

Can attorney general investigate Google? Judge to decide (Update)

February 13 2015, by Jeff Amy

Does Google help criminals by allowing its search engine to lead to pirated music or by having its autocomplete function suggest illegal activities?

Mississippi's attorney general suspects the company does and wants to investigate further, yet the Internet giant says companies aren't liable for what people say and do online.

The Mountain View, California-based company says Mississippi Attorney General Jim Hood is infringing on its free speech rights. The company wants U.S. District Judge Henry T. Wingate to issue an injunction saying it doesn't have to answer a subpoena from Hood, and wants the judge to bar the attorney general from filing civil or criminal charges.

Lawyer Peter Neiman told Wingate during a three-hour hearing Friday that Hood, indirectly through his investigation, is trying to give states the power to filter the Internet.

"They're trying to cloak themselves in 'Let's make the Internet safer,'" Neiman said.

The Democratic attorney general, though, says Google profits off illegal activity through its own conduct.

The showdown between Google and Hood escalated last fall when Hood

sent a 79-page subpoena to Google. That document demands the company produce information on whether Google is helping criminals by allowing its search engine to lead to pirated music, having its autocomplete function suggest illegal activities and sharing YouTube ad revenue with the makers of videos promoting illegal drug sales.

The judge said he will rule Feb. 24.

Google contends that Congress made it immune from Hood's investigation when it passed the Communications Decency Act in 1996. That law says Internet service providers aren't responsible for content provided by others. Neiman said everything Hood has cited is third-party content.

"There are real, concrete things that Google did to change its constitutionally protected editorial judgment to try to mollify the attorney general," he said, saying the company changed its autocomplete filter and began limiting ads on some YouTube videos.

Assistant Attorney General Doug Miracle said federal law does not make Google immune from investigation. The law might be a defense against a lawsuit, he said, but Hood has filed no such suit and is still trying to determine facts.

"They're asking the court to tell the attorney general he cannot investigate," Miracle told Wingate.

The state lawyer denied that Hood was "chilling" Google's speech rights.

"The only thing that would be chilled would be the attorney general's ability to enforce the consumer protection laws," Miracle said.

Google and supporters say Hood is part of a covert campaign by movie

studios to use legal action to achieve enhanced piracy protection that Congress has rejected. Neiman pointed to a letter that Hood sent Google that was largely drafted by the Motion Picture Association of America, as well as the hiring of former Mississippi Attorney General Mike Moore by the Digital Citizens Alliance, a nonprofit group funded by movie studios and other companies.

Miracle said that Neiman's discussion of the movie industry was a "real red herring" and said Hood was only working with crime victims.

"He's going to work with the people and the industries who are affected by the problem," Miracle said.

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