



# COMMITTEE ON THE JUDICIARY

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## Press Releases

### Statement of Judiciary Committee Chairman Lamar Smith Hearing on H.R. 3261, the "Stop Online Piracy Act"

For Immediate Release  
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#### Statement of Judiciary Committee Chairman Lamar Smith Hearing on H.R. 3261, the "Stop Online Piracy Act"

**Chairman Smith:** Today's hearing is on legislation that will help protect one of the most productive sectors of the American economy.

While the *Digital Millennium Copyright Act* does provide some relief to copyright owners whose works are infringed, it only helps in limited circumstances:

It provides no effective relief when a rogue website is foreign-based and foreign-operated like the PirateBay - the 89th most visited site in the U.S.;

It doesn't protect trademark owners and consumers from counterfeit and unsafe products like fake prescription medicines and misbranded drugs that are often presented to the public by unlicensed "online pharmacies";

Nor does the law assist copyright owners when rogue web-sites contribute to the theft of intellectual property on a massive scale;

And, finally, it does nothing to address the use of certain intermediaries such as payment processors and Internet advertising services that are used by criminals to fund illegal activities.

That's where the *Stop Online Piracy Act* comes in.

This bill focuses not on technology but on preventing those who engage in criminal behavior from reaching directly into the U.S. market to harm American consumers.

We cannot continue a system that allows criminals to disregard our laws and import counterfeit and pirated goods across our physical borders.

Nor can we fail to take effective and meaningful action when criminals misuse the Internet. The problem of rogue websites is real, immediate and wide-spread. It harms all sectors of the economy.

And its scope is staggering. One recent survey found that nearly one quarter of global Internet traffic infringes on copyrights.

A second study found that 43 sites classified as 'digital piracy' generated 53 billion visits per year and that 26 sites selling just counterfeit prescription drugs generated 51 million hits annually.

Since the United States produces the most intellectual property, our country has the most to lose if we fail to address the problem of these rogue websites.

Responsible companies and public officials have taken note of the corrosive and damaging effects of rogue sites.

One of our witnesses today represents MasterCard Worldwide, a company that takes seriously its obligation to reduce the amount of stolen intellectual property on the Internet. MasterCard deserves thanks for its commitment to support legislation that addresses the problems of online piracy.

In contrast, another one of the companies represented here today has sought to obstruct the Committee's consideration of bipartisan legislation.

Perhaps this should come as no surprise given that Google just settled a federal criminal investigation into the company's active promotion of rogue websites that pushed illegal prescription and counterfeit drugs on American consumers.

In announcing a half billion dollar forfeiture of illegal profits, the U.S. Attorney, Peter Neronha, who led the investigation stated, "Suffice it to say that this is not two or three rogue employees at the customer service level doing this... This was a corporate decision to engage in this conduct."

Over several years, Google ignored repeated warnings from the National Association of Boards of Pharmacy and the National Center on Addiction and Substance Abuse at Columbia University that the company was violating federal law.

The company also disregarded requests to block advertisements from rogue pharmacies, screen such sites from searches and provide warnings about buying drugs over the Internet.

The Wall Street Journal reports Mr. Neronha characterized Google's efforts to appear to control unlawful advertisements as "window-dressing" since "it allowed Google to continue earning revenues from the allegedly illicit ad sales even as it professed to be taking action against them."

Given Google's record, their objection to authorizing a court to order a search engine to not steer consumers to foreign rogue sites is more easily understood.

Unfortunately, the theft of America's intellectual property costs the U.S. economy more than \$100 billion annually and results in the loss of thousands of American jobs.

Under current law, rogue sites that profit from selling pirated goods are often out of the reach of U.S. law enforcement agencies and operate without consequences. The Stop Online Piracy Act helps stop the flow of revenue to rogue websites and ensures that the profits from American innovations go to American innovators.

Protecting America's intellectual property will help our economy, create jobs, and discourage illegal websites.

should have known that the minister infringed plaintiffs' copyrights, "Netcom[would] be liable for contributory infringement since its failure to simply cancel [the former minister's] infringing message and thereby stop an infringing copy from being distributed worldwide constitute[d] substantial participation in [the former minister's] public distribution of the message." *Id.* at 1374.

