose customer communications when served with a warrant signed by a judge and supported by probable cause." [Department Of Justice, 10/25/22]

Google Said Because The Data Sought By Prosecutors Was Stored On An Overseas Server, The U.S. Government Lacked Authority To Seize The Records Under The Stored Communications Act. "Pak asked U.S. District Judge Richard Seeborg to deny Google's request to hold it in contempt and issue stayed sanctions of $10,000 per day while Google appeals a ruling denying its motion to quash a search warrant. Google claims that because the data sought by prosecutors is stored on an overseas server, the U.S. government lacks authority to seize the records under the Stored Communications Act. In August, Seeborg denied Google's request to overturn U.S. Magistrate Judge Laurel Beeler's April 25 ruling ordering Google to hand over the data." [Courthouse News Service, 10/18/17]

After The Warrant Was Signed By A Judge In The Northern District Of California, A Second Circuit Court Of Appeals Declared The Warrant Did Not Reach Data Stored Outside The United States. "The warrant was issued under the SCA, the federal statute that requires providers such as Google to disclose customer communications when served with a warrant signed by a judge and supported by probable cause. After the warrant was reviewed by a judge in the Northern District of California, sworn, signed, and served on Google, the Second Circuit Court of Appeals issued a decision holding that SCA search warrants did not reach data stored outside of the United States. Google halted execution of the search warrant and made rolling productions containing only information it could confirm was stored in the United States." [Department Of Justice, 10/25/22]

THE DOJ SAID GOOGLE HAD ACTIVELY WORKED TO CREATE NEW TOOLS TO PREVENT THE DATA FROM BEING REPATRIATED

The DOJ Further Said That After The Appeals Court Ruling, Google Actively Worked To Create New Tools That Would Prevent Data Related To The Investigation From Being Repatriated. "After the warrant was reviewed by a judge in the Northern District of California, sworn, signed, and served on Google, the Second Circuit Court of Appeals issued a decision holding that SCA search warrants did not reach data stored outside of the United States. Google halted execution of the search warrant and made rolling productions containing only information it could confirm was stored in the United States. Because Google's data preservation tools at the time stored data in the United States – and thus brought the data under undisputed U.S. jurisdiction – Google also endeavored to create new tools that would prevent the data from being repatriated. Google and the government litigated regarding the search warrant through 2017 and into 2018, when Congress clarified that the SCA does indeed reach data that U.S. providers choose to store overseas. In the intervening time, data responsive to the warrant was lost." [Department Of Justice, 10/25/22]

Congress Clarified That Stored Communications Act Did Indeed Reach Data That U.S. Providers Stored Overseas, But The DOJ Said "In The Intervening Time, Data Responsive To The Warrant Was Lost." "Because Google's data preservation tools at the time stored data in the United States – and thus brought the data under undisputed U.S. jurisdiction – Google also endeavored to create new tools that would prevent the data from being repatriated. Google and the government litigated regarding the search warrant through 2017 and into 2018, when Congress clarified that the SCA does indeed reach data that U.S. providers choose to store overseas. In the intervening time, data responsive to the warrant was lost. In resolving the matter with the department, Google has agreed to numerous improvements to its legal process compliance program, as set forth in the filed agreement." [Department Of Justice, 10/25/22]

IN RESPONSE, THE DOJ REQUIRED GOOGLE TO REFORM AND UPGRADE ITS LEGAL PROCESS COMPLIANCE PROGRAM

The DOJ Filed A Stipulation And Agreement To Resolve A Dispute With Google Over The Loss Of Data Responsive To A Search Warrant Issued In 2016. "Google admitted to loss of data responsive to 2016 search warrant and agreed to program enhancements, reporting obligations, and a first-of-its-kind Independent Compliance Professional The Department of Justice today filed a stipulation and agreement resolving a dispute with Google over the loss of data responsive to a search warrant issued in 2016. Pursuant to the first-of-its-kind resolution, Google has agreed to reform and upgrade its legal process compliance program to ensure timely and complete responses to legal process such as subpoenas and search warrants, as required under the Stored Communications Act (SCA) and other applicable legal authorities." [Department Of Justice, 10/25/22]

