

GOOGLE LOSING MORE AND MORE CASES AS WORLD SEES GOOGLE FOR WHAT IT IS!

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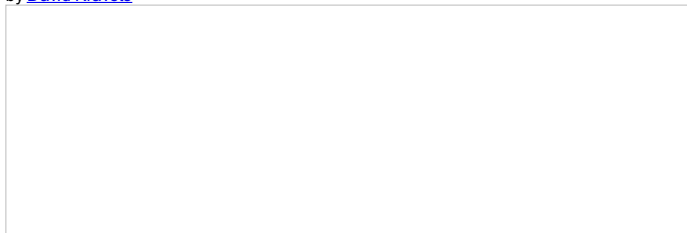
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Google's 1st Amendment defense to search censorship fails in court

“Plaintiff has adequately alleged that it did not violate any of Google's policies.”

by [David Kravets](#) –



It's not the first time that Google has been sued for its search rankings, but it's among the first in which the company's First Amendment defense is failing. For the moment, a federal judge in Florida is allowing a search-censorship lawsuit to proceed against Google. Search engine optimization company E-ventures Worldwide [claims](#) (PDF) that Google wrongfully removed hundreds of its websites from Google search. E-ventures claims that it did not breach any of Google's terms of service but instead was hit in September 2014 because of “economic” and “anti-competitive” reasons. According to the [ruling](#) (PDF) by US District Judge John Steele of Florida:

While a claim based upon Google's PageRanks or order of websites on Google's search results may be barred by the First Amendment, plaintiff has not based its claims on the PageRanks or order assigned to its websites. Rather, plaintiff is alleging that as a result of its pages being removed from Google's search results, Google falsely stated that e-ventures' websites failed to comply with Google's policies. Google is in fact defending on the basis that e-ventures' websites were removed due to e-ventures' failure to comply with Google's policies. The Court finds that this speech is capable of being proven true or false since one can determine whether e-ventures did in fact violate Google's policies. This makes this case distinguishable from the PageRanks situation. Therefore, this case does not involve protected pure opinion speech, and the First Amendment does not bar the claims as pled in the Second Amended Complaint.

Essentially, E-ventures is claiming that because its business focuses on getting websites higher rankings in Google's unpaid search listings, Google removed it and its affiliates so that companies will instead pay Google for higher rankings. “Google hopes that third parties read Google's publications and pay Google to be ranked higher in Google's search results,” E-ventures said. “E-ventures hopes that third parties read E-ventures' publications and pay a SEO provider instead of Google to achieve the same result. In sum, Google has an anti-competitive, economic motivation to eliminate the visibility of E-ventures' websites on its search engine.”

Google, which had claimed that E-ventures' sites were “pure spam,” is under intense antitrust scrutiny around the globe. The Federal Trade Commission is said to be examining the Mountain View, California-based company over alleged anticompetitive behavior regarding its [Android operating system](#). Google's search dominance is also [being eyed in Europe](#). Google dodged the antitrust bullet in the US in 2013, when the Federal Trade Commission unanimously voted not to bring a case against the search giant. Meanwhile, in the latest legal dustup in Florida, Google also claimed that like a news outlet, it had the right to publish as it saw fit. Judge Steele did not agree, saying:

While publishers are entitled to discretion for editorial judgment decisions, plaintiff has alleged that Google's reason for banning its websites was not based upon “editorial judgments” but instead based upon anti-competitive motives.

Plaintiff has adequately alleged that it did not violate any of Google's policies and that the representations made by Google that E-ventures' pages violate Google's policies are false. Whether or not plaintiff can support these assertions and carry its burden at a later stage of the proceedings is for a different day. The Court finds that at this stage of the proceedings, the Second Amended Complaint is sufficient to withstand Google's First Amendment arguments.

Among other things, Google claimed the suit was barred by the Communications Decency Act (CDA), which essentially gives Internet service providers a free hand to publish as they see fit. “While the CDA defense may properly be considered if it is apparent from the face of the complaint, that is not the situation in this case. Here, plaintiff has included allegations within its Second Amended Complaint that Google failed to act in good faith when removing its websites from Google's search results,” the judge ruled. Google did not respond to Ars for comment. The judge in the case gave Google until May 26 to respond to his ruling. E-ventures' websites were restored on Google search after the lawsuit was filed in November, 2014.