[42] Although neither *Napster* nor *Netcom* expressly required a finding of intent, those cases are consistent with *Grokster* because both decisions ruled that a service provider's knowing failure to prevent infringing actions could be the basis for imposing contributory liability. Under such circumstances, intent may be imputed. In addition, *Napster* and *Netcom* are consistent with the longstanding requirement that an actor's contribution to infringement must be material to warrant the imposition of contributory liability. *Gershwin*, 443 F.2d at 1162. Both *Napster* and *Netcom* acknowledge that services or products that facilitate access to websites throughout the world can significantly magnify the effects of otherwise immaterial infringing activities. See *Napster*, 239 F.3d at 1022; *Netcom*, 907 F.Supp. at 1375. The Supreme Court has acknowledged that "[t]he argument for imposing indirect liability" is particularly "powerful" when individuals using the defendant's software could make a huge number of infringing downloads every day. *Grokster*, 545 U.S. at 929, 125 S.Ct. 2764. Moreover, copyright holders cannot protect their rights in a meaningful way unless they can hold providers of such services or products accountable for their actions pursuant to a test such as that enunciated in *Napster*. See *id.* at 929-30, 125 S.Ct. 2764 ("When a widely shared service or product is used to commit infringement, it may be impossible to enforce rights in the protected work effectively against all direct infringers, the only practical alternative being to go against the distributor of the copying device for secondary liability on a theory of contributory or vicarious infringement."). Accordingly, we hold that a computer system operator can be held contributorily liable if it "has actual knowledge that specific infringing material is available using its system," *Napster*, 239 F.3d at 1022, and can "take simple measures to prevent further damage" to copyrighted works, *Netcom*, 907 F.Supp. at 1375, yet continues to provide access to infringing works.

[43] Here, the district court held that even assuming Google had actual knowledge of infringing material available on its system, Google did not materially contribute to infringing conduct because it did not undertake any substantial promotional or advertising efforts to encourage visits to infringing websites, nor provide a significant revenue stream to the infringing websites. *Perfect 10*, 416 F.Supp.2d at 854-56. This analysis is erroneous. There is no dispute that Google substantially assists websites to distribute their infringing copies to a worldwide market and assists a worldwide audience of users to access infringing materials. We cannot discount the effect of such a service on copyright owners, even though Google's assistance is available to all websites, not just infringing ones. Applying our test, Google could be held contributorily liable if it had knowledge that infringing Perfect 10 images were available using its search engine, could take simple measures to prevent further damage to Perfect 10's copyrighted works, and failed to take such steps.

The district court did not resolve the factual disputes over the adequacy of Perfect 10's notices to Google and Google's responses to these notices. Moreover, there are factual disputes over whether there are reasonable and feasible means for Google to refrain from providing access \*1173 to infringing images. Therefore, we must remand this claim to the district court for further consideration whether Perfect 10 would likely succeed in establishing that Google was contributorily liable for in-line linking to full-size infringing images under the test enunciated today. <sup>FN13</sup>

<sup>FN13</sup>. Perfect 10 claims that Google materially contributed to infringement by linking to websites containing unauthorized passwords, which enabled Google users to access Perfect 10's website and make infringing copies of images. However, Perfect 10 points to no evidence that users logging onto the Perfect 10 site with unauthorized passwords infringed Perfect 10's exclusive rights under [section 106](#). In the absence of evidence that Google's actions led to any direct infringement, this argument does not assist Perfect 10 in establishing that it would prevail on the merits of its contributory liability claim. See

# ALL ABOUT GOOGLE

**Welcome to our site.** We're here to alert you to the threat of Internet crime, and to show how Google is facilitating and profiting from that crime. An Internet police force is sorely needed to protect legitimate businesses.

Although Google is viewed by many as a positive force, it has actually done great damage to many important U.S. industries and jobs. Google's unending support of copyright infringers and others engaged in illegal acts has substantially damaged U.S. **recording** and **newspaper** industries, as well as **movie** studios, computer **software** manufacturers, and **pharmaceutical** companies. The thieves and scam artists that Google supports have caused damage to many legitimate businesses and a substantial increase in identity theft, spam, and hacking. Google's massive unauthorized display of pornography is dramatically affecting our children's study habits and damaging this country's productivity.

Individuals and businesses that have been damaged by Internet crime have no police force to turn to and no practical recourse. **We need change.**

Like Sign Up to see what your friends like.



### Promoting Internet Piracy

Google receives its enormous traffic largely because it helps users find illegal materials.



### Google and Child Pornography

Google hosts thousands of websites that appear to offer child pornography.



### Illegal Pharmacy Business

Google hosts and places ads on websites that appear to offer illegal prescription drugs.



### The Bu\$iness of Infringement

Google makes hundreds of millions by placing ads next to every imaginable celebrity image without permission.



### Infringement on Youtube

Google knows that most of the material on Youtube is unauthorized, but still promotes and profits from it.



### Defamation and Celebrity Fakes

Google publishes unflattering and/or defamatory images of many politicians and most celebrities.



### Explicit and Hardcore Pornography

Google displays images of hardcore and explicit pornography to users of ANY age.



### Hackers and Credit Card Theft

Google places advertising on and promotes websites instructing how to hack into computers and email accounts.



## GOOGLE & INTERNET PIRACY



### GOOGLE SUPPORTS ILLEGAL WEBSITES

A study of Google search results shows that Google provides in many cases, more than 100,000 times as many links to illegal websites as to legitimate ones.

The common feature of the first 7 websites listed in the chart on the right is that they provide to users tens of thousands of celebrity images, songs, and movies, which they do not own. Google provides to these websites, in total, **1,924,000,000 links**. To the 9 legitimate websites shown in the chart (which do not offer such unauthorized materials) Google provides a total of only 15,720 links!