- **Google Agreed To Reform And Upgrade It Legal Process Compliance Program, Including Retaining An Independent Compliance Professional To Serve As An Outside Third-Party Related To Google's Compliance Enhancements."** "Pursuant to the first-of-its-kind resolution, Google has agreed to reform and upgrade its legal process compliance program to ensure timely and complete responses to legal process such as

subpoenas and search warrants, as required under the Stored Communications Act (SCA) and other applicable legal authorities. To monitor that Google fulfills its legal obligations, an Independent Compliance Professional will be retained to serve as an outside third-party related to Google's compliance enhancements." [Department Of Justice, 10/25/22]

GOOGLE FREQUENTLY WITHHELD DOCUMENTS NEEDED BY PLAINTIFFS BEFORE DEPOSITIONS AND ACTED CHILDISHLY DURING LEGAL PROCEEDINGS

THE DOJ SAID GOOGLE "IMPROPERLY WITHHELD DOCUMENTS" AHEAD OF WITNESS DEPOSITIONS

The DOJ Said Google Had "Improperly Withheld Documents From A Large Number Of Significant Witnesses," Only Producing Them After The Witnesses Were Deposed. "Google has recently deprivileged thousands of documents improperly withheld on claims of privilege; Plaintiffs received these documents after the documents' custodians were deposed […] or each of these productions, Google has provided documents from a variety of custodians. A chart shows the deprivileged documents produced for just ten custodians.17 Nine of these custodians were deposed by Plaintiffs, with all of these depositions completed before large swaths of the deprivileged documents arrived […] This chart demonstrates three important points: First, Google improperly withheld documents from a large number of significant witnesses, only producing them after the depositions had been completed. Second, the ongoing flow of deprivileged documents has prevented the Plaintiffs from completing review of any of these custodians." [Department of Justice, Case 1:20-cv-03010-APM, Doc 361, 6/16/22]

- **The DOJ Noted That Google Only Produced Documents For The Witnesses After The Depositions Had Been Completed.** "Google has recently deprivileged thousands of documents improperly withheld on claims of privilege; Plaintiffs received these documents after the documents' custodians were deposed […] or each of these productions, Google has provided documents from a variety of custodians. A chart shows the deprivileged documents produced for just ten custodians.17 Nine of these custodians were deposed by Plaintiffs, with all of these depositions completed before large swaths of the deprivileged documents arrived […] This chart demonstrates three important points: First, Google improperly withheld documents from a large number of significant witnesses, only producing them after the depositions had been completed. Second, the ongoing flow of deprivileged documents has prevented the Plaintiffs from completing review of any of these custodians." [Department of Justice, Case 1:20-cv-03010-APM, Doc 361, 6/16/22]

- **The DOJ Said Google's Improper Withholding Of Documents Had Prevented Them From Completing A Review Of Documents Ahead Of Depositions** "First, Google improperly withheld documents from a large number of significant witnesses, only producing them after the depositions had been completed. Second, the ongoing flow of deprivileged documents has prevented the Plaintiffs from completing review of any of these custodians. Third, that Plaintiffs have had only about a month, during preparation of expert reports, to load and review the four productions of over 17,000 deprivileged documents produced after the close of discovery, while simultaneously reviewing the other 60,000-plus documents that Google produced during the final two months of discovery." [Department of Justice, Case 1:20-cv-03010-APM, Doc 361, 6/16/22]

DURING DEPOSITIONS IN THE EPIC CASE, GOOGLE PUT FORTH A NEW WITNESS FOR EPIC TO DEPOSE WITH LITTLE NOTICE AND NO BACKGROUND ON THE WITNESS

GOOGLE PUT FORTH A WITNESS THAT WAS ENTIRELY NEW TO THE LITIGATION AND WASN'T MENTIONED ONCE IN THE 3 MILLION DISCOVERY DOCUMENTS

