

# Judge tosses class-action push for Google suit (Update)

March 19 2014, by Paul Elias

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A judge has tossed out an effort to win class-action status for a lawsuit accusing Google of violating the privacy terms of email users.

U.S. District Judge Lucy Koh ruled late Tuesday that too many users have too many dissimilar claims to pursue a single class-action lawsuit that could expose the search engine giant to billions of dollars in potential losses.

At issue is the scanning of contents of Gmail accounts and the related targeting of ads. Many other high-tech companies and email providers are closely watching the case, which is expected to better define privacy laws.

On Wednesday, Koh said it's impossible to know which email users consented to Google's privacy policies, complicating the push for class-action status.

The judge said "consent has been central to this case since its inception," and sorting out who knew and approved of Google's automated sifting of their emails and who didn't would be impossible.

Koh said some users might have actively consented to Google's action, while others became aware of it through media reports.

"There is a panoply of sources from which email users could have learned of Google's interceptions," she wrote.

Several similar lawsuits were filed across the country and were consolidated in Koh's courtroom in San Jose.

Though the judge didn't toss out the lawsuits, she barred lawyers from reformatting them to address her concerns and from asking again for class-action status.

"Usually the denial of class certification ends the lawsuits," said Eric Goldman, a Santa Clara University law professor. "It's too expensive to pursue them individually. This is a fantastic ruling for Google."

Sean Rommel, one of the lawyers representing email users who sued Google, didn't return a phone call seeking comment. He can appeal the decision to the 9th U.S. Circuit Court of Appeals.

For its part, Google has maintained it does not open and read people's emails. Instead, the company says its process is fully automated, and software scans for keywords to help it target advertisements to consumers.

"We're glad the court agreed that we have been upfront about Gmail's automated processing, which allows us to provide security and spam protection."

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