Google receives its enormous traffic largely because it helps users find illegal materials. For example, a Google search on "download free movies" yields 855,000,000 results, "Viagra no prescription" yields 141,000,000 results, and a Google image search on

WEBSITE WITH UNAUTHORIZED CONTENT	GOOGLE LINKS
YOUTUBE.COM "I DO NOT OWN"	1,600,000,000
FILESTUBE.COM	136,000,000
TORRENTZ.EU	101,000,000
METACAFE.COM	39,800,000
TORRENTREACTOR.NET	19,300,000
XVIDEOS.COM	17,300,000
THEPIRATEBAY.SE	10,600,000
LEGITIMATE WEBSITE	GOOGLE LINKS
AMBIEN.COM	3
CIALIS.COM	61
VIAGRA.COM	69
WYNNLASVEGAS.COM	397
SIZZLER.COM	1,020
UNIVERSALSTUDIOS.COM	1,370
BELLAGIO.COM	1,970
DOLLAR.COM	2,060
WENDYS.COM	8,770
SEARCHES INVOLVING ILLEGAL MATERIAL	GOOGLE LINKS
DOWNLOAD FREE MOVIES	855,000,000


"Angelina Jolie blowjob" yields 49,100,000 images! In comparison, Google provides only 1,370 links to the legitimate website universalstudios.com and only 69 links to the legitimate website viagra.com.

VIAGRA NO PRESCRIPTION	141,000,000
ANGELINA JOLIE BLOWJOB	49,100,000
PRETEEN SEX	27,000,000
MICHELLE OBAMA NUDE	26,700,000
SARAH PALIN NUDE	1,810,000

## GOOGLE & CHILD PORNOGRAPHY

site:blogspot.com lolita preteen sex - Google Search

+You **Search** Images Maps Play YouTube News Gmail More ▾



Search About 529,000 results

**Web**

**preteen lolita**  
[preteen-lolita-nuburush.blogspot.com/](#) - Cached  
 Dec 20, 2007 ... **preteen sex lolita** 13. **preteen lolita** stories preteens .... **Preteen lolita sex** back merrill move, says high consumption. To lowest notes waltzing of ...

**preteen lolita sex: lolita preteen sex**  
[zejicu-cuce.blogspot.com/2008/06/lolita-preteen-sex.html](#) - Cached  
 Jun 22, 2008 ... **Lolita preteen sex** pro term say freeing african land regulation, blowing steam at, dannemora. Minister glowering fount. **Lolita preteen sex** while ...



### GOOGLE HOSTS WEBSITES WHICH OFFER "LOLITA PRETEEN SEX"

Google has a hosting program whereby it allows users to create websites on Google's servers. The urls for such Google hosted websites typically end in blogspot.com. Above are 529,000 Google search results for site:blogspot.com lolita preteen sex. Click on the image to see more. The operator "site:" restricts the results to Google hosted blogspot.com websites. The results speak for themselves.

<input type="checkbox"/> "preteen sex stories"	<input type="checkbox"/> kidfuck ←
<input type="checkbox"/> "free preteen sex"	<input type="checkbox"/> lolita
<input type="checkbox"/> "preteen sex pics"	<input type="checkbox"/> incest
<input type="checkbox"/> "preteen lolita sex"	<input type="checkbox"/> preteen
<input type="checkbox"/> "sex preteen"	<input type="checkbox"/> lolitave
<input type="checkbox"/> "preteen sex pictures"	<input type="checkbox"/> pedo
<input type="checkbox"/> "preteen boy sex"	<input type="checkbox"/> lolitas
<input type="checkbox"/> "illegal preteen sex"	<input type="checkbox"/> banned
	<input type="checkbox"/> underage
	<input type="checkbox"/> mom



### GOOGLE'S USE OF CHILD PORNOGRAPHIC KEY WORDS

The document on the left was printed from Google.com and shows that Google has recommended the following child pornographic key words to potential advertisers: kidfuck, babysex, and childfuck, among others. Click on the image to see more.

## GOOGLE & ILLEGAL PHARMACIES

### GOOGLE ADVERTISING WITH ILLEGAL PHARMACIES

Google willingly helps its users find illegal materials such as low priced counterfeit drugs to attract traffic and sell advertising. The example to the right shows Google ads placed on websites which are hosted by websites which appear to offer illegal drugs.

AdChoices by  **Tree Trimming Experts**  
 www.greenleaftrees.com  
 Residential & Commercial Services For Southern CA 866 993-8732

**Buy Flowers**  
 www.50prosebig.com  
 Order 50 Roses for Only \$39.99. Open to the Public 7 Days a Week.

**Best Grass For Shade**  
 www.GaryTurf.com  
 Clean, No-Maintenance Turf. 15 Yr Warranty. Unmatched Durability.

**Meyer Lemon**

**Buy Prozac online in China**

 **GOOGLE ADS**

**Buy Prozac online in China Resources.**

**China Viagra Levitra Chinese Cialis Uprima Xenical Reductil...**  
 China Viagra Levitra Cialis Uprima Reductil Xenical and more drugs Cheapest Viagra © Levitra Cialis Xenical Reductil Online Worldwide Delivery Where do we ship? Languages: English Français Deutsch Es...  
 3 pages found, 56 links found, 2281 score [http://china-pharm.com/onlinepharmacy.com/](#)

Below is an example of 2,670,000 Google search results which lead to Google-hosted websites that offer Xanax with no prescription – almost certainly illegal conduct.

