

Big Tech Goes on Trial: Can Google Defend Itself Against Monopoly Allegations?

Santiago Garcia-Mata

On September 12, a combined suit between the Department of Justice and 38 U.S. States and Territories will go to trial, with Google on the other side. Google will face allegations that its search engine marketing tool is being used to gain an unfair advantage over competitors, and more importantly that Google's default search agreements amount to monopolistic activity. The DOJ has won lawsuits like this far in the past, with its 1998 antitrust lawsuit against Microsoft being a model example. It remains to be seen whether courts in 2023 will still be accepting of arguments parallel to the winning ones made against Microsoft.

The Suit Against Google

The DOJ filed the initial lawsuit against Google in October 2020 at the height of anti-Big Tech sentiment on both sides of the political spectrum. Eleven States joined the initial suit, with three more signing on later. The second case later combined with the DOJ suit was filed in December 2020 by 35 states and the territories of Puerto Rico, Guam and Washington, D.C. Both cases pertain to Google's search practices, namely that of paying companies across the world billions of dollars for the right to be the default search browser on their devices, apps, and technology.

Google's massive payouts to browser developers, device manufacturers, and phone carriers for Google to be the default search engine are concerning both in their size and their coverage of the market. Google's yearly payment to Apple for just default search engine rights is estimated to be 20 billion dollars, and Google makes these payments to companies in every part of the technological field. The DOJ alleges that this paid placement has helped Google maintain its dominance and made it impossible for just about any other company to compete, especially because so few companies have billions to throw around like Google does.

The State lawsuit also brought in allegations that Google's search engine marketing tool makes certain features available to its own search engine, and not to Microsoft Bing's. Though it is another allegation of unfair advantage, the first allegation is the core of the suit due to its historical support from the late 1990's suits against big-tech.

Google's Claims

The facts don't look great for Google, even though it's not clear whether courts will be willing to stop the kind of activity that Google is undertaking. For one, about 90% of Americans use Google. Bing, the largest competitor for search engines, has only 6.4% of the U.S. market with the next largest, Yahoo coming in at just 2.4% of the market.

Google maintains that its flagship product, its search engine, is the best product of its type, which leads to its popularity. They further maintain that while other search engines are not substantial competition, they compete with websites with their own search functions such as Reddit and Amazon. Google also argues that paying for Google to be the default search, without limitations, is not anti-competitive because people can easily switch to a different browser without penalty if they wanted to.

Echoes of Past Lawsuits

The DOJ is hoping to bring back its success of the late 90's where it brought a successful and widely known suit against Microsoft for similar practices to Google's today. Microsoft would bundle Internet Explorer, its flagship web browser, with Microsoft Operating System, making it almost impossible to remove, though technically possible. Though a famous win for antitrust doctrine, it was muted when the U.S. District Court for D.C.'s decision to order Microsoft to be broken up into two separate companies was overturned by a higher court. Instead, Microsoft paid fines, indicating that even a win for antitrust litigators against Google could lead to little change or a fine that can easily be paid off by a company like Google that makes hundreds of billions yearly. With that being said, the parallels to Microsoft are not perfect, and Google may be able to evade any liability by trying to distinguish its practices from those of Microsoft in the late 90's.

For more information, see the full article [here](#).