Google Told Epic That They Planned To Put Forth A New Witness To Be Deposed, But Refused To Make Them Available For A Pre-Hearing Deposition Even Though He Was Entirely New To The Litigation And Wasn't Mentioned Once In The 3 Million Discovery Documents. The parties exchanged initial witness lists on December 13, 2022, in which Google disclosed that it plans to have Andrew Rope, a Discovery Operations employee who has not previously been deposed but who had submitted two declarations in connection with this case (MDL Dkt. Nos. 74-1 and 367-3), testify at the hearing […] On December 19, the parties met and conferred regarding Plaintiffs' proposal, during which Google indicated that it planned to have another not-yet-deposed witness, Genaro Lopez, testify at the hearing. This is the first Plaintiffs have heard of Mr. Lopez; he is entirely new to this litigation. Of the more than 3 million documents Google has produced in this litigation, not a single one mentions Mr. Lopez. Aside from other publicly available information about his prior employment and education history, Plaintiffs have no other information about Mr. Lopez […] Google's refusal to make two not-yet deposed witnesses available for short remote depositions risks a hearing that is

unorganized and inefficient, and ambushes Plaintiffs, but Plaintiffs are willing to narrow their request to the Court to depose only Mr. Lopez [… One of the principal goals of the federal rules governing discovery is "preventing trial by ambush and surprise.' Because pre-hearing disclosures are essential to avoid trial by ambush, courts in this Circuit and beyond have commonly granted requests for targeted depositions in advance of evidentiary hearings." [Pacer, Case 3:20-cv-05671-JD, Doc 351, 12/21/22]

EPIC'S LAWYERS CALLED FOR A PRE-HEARING DEPOSITION, SAYING IT WOULD ALLOW THEM TO PREPARE "A MORE INFORMED CROSS EXAMINATION"

Lawyers Representing Epic Said A Short Pre-Hearing Deposition With The Witness Would Minimize "Unnecessary Foundational And Background Question" And Allow Them To "Prepare A More Informed Cross-Examination." "A short pre-hearing deposition of Mr. Lopez will promote an efficient and orderly hearing and avoid ambush. With three hours allocated to the Hearing, both sides need to be efficient. A short pre-hearing deposition will increase efficiency because if Plaintiffs do not view the answer to a question asked at deposition as helpful, they will not ask it at the hearing. Unnecessary foundational and background questions can be minimized. This will also allow Plaintiffs to prepare a more informed cross-examination, and prevent the Court from being left to rely on untested 'say so' by Mr. Lopez. Plaintiffs are entitled to inquire in advance of the Hearing about what Mr. Lopez is going to testify about at the hearing." [Pacer, Case 3:20-cv-05671-JD, Doc 351, 12/21/22]

DURING A LAWSUIT REGARDING GOOGLE'S UNLAWFUL TRACKING OF USERS IN INCOGNITO MODE, THEY WERE SANCTIONED FOR "DISCOVERY MISCONDUCT"

THE JUDGE FOUND THAT GOOGLE HAD FAILED TO "TIMELY IDENTIFY WITNESSES, ADDITIONAL DOCUMENTS AND DATA SOURCES"

Google Was Ordered To Pay More Than $971,000 In Legal Fees And Costs As A Penalty For Litigation Misconduct In A Privacy Suit That Alleged Google Unlawfully Tracked Users While They Were In Incognito Mode. U.S. judge on Friday ordered Alphabet Inc's Google to pay more than $971,000 in legal fees and costs as a penalty for litigation misconduct in a privacy lawsuit in California federal court. The plaintiffs' lawyers at Boies Schiller Flexner and other firms had sought more than $1 million in fees and costs, after U.S. Magistrate Judge Susan van Keulen in San Jose, California, federal court in May found Google had failed to timely disclose some pieces of evidence. The $5 billion lawsuit filed in 2020 alleges Google has unlawfully tracked its users' data while they are using the company's browsers in private, or 'incognito,' mode. Google has denied liability. The sanctions stemmed from Google's 'failure to timely identify witnesses, additional documents and data sources relevant to this litigation,' van Keulen wrote in a previous order." [Reuters, 7/18/22]