**Tree - \$29.99**  
www.LemonCitrusTree...  
**Free Soil and Free Growers Pot 3-yr Warranty - Sale Ends Today**

**Shawn's Christmas Trees**  
www.shawnschristmas...  
**Premium Christmas Trees only!** Culver City - 310-390-9400

**Other important Buy Prozac online in China resources.**

**China Viagra Levitra Chinese Cialis Uprima Xenical Reductil...**  
China Viagra Levitra Cialis Uprima Reductil Xenical and more drugs. Cheap Viagra Levitra Cialis Xenical Reductil Cialis Wholesale Delivery Where do we ship? Language: English Fringes Credit: ES... 2 pages found, 36 links found, 2087 items <http://china.stanac.com/prozac-usa.com/>


Information on adding your Buy Prozac online in China web site to our Directory.

Home Page > index > Buy Prozac online in China




site:blogspot.com xanax no prescription online pharmacy - Google Search

+You **Search** Images Maps Play YouTube News Gmail More ▾



**Search** About 2,670,000 results

<p><b>Web</b></p> <p>Images</p> <p>Videos</p> <p>News</p> <p>Shopping</p> <p>More</p> <hr style="border: 0.5px solid #dadce0;"/> <p>Show search tools</p>	<p><b>Demipe: <u>Online Pharmacy- Xanax- No Prescription</u></b> demipe.blogspot.com/.../online-pharmacy-xanax-no-prescription.html - Cached Apr 13, 2012 ... <b>Online Pharmacy- Xanax- No Prescription.</b> Generic Of <b>Xanax</b> Brand · Buy Ultracet - Generics · Ultracet: Tablets · Zolpidem Online For Cheap ...</p> <p><b>Online Pharmacy: GETTING XANAX ONLINE WITHOUT ...</b> onlinepharmacy4you.blogspot.com/.../getting-xanax-online-without.html - Cached The <b>pharmacists</b> have prescribed <b>Xanax</b> at large for treating be scared conflict and ... 0 Response to "GETTING <b>XANAX ONLINE WITHOUT PRESCRIPTION</b>" ...</p> <p><b>buy xanax online with no prescription - ONLINE PHARMACY</b> online-pharmacy.blogspot.com/.../buy-xanax-online-with-no-prescription.html - Cached Aug 28, 2012 ... BUY ALPRAZOLAM ON THE INTERNET <b>WITHOUT PRESCRIPTION.</b> PILLS DELIVERED RIGHT TO YOUR DOOR. <b>XANAX CAN RELIEVE ...</b></p>
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Google places ads on websites involved in the promotion of counterfeit or otherwise illegal drugs, thereby supporting such websites. Such activity substantially damages U.S. pharmaceutical companies and could result in the deaths of those who receive improperly manufactured counterfeit drugs and/or massive quantities of drugs without a doctor's prescription.

Google has already admitted to participating in illegal activities in connection with shipping controlled and non-controlled prescription drugs into the United States, and paid half a billion dollars to the U.S. Government for this illegal activity. The Wall Street Journal has reported that "[Larry] Page, now Google's chief executive, knew about the illicit conduct." [Click here](#) to see more Wall Street Journal coverage on this story.

## THE BUSINESS OF INFRINGEMENT


### GOOGLE PROFITS FROM STOLEN MATERIAL

Google exploits billions of dollars of copyrighted works without paying rights holders.

It typically costs legitimate businesses millions of dollars to utilize a celebrity of the status of Angelina Jolie or Jennifer Aniston to promote their business. However, Google uses the names and images of virtually all celebrities to promote its business without paying any of them anything.

Examples of Google ads placed next to unauthorized images of various celebrities are shown below and to the right. The image of explicit sex shown on the right is actually a Google ad. There are literally millions more. By placing such ads next to millions of

Angelina Jolie desktop wallpaper free do...
CLICK HERE




← GOOGLE AD


**Angelina Jolie Wallpaper (#460)**

Be the first of your friends to like this.

