

Google Case Judge Weighs Rivals' Data Needs Against Privacy

By [Bryan Koenig](#) · [Listen to article](#)

Law360, Washington, D.C. (April 24, 2025, 10:32 PM EDT) -- The D.C. federal judge weighing whether to break off the Chrome browser and force [Google](#) to share data with search engine rivals zeroed in Thursday on the balancing act between propping up other competitors and protecting the search data the Justice Department says they need to compete effectively.

With a [Microsoft](#) executive on the stand on the fourth day of the remedies phase of the monopolization case to vouch for [U.S. Department of Justice](#) proposals that include an end to Google's ability to pay web browsers, smartphone companies and wireless carriers for default placement of its search engine, U.S. District Judge Amit P. Mehta focused in particular on the part of the DOJ proposal to force Google to share search query data with rival search engines.

Having convinced Judge Mehta last year to declare that Google illegally monopolized online search, the DOJ said the company must share the search data that rivals like Microsoft's Bing and [DuckDuckGo](#) have been denied by its effectively exclusive distribution deals, creating a dramatic gap in quality that's heavily dependent on data scale.

To protect user privacy, the DOJ has, however, proposed various safeguards. But Judge Mehta noted Thursday that one potential safeguard parameter addressed by Bing Vice President Michael Schechter calls for excluding queries that aren't repeated often enough to be confidently anonymized.

"How does one reconcile those two considerations?" Judge Mehta asked, wondering if too much data could be removed to be useful to rivals.

"The privacy concerns are not made up," Schechter responded.

Schechter, questioned by DOJ attorney Travis Chapman, went on to argue that's why giving Bing and other search engines a chance at distribution is so key, because it would help them increase user scale naturally and thus get their own data that they can protect under their established internal protocols.

"It's much more valuable to us to see the users" rather than to be reliant on Google's data, he said.

The exchange was not the first time Judge Mehta has focused on the balancing act he'll have to perform, as he weighs how to remedy the monopolies over search and accompanying text advertising that he held Google has maintained by paying billions of dollars to be the preloaded default search engine on web browsers from [Mozilla](#) and [Apple](#) and devices from [Samsung](#), [Motorola](#), [Verizon](#) and others.

On Wednesday, Judge Mehta [asked](#) about exactly what information would be produced under

a DOJ proposal for Google to share data with advertisers, data that the company contends would damagingly reveal the inner workings of the online auctions that place advertisements when searches load.

Google has signaled it plans to appeal no matter what remedy Judge Mehta imposes, which is expected to happen in August. In the meantime, the company has proposed a narrower remedy that would ban it from conditioning the license of the Google Play Store or other Google applications on Android phone companies and browser makers also licensing Google's mobile search or Chrome applications.

Google has also called for a ban on any conditions blocking distribution partners from placing rival search engines on their technology, provisions it said go to the core of concerns raised over its search engine exclusivity. And it's argued the DOJ proposals risk endangering user privacy.

The DOJ tried to address privacy concerns Thursday by questioning David Evans, a [University of Virginia](#) professor of computer sciences called in as an expert witness on privacy safeguards. Under questioning by DOJ attorney Sara Trent, Evans testified that the query information Google would have to produce, under the proposal from the government and state attorneys general suing in parallel, could be adequately anonymized while still being useful to rival search engines.

Evans, who spoke only to privacy protections for publicly disclosed information, not cybersecurity to ward off attackers, said that Google itself uses privacy safeguards to publicly post information, as does the U.S. [Census Bureau](#). And he said that there should be no concern of a repeat of a 2006 episode in which America Online released data allowing researchers to identify the searches of certain specific individuals.

"They didn't use any privacy enhancing techniques to protect it," Evans said. "This was done in a very reckless way, even by the standards of 2006."

When an attorney for Google, Colette T. Connor of [Williams & Connolly LLP](#), challenged Evans' assertions, including by suggesting there's no way to absolutely guarantee the data stays untraceable to individuals, Evans continued to argue that sufficient safeguards are possible, asserting that the right privacy enhancing safeguards "can give you very strong assurances."

Evans, however, had to admit that he's not suggesting any specific privacy safeguards, instead leaving that up to a technical committee proposed by the DOJ.

The highly technical nature of the testimony appeared to wear on Judge Mehta, who at one point asked Connor to ease off the granularity of the detail she was pursuing.

"A point is being made," Judge Mehta said. "I don't have a Ph.D."