The Judge Found That Google Had Failed To "Timely Identify Witnesses, Additional Documents And Data Sources" Relevant To The Privacy Suit. "A U.S. judge on Friday ordered Alphabet Inc's Google to pay more than $971,000 in legal fees and costs as a penalty for litigation misconduct in a privacy lawsuit in California federal court […] The $5 billion lawsuit filed in 2020 alleges Google has unlawfully tracked its users' data while they are using the company's browsers in private, or 'incognito,' mode. Google has denied liability. The sanctions stemmed from Google's 'failure to timely identify witnesses, additional documents and data sources relevant to this litigation,' van Keulen wrote in a previous order. Billing records submitted in the case last month showed Boies Schiller founder and prominent litigator David Boies charging $1,950 hourly. Boies sought compensation for 49 hours, or about $96,000." [Reuters, 7/18/22]

The Judge Said Google Had Engaged In "Discovery Misconduct." "In determining an appropriate award of attorneys' fees as a sanction for misconduct 'when using its inherent sanctioning authority (and civil procedures)," the court must "establish a causal link [] between the litigant's misbehavior and legal fees paid by the opposing party' […] The Court has already determined that the appropriate measure of the monetary sanction for Google's discovery misconduct is the attorneys' fees and costs incurred in bringing the sanctions motion, which is to be paid by Google to Plaintiffs." [Order On Award Of Attorney's Fees And Costs, Case 4:20-cv-03664-YGR, Doc 631, 7/15/22]

DURING A '10 DEPOSITION, LARRY PAGE CONTINUALLY CLAIMED THAT HE DIDN'T RECALL CRUCIAL CONVERSATIONS OR NEGOTIATIONS WHEN THEY BOUGHT YOUTUBE

DESPITE ACKNOWLEDGING HE WAS PRESIDENT OF PRODUCTS WHEN YOUTUBE WAS ACQUIRED, PAGE DID NOT RECALL WHETHER HE WAS IN CHARGE OF YOUTUBE

When Page Was Asked Whether He, As President Of Products At Google, Presided Over YouTube, Page Said "Google Ha[d] A Wide Variety Of Products." [Larry Page Deposition, Case 1:07-cv-02103-LLS, Doc 324-7, 5/21/10]

15:17:41 MR. BASKIN: Q. Now, as president of
15:18:12 products, isn't that your title, Mr. Page?
15:18:14 A And cofounder.
15:18:15 Q Yes.
15:18:16 As president of products and cofounder, was
15:18:20 one of the products that you were president over of
15:18:23 YouTube?
15:18:23 MR. MANCINI: Objection; asked and answered.

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15:18:26 THE WITNESS: Like I stated, Google has a
15:18:28 wide variety of products.
15:18:32 MR. BASKIN: Mark as Exhibit 14.

PAGE REFUSED TO ANSWER WHETHER HE FAVORED GOOGLE'S ACQUISITION OF YOUTUBE OR IF HE TALKED TO BRIN OR SCHMIDT ABOUT IT

Page Claimed He Couldn't "Remember My Exact Thinking" Around Whether He Favored The Acquisition Of YouTube By Google, But Acknowledged He Didn't Think He "Was Tremendously Upset By It." [Larry Page Deposition, Case 1:07-cv-02103-LLS, Doc 324-8, 5/21/10]

16:22:53 Q Did you favor the acquisition of YouTube by
16:22:58 Google?
16:23:02 A I don't remember my exact thinking around the

PAGE, L. - HIGHLY CONFIDENTIAL
16:23:04 time. I don't think I was tremendously upset by it.
16:23:13 Q Can you recall whether you favored the
16:23:16 acquisition of YouTube by Google, sir?

Page Refused To Directly Answer If He Could Remember Any Conversation With Brin Or Schmidt About Google's Acquisition Of YouTube. [Larry Page Deposition, Case 1:07-cv-02103-LLS, Doc 324-8, 5/21/10]

16:26:55 MR. DEIXLER: Q. You have no memory, general
16:26:58 or specific, of any conversation you had with Mr. Brin
16:27:01 or with Mr. Schmidt on the topic of the acquisition
16:27:05 of -- of YouTube by Google prior to the acquisition
16:27:08 closing; is that your testimony, sir?
16:27:10 MR. MANCINI: Objection; asked and answered.
16:27:13 THE WITNESS: I already answered that
16:27:16 question.
16:27:16 MR. DEIXLER: Q. Is that your testimony,
16:27:17 sir?
16:27:17 A Of course. I just said that.