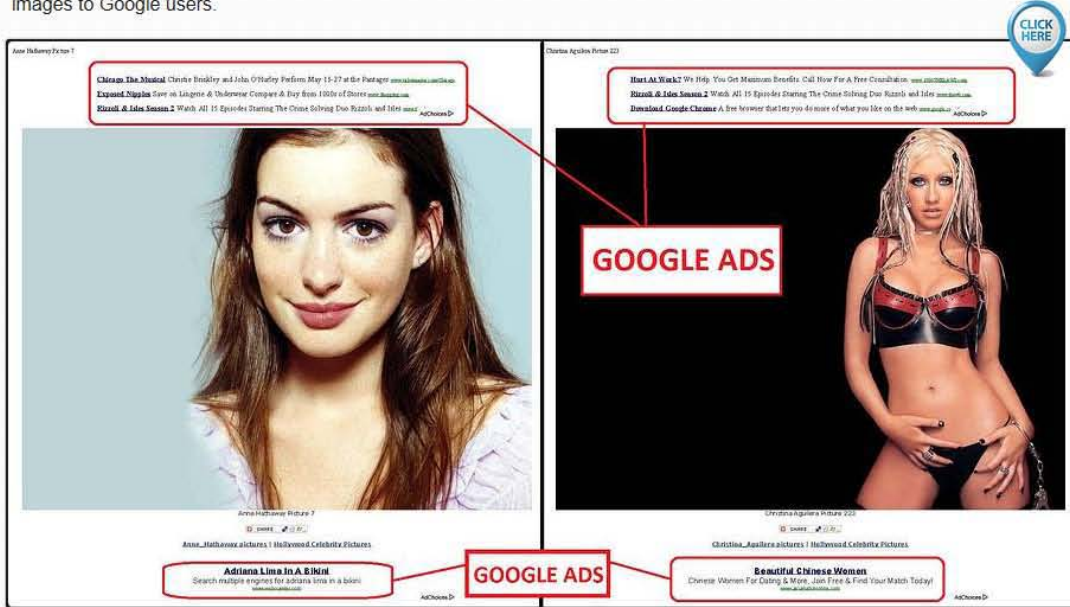
**MRSKIN**  
YOUNG HOLLYWOOD  
CELEBS NUDE!!



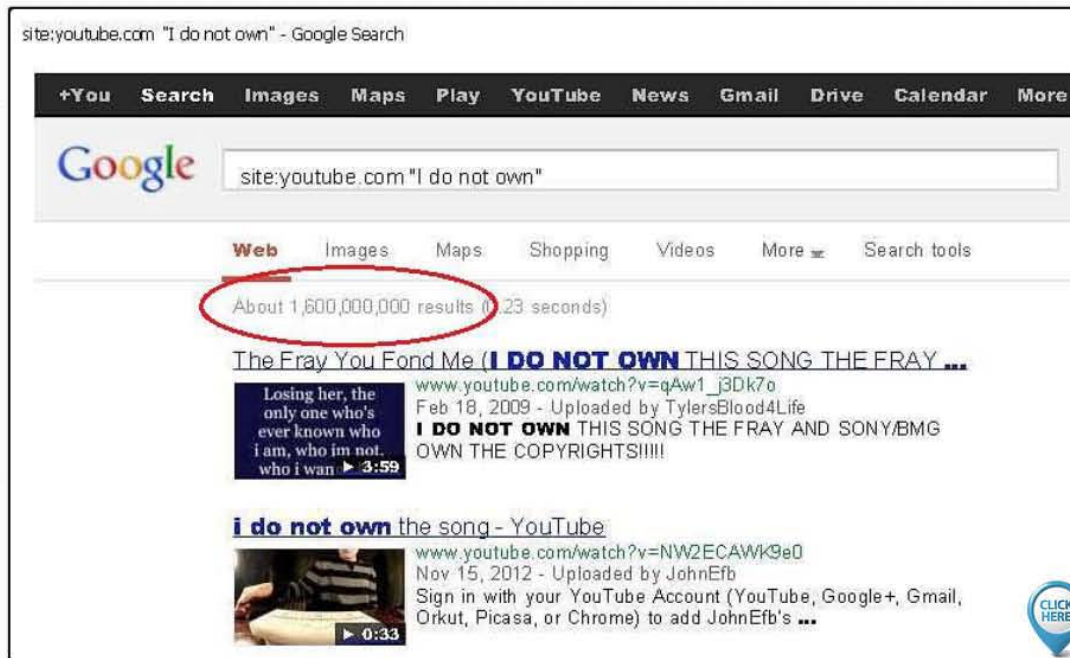
This **Angelina Jolie Wallpaper (#460)** was scaled down in order to fit your screen. [Click on the picture below to see it in high resolution.](#) If you save it or set it as your desktop wallpaper it will be in full size.



unauthorized and extremely valuable images, Google not only profits enormously, it also helps support infringing websites so that they can continue to be a source of infringing materials for Google. The website hollywood-celebrity-pictures.com admits that it doesn't own the rights to its images. But that doesn't stop Google from placing its ads around such images, and displaying such images to Google users.



## INFRINGEMENT ON YOUTUBE



### GOOGLE KNOWS THAT MOST YOUTUBE MATERIAL IS UNAUTHORIZED

Although Google has repeatedly contended that "it can't figure out which material on Youtube is unauthorized," in fact, a Google search on Youtube.com and "I do not own" yields **1.6 billion results!**

These anonymous posters specifically state they don't own what they have posted. Google lets them remain anonymous to encourage them to keep stealing and posting billions of dollars of obviously copyrighted works for Google's benefit. This is another example of Google partnering with internet criminals. If Google were to reveal the identities of its Youtube posters, most of the stolen content on Youtube would disappear.