On Thursday, the case that has so far focused heavily on the future of search engines pairing with generative artificial intelligence turned, at least temporarily, to the companies already left behind.

Vouching for the DOJ's proposals alongside Schechter was DuckDuckGo founder and CEO Gabriel Weinberg and [Yahoo](#) Senior Vice President Brian Provost. All three noted that, in many areas, their companies lag behind Google's quality, and they argued they need parts of the DOJ's proposed remedies to close the gap.

Both DuckDuckGo and Yahoo base their own search results on Bing, under contracts that Google's counsel noted bars the companies from getting the same kind of data from third parties — Weinberg said DuckDuckGo's contract with Microsoft will expire long before any remedies kick in, while Provost said Yahoo is principally interested in data not covered by its own agreement.

The DuckDuckGo and Yahoo executives also defended their companies when it was suggested they were trying to free ride on Google's investments. And they argued that they have, in fact, invested in improvements, despite Google's assertions of minimal investment and personnel put to the task. Schechter, in turn, was pressed on cross-examination by Google attorney Christopher Yeager of Williams & Connolly on how much Microsoft has managed to improve on its own — without getting Google's data — using AI.

Continuing cross-examination that began Wednesday, Weinberg also said that simply taking Google's data would not be an easy decision, because DuckDuckGo would have to be sure it's worthwhile. In one scenario, "We could never go back to Microsoft," he said, while saying that ideally, the privacy-focused search engine would be able to maintain its Microsoft syndication as well.

Weinberg also told Google attorney John E. Schmidlein of Williams & Connolly that it's enough to safeguard user privacy by removing the IP address and direct identifiers from Google's query data, testimony that Evans contradicted under his own cross-examination. Weinberg, the professor said, is "not a privacy expert."

If Judge Mehta agrees to impose a data sharing mandate, Evans' cross-examination may provide important guidelines on where to improve the DOJ's proposed privacy safeguards, with the expert witness calling the government definition of personally identifiable information "too narrow."

Yahoo's Provost also spoke to the DOJ's bid to force Google to sell the Chrome browser, a key way that people access search where the company's control is particularly hard to challenge.

"It's arguably the most important strategic player on the web," Provost told DOJ attorney Chapman.

Provost said that Yahoo, with the help of private equity owner [Apollo Global Management](#), would be interested in buying Chrome, whose worth he estimated in the tens of billions of dollars, and then making Yahoo the browser's default search engine.

"It's our product, we're proud of it," he said of the company's search engine.

Provost said that a Chrome default could help Yahoo grow from a 3% market share into

"double digits," bringing with it more data to help the company improve its search results.

On cross-examination by Schmidtlein, Provost pushed back on assertions that users would switch away from Chrome if they found themselves with Yahoo as the default search engine, arguing Yahoo has improved since the days when it was made the default search engine on Mozilla Firefox, instead of Google, inciting widespread customer dissatisfaction. He said Yahoo has sought to improve even since last year, when internal company documents described the search engine as not meeting user expectations and running on "antiquated" infrastructure.

The government is represented by David Dahlquist, Adam Severt, Veronica Onyema, Travis Chapman, Diana Aguilar, Sarah Bartels, Grant Fergusson, Kerrie Freeborn, Meagan Glynn, Richard Cameron Gower, Karl Herrmann, Ian Hoffman, John Hogan, Elizabeth Jensen, Ryan Karr, Claire Maddox, Michael McLellan, Keane Nowlan, Andrew Tisinger, Sara Trent, Jennifer Wamsley and Catharine Wright of the U.S. Department of Justice's Antitrust Division.

The states are represented by their respective attorneys general and William F. Cavanaugh Jr. of [Patterson Belknap Webb & Tyler LLP](#).

Google is represented by John E. Schmidtlein, Benjamin M. Greenblum, Colette T. Connor, Kenneth C. Smurzynski, Graham W. Safty, Christopher Yeager and Aaron P. Maurer of Williams & Connolly LLP, Michael S. Sommer and Franklin M. Rubinstein of [Wilson Sonsini Goodrich & Rosati PC](#) and Mark S. Popofsky and Matthew L. McGinnis of [Ropes & Gray LLP](#).

The cases are U.S. et al. v. Google LLC, case number [1:20-cv-03010](#), and Colorado et al. v. Google LLC, case number [1:20-cv-03715](#), both in the [U.S. District Court for the District of Columbia](#).

--Additional reporting by Ali Sullivan, Matthew Perlman, Jared Foretek and Lauren Berg. Editing by Dave Trumbore.

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