PAGE CLAIMED HE COULDN'T RECALL WHETHER HE WAS KEPT IN THE LOOP ON NEGOTIATIONS WITH MEDIA GROUPS AFTER GOOGLE ACQUIRED YOUTUBE

Page Claimed He Couldn't Recall Whether He Was Kept Advised Of A Deal With Viacom Regarding YouTube.

[Larry Page Deposition, Case 1:07-cv-02103-LLS, Doc 324-7, 5/21/10]

14:29:19 Q Does this document help to remind you that
14:29:21 you and Mr. Brin were routinely being kept advised of
14:29:27 deal terms regarding negotiations with Viacom?
14:29:33 MR. MANCINI: Objection to the
14:29:34 mischaracterization of the document.
14:29:37 THE WITNESS: Again, same answer. I don't
14:29:39 recall.

Page Claimed He Didn't Recall Whether Google Was In Discussions With The Motion Picture Association About Copyright Compliance Issues With YouTube. [Larry Page Deposition, Case 1:07-cv-02103-LLS, Doc 324-8, 5/21/10]

15:41:19 MR. BASKIN: Q. Were you aware that Google
15:41:37 was -- strike that.
15:41:42 I take it, sir, that senior management was
15:41:45 very aware that Google was in discussions with the
15:41:48 MPAA, the Motion Picture Association, regarding
15:41:54 copyright compliance issues?
15:41:55 MR. MANCINI: Objection.
15:41:56 MR. BASKIN: Q. Are you aware of that?
15:41:57 MR. MANCINI: Objection; vague and ambiguous;
15:41:58 lacks foundation; calls for a legal conclusion.
15:42:05 THE WITNESS: I don't recollect that.

PAGE COULDN'T RECALL IF HE WAS ADVISED OF FULL MOVIES BEING UPLOADED TO YOUTUBE

Page Claimed He Couldn't Recall Ever Being Advised Of Full Movies Being Uploaded In Their Entirety To YouTube In 2007. [Larry Page Deposition, Case 1:07-cv-02103-LLS, Doc 324-7, 5/21/10]

15:40:25 MR. BASKIN: Q. Is it your testimony that
15:40:27 you do not recall -- strike that.
15:40:28 Is it your testimony, as you sit here today,
15:40:31 that you do not recall being advised of any movie
15:40:34 up -- uploaded in its entirety onto YouTube in 2007?
15:40:40 MR. MANCINI: Objection; mischaracterizes his
15:40:41 testimony.
15:40:41 THE WITNESS: I don't recall.

PAGE CLAIMED NOT TO KNOW WHETHER GOOGLE GAVE SEARCH PREFERENCE YOUTUBE IN SEARCH RESULTS…

Page Claimed He Didn't Know Whether Google Gave Search Preference To YouTube In Search Results. [Larry Page Deposition, Case 1:07-cv-02103-LLS, Doc 324-7, 5/21/10]

16:06:53 10 MR. BASKIN: Q. Does -- does YouTube get
16:07:07 11 search -- get searching preference on Google -- on
16:07:11 12 Google?
16:07:12 13 MR. MANCINI: Objection; vague and ambiguous.
16:07:14 14 THE WITNESS: I'm not aware of the details.
16:07:19 15 MR. BASKIN: Okay.

…NOR DID HE KNOW IF GOOGLE COULD BLOCK TORRENT SITES

Page Claimed He Didn't Know Whether Google Could Block Searches Of Pirated Sites Like Bit Torrent. [Larry Page Deposition, Case 1:07-cv-02103-LLS, Doc 324-8, 5/21/10]

16:10:33 21 MR. BASKIN: Q. Well, could Google's search
16:10:37 22 engine block searches of pirated sites like Bit
16:10:42 23 Torrent, a site like that?
16:10:44 24 MR. MANCINI: Same exact objections.
16:10:47 25 THE WITNESS: It's a hypothetical question.

1 PAGE, L. - HIGHLY CONFIDENTIAL

16:10:58 2 I don't know the answer to that.
16:10:59 3 MR. BASKIN: Q. I take it that there's been
16:11:12 4 no discussion among the other founder and you and
16:11:15 5 Mr. Schmidt as to whether the Google search engine