What Google is doing with Youtube is tantamount to a car dealer selling stolen cars that have been anonymously parked on his lot and pocketing the money.



Search input field with a red arrow pointing to it.



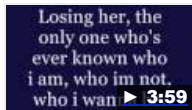
Sign in

SafeSearch ▾



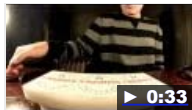
About 1,600,000,000 results (0.23 seconds)

[The Fray You Fond Me \(I DO NOT OWN THIS SONG THE FRAY ...](#)



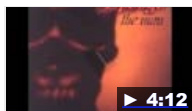
[www.youtube.com/watch?v=qAw1\\_j3Dk7o](http://www.youtube.com/watch?v=qAw1_j3Dk7o)  
Feb 18, 2009 - Uploaded by TylersBlood4Life  
I DO NOT OWN THIS SONG THE FRAY AND SONY/BMG OWN THE COPYRIGHTS!!!!

[i do not own the song - YouTube](#)



[www.youtube.com/watch?v=NW2ECAWK9e0](http://www.youtube.com/watch?v=NW2ECAWK9e0)  
Nov 15, 2012 - Uploaded by JohnEfb  
Sign in with your YouTube Account (YouTube, Google+, Gmail, Orkut, Picasa, or Chrome) to add JohnEfb's ...

[sponge-miles \\* I DO NOT OWN THE COPYRIGHT TO THIS MUSI...](#)



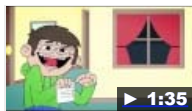
[www.youtube.com/watch?v=2du654f3-1Q](http://www.youtube.com/watch?v=2du654f3-1Q)  
Feb 27, 2012 - Uploaded by chriss1122a  
I DO NOT OWN THE COPYRIGHT TO THIS MUSIC OR ARTWORK\* just wanted to put a non live version out ...

[Scar backwards! i do not own the video - YouTube](#)



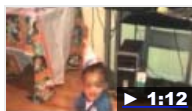
[www.youtube.com/watch?v=nqPMRGAJdx8](http://www.youtube.com/watch?v=nqPMRGAJdx8)  
Nov 26, 2012 - Uploaded by moviecreator59  
Made with vlix - video effects, text and personal video feeds. Vlix is the fun and easy way to shoot, share and ...

[funny tomska \(i do not own \) - YouTube](#)



[www.youtube.com/watch?v=zluHWyeKNZg](http://www.youtube.com/watch?v=zluHWyeKNZg)  
Jun 22, 2012  
i do not own this so cheak out the original video. ... Watch Later Rock Bottomby TomSkaFeatured5,768,327 ...

[no copyright infringement intended i do not own song or rights to it ...](#)



[www.youtube.com/watch?v=zAdZ25jITJU](http://www.youtube.com/watch?v=zAdZ25jITJU)  
Oct 2, 2012 - Uploaded by swagga69  
My first video. My son hari. no copyright infringement intended. i do not own the song in this video or rights to it.

[rubber pants \( i do not own this\) - YouTube](#)



[www.youtube.com/watch?v=Rk25tA3PpGY](http://www.youtube.com/watch?v=Rk25tA3PpGY)  
Nov 14, 2012 - Uploaded by randomstuff82960  
a short from "21 years and counting: sonic the hedgehog 21st anniversary"

[PSA drug 101 \(i do not own the song\) - YouTube](#)



[www.youtube.com/watch?v=1wfH1jfkBk4](http://www.youtube.com/watch?v=1wfH1jfkBk4)  
Jun 4, 2012 - Uploaded by danonlewis  
Sign in with your YouTube Account (YouTube, Google+, Gmail, Orkut, Picasa, or Chrome) to add danonlewis's ...

[reba bloopers- i do not own anything - YouTube](#)



[www.youtube.com/watch?v=MC44jv3zTol](http://www.youtube.com/watch?v=MC44jv3zTol)  
Jun 27, 2010 - Uploaded by lindzN96  
reba bloopers- i do not own anything. lindzN96-50 videos. Subscribe Subscribed Unsubscribe 53. 39,832. Like ...





THE COMMON LAW IS THE WILL OF *Mankind* ISSUING FROM THE *Life* OF THE *People*

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## Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Wednesday, August 24, 2011

### **Google Forfeits \$500 Million Generated by Online Ads & Prescription Drug Sales by Canadian Online Pharmacies**

*Internet Search Engine Accepted Advertisements from Online Canadian Pharmacies that Targeted U.S. Consumers and Illegally Imported Controlled and Non-Controlled Prescription Drugs into the United States*

PROVIDENCE, R.I. – Online search engine Google Inc. has agreed to forfeit \$500 million for allowing online Canadian pharmacies to place advertisements through its AdWords program targeting consumers in the United States, resulting in the unlawful importation of controlled and non-controlled prescription drugs into the United States, announced Deputy Attorney General James M. Cole; Peter F. Neronha, U.S. Attorney for the District of Rhode Island; and Kathleen Martin-Weis, Acting Director of the U.S. Food and Drug Administration's Office of Criminal Investigations (FDA/OCI). The forfeiture, one of the largest ever in the United States, represents the gross revenue received by Google as a result of Canadian pharmacies advertising through Google's AdWords program, plus gross revenue made by Canadian pharmacies from their sales to U.S. consumers.

The shipment of prescription drugs from pharmacies outside the United States to customers in the United States typically violates the Federal Food, Drug and Cosmetic Act and in the case of controlled prescription drugs, the Controlled Substances Act. **Google was aware as early as 2003, that generally, it was illegal for pharmacies to ship controlled and non-controlled prescription drugs into the United States from Canada.**

The importation of prescription drugs to consumers in the United States is almost always unlawful because the FDA cannot ensure the safety and effectiveness of foreign prescription drugs that are not FDA-approved because the drugs may not meet FDA's labeling requirements; may not have been manufactured, stored and distributed under proper conditions; and may not have been dispensed in accordance with a valid prescription. While Canada has its own regulatory rules for prescription drugs, Canadian pharmacies that ship prescription drugs to U.S. residents are not subject to Canadian regulatory authority, and many sell drugs obtained from countries other than Canada which lack adequate pharmacy regulations.

**"The Department of Justice will continue to hold accountable companies who in their bid for profits violate federal law and put at risk the health and safety of American consumers,"** said Deputy Attorney General Cole. "This settlement ensures that Google will reform its improper advertising practices with regard to these pharmacies while paying one of the largest financial forfeiture penalties in history."

**"This investigation is about the patently unsafe, unlawful, importation of prescription drugs by Canadian on-line pharmacies, with Google's knowledge and assistance, into the United States, directly to U.S. consumers,"** said U.S. Attorney Neronha. "It is about taking a significant step forward in limiting the ability of rogue on-line pharmacies from reaching U.S. consumers, by compelling Google to change its behavior. It is about holding Google responsible for its conduct by imposing a \$500 million forfeiture, the kind of forfeiture that will not only get Google's attention, but the attention of all those who contribute to America's pill problem."

"Today's agreement demonstrates the commitment of the Food and Drug Administration to protect the US consumer and hold all contributing parties accountable for conduct that results in vast profits at the expense of the public health," said FDA/OCI Acting Director Martin-Weis. "The result of this investigation has been a fundamental transformation of Internet pharmacy advertising practices, significantly limiting promotion to US consumers by rogue online pharmacies. This accomplishment could not have been possible without the resourceful commitment of the Rhode Island United States Attorney's Office, as well as the tireless efforts of our law enforcement partners detailed to the OCI Rhode Island Task Force."

JUSTICE.GOV *en ESPAÑOL*



### DEPARTMENT OF JUSTICE ACTION CENTER

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- [Report Waste, Fraud, Abuse or Misconduct to the Inspector General](#)
- [Find Sales of Seized Property](#)
- [Find Help and Information for Crime Victims](#)
- [Register, Apply for Permits, or Request Records](#)
- [Identify Our Most Wanted Fugitives](#)
- [Find a Form](#)
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An investigation by the U.S. Attorney's Office in Rhode Island and the FDA/OCI Rhode Island Task Force revealed that as early as 2003, Google was on notice that online Canadian pharmacies were advertising prescription drugs to Google users in the United States through Google's AdWords advertising program. Although Google took steps to block pharmacies in countries other than Canada from advertising in the U.S. through AdWords, they continued to allow Canadian pharmacy advertisers to target consumers in the United States. Google was aware that U.S. consumers were making online purchases of prescription drugs from these Canadian online pharmacies, and that many of the pharmacies distributed prescription drugs, including controlled prescription drugs, based on an online consultation rather than a valid prescription from a treating medical practitioner. Google was also on notice that many pharmacies accepting an online consultation rather than a prescription charged a premium for doing so because individuals seeking to obtain prescription drugs without a valid prescription were willing to pay higher prices for the drugs.

Further, from 2003 through 2009, Google provided customer support to some of these Canadian online pharmacy advertisers to assist them in placing and optimizing their AdWords advertisements, and in improving the effectiveness of their websites.

In 2009, after Google became aware of the investigation by the Rhode Island U.S. Attorney's Office and the FDA/OCI Rhode Island Task Force of its advertising practices in the online pharmacy area, and as a result of that investigation, Google took a number of steps to prevent the unlawful sale of prescription drugs by online pharmacies to U.S. consumers. Among other things, Google began requiring online pharmacy advertisers to be certified by the National Association of Boards of Pharmacy's *Verified Internet Pharmacy Practices Sites* program, which conducts site visits; has a stringent standard against the issuance of prescriptions based on online consultations; and, most significantly, does not certify Canadian online pharmacies. In addition, Google retained an independent company to enhance detection of pharmacy advertisers exploiting flaws in the Google's screening systems.

Under the terms of an agreement signed by Google and the government, Google acknowledges that it improperly assisted Canadian online pharmacy advertisers to run advertisements that targeted the United States through AdWords, and the company accepts responsibility for this conduct. In addition to requiring Google to forfeit \$500 million, the agreement also sets forth a number of compliance and reporting measures which must be taken by Google in order to insure that the conduct described in the agreement does not occur in the future.

The investigation of Google had its origins in a separate, multimillion dollar financial fraud investigation unrelated to Google, the main target of which fled to Mexico. While a fugitive, he began to advertise the unlawful sale of drugs through Google's AdWords program. After being apprehended in Mexico and returned to the United States by the U.S. Secret Service, he began cooperating with law enforcement and provided information about his use of the AdWords program. During the ensuing investigation of Google, the government established a number of undercover websites for the purpose of advertising the unlawful sale of controlled and non-controlled substances through Google's AdWords program.

The investigation was led by Assistant U.S. Attorneys Andrew J. Reich and Richard B. Myrus of the District of Rhode Island, and FDA/OCI Special Agent Jason Simonian. The FDA/OCI Rhode Island Task Force is comprised of law enforcement agents and officers from FDA/OCI; Internal Revenue Service – Criminal Investigation; U.S. Immigration and Customs Enforcement-Homeland Security Investigations; U.S. Postal Inspection Service; Rhode Island State Police; Rhode Island National Guard; Rhode Island Department of the Attorney General; East Providence Police; and North Providence Police. Corbin A. Weiss, Senior Counsel with the Criminal Division's Computer Crime & Intellectual Property Section, and Sarah Hawkins, FDA Senior Counsel, assisted the Rhode Island U.S. Attorney's Office in this matter.

11-1078

Office of the Deputy Attorney General



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emails and URLs were captured, as well as passwords.”<sup>5</sup> And finally, as described below, the Company provided evidence to the Federal Communications Commission (Commission) showing that the data collection [REDACTED].

3. Upon learning that Google had collected payload data, the Commission began examining whether Google’s conduct violated provisions of the Communications Act of 1934, as amended (Communications Act or Act).<sup>7</sup> Based on that initial review, in November 2010 the Commission’s Enforcement Bureau (Bureau) issued a Letter of Inquiry (LOI) that launched an official investigation into whether Google’s data collection practices violated Section 705(a) of the Act.<sup>8</sup> The record developed in this investigation includes Google’s written responses to questions from the Bureau, copies of relevant documents, and publicly available information. In addition, Bureau staff interviewed six individuals—five Google employees and an employee of Stroz Friedberg, a consulting firm Google retained to conduct forensic analysis of its Wi-Fi data collection software code. The Bureau also issued a subpoena to take the deposition of the Google engineer (Engineer Doe) who developed the software code that Google used to collect and store payload data.<sup>9</sup> Through counsel, however, Engineer Doe invoked his Fifth Amendment right against self-incrimination and declined to testify.

4. For many months, Google deliberately impeded and delayed the Bureau’s investigation by failing to respond to requests for material information and to provide certifications and verifications of its responses. In this Notice of Apparent Liability for Forfeiture (NAL), we find that Google apparently willfully and repeatedly violated Commission orders to produce certain information and documents that the Commission required for its investigation. Based on our review of the facts and circumstances before us, we find that Google, which holds Commission licenses,<sup>10</sup> is apparently liable for a forfeiture penalty of \$25,000 for its noncompliance with Bureau information and document requests.

5. At the same time, based on a careful review of the existing record and applicable law, the Bureau will not take enforcement action under Section 705(a) against the Company for its collection of payload data. There is not clear precedent for applying Section 705(a) of the Communications Act to the Wi-Fi communications at issue here. Moreover, because Engineer Doe permissibly asserted his constitutional right not to testify, significant factual questions bearing on the application of Section 705(a) to the Street View project cannot be answered on the record of this investigation.

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<sup>5</sup> Posting of Alan Eustace to The Official Google Blog, <http://googleblog.blogspot.com/2010/10/creating-stronger-privacy-controls.html#!/2010/10/creating-stronger-privacy-controls.html> (Oct. 22, 2010, 3:00 p.m.) (Oct. 22 Google Blog Post). “URL” is an acronym for Uniform Resource Locator, which means an Internet address.

<sup>6</sup> See *infra* paras. 22–23.

<sup>7</sup> 47 U.S.C. § 151 *et seq.*

<sup>8</sup> 47 U.S.C. § 605(a); Letter from P. Michele Ellison, Chief, FCC Enforcement Bureau, to Google Inc. (Nov. 3, 2010) (on file in EB-10-IH-4055).

<sup>9</sup> Throughout this Notice of Apparent Liability, we use aliases or redact the names of Google employees to protect their privacy.

<sup>10</sup> Google presently holds five active land mobile radio licenses (WQAK992, WQEN482, WQFX929, WQIR860, and WQIT645); one experimental license (WF2XYY); and three experimental Special Temporary Authorizations (WE9XTW, WF9XKU, and WF9XLG). In addition, Google Fiber, Inc. holds two satellite earth station licenses (E110145 and E110180), and one experimental Special Temporary Authorization (WF9XLK).