UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

WILDSEED MOBILE LLC, *Plaintiff,* v. GOOGLE LLC and YOUTUBE, LLC. *Defendant.*	Case No. 6:21-cv-01245-ADA Jury Trial Demanded

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Wildseed Mobile LLC ("Wildseed Mobile" or "Plaintiff"), by its attorneys, demands a trial by jury on all issues so triable and for its Complaint against Google LLC ("Google") and YouTube, LLC ("YouTube") (collectively, "Defendants") alleges the following:

NATURE OF THE ACTION

1. This action arises under 35 U.S.C. § 271 for Defendants' infringement of Wildseed Mobile's United States Patent Nos. 7,376,414 (the "'414 patent"), 9,141,960 (the "'960 patent"), 10,251,021 (the "'021 patent"), 10,959,040 (the "'040 patent") and 10,869,169 (the "'169 patent") (collectively, the "Asserted Patents").

THE PARTIES

2. Plaintiff Wildseed Mobile LLC is a domestic limited-liability company organized under the laws of the State of Texas with a place of business at 510 Austin Avenue, Waco, TX 76701.

3. Google is a limited liability company organized under the laws of the State of Delaware with its headquarters at 1600 Amphitheater Parkway, Mountain View, California 94043. Google maintains regular and established places of business in this District, including offices at

500 W 2nd St., Suite 2900, Austin, TX 78701 and 110 East Houston Street, # 300, San Antonio, TX 78205. Google can be served through its registered agent for service at CSC - Lawyers Incorporating Service California 2710 Gateway Oaks Drive Ste 150N, Sacramento, California 95833.

4. Google does business in this District and across the State of Texas. It has over 1,700 full-time employees in Texas. On information and belief, they are located predominantly in this District.

5. YouTube is a limited liability company organized under the laws of Delaware with its headquarters at 901 Cherry Avenue, San Bruno, California 94066. YouTube may be served with process through its registered agent, the Corporation Service Company, with an address of 2710 Gateway Oaks Drive, Suite 150N, Sacramento, California 95833. YouTube is wholly owned by Google.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Jurisdiction and venue for this action are proper in the Western District of Texas.

8. This Court has personal jurisdiction over Defendants because Defendants have purposefully availed themselves of the rights and benefits of the laws of this State and this Judicial District. Defendants reside in the Western District of Texas by maintaining regular and established places of business at 500 W 2nd St., Austin, TX 78701 and 110 East Houston Street, # 300, San Antonio, TX 78205.

9. This Court also has personal jurisdiction over Defendants because they have done and are doing substantial business in this Judicial District, both generally and with respect to the

allegations in this Complaint, including Defendants' one or more acts of infringement in this Judicial District.

10. Venue is proper in this Judicial District under 28 U.S.C. §§ 1391(b) and (c) and § 1400(b). Defendants have committed acts of infringement through, for example, making, using, offering for sale and selling Defendants' products and/or services, including delivering advertisements and the YouTube website, in the Western District of Texas and have regular and established places of business in this District.

11. The offices at 500 W 2nd St., Austin, TX 78701 and 110 East Houston Street, # 300, San Antonio, TX 78205 are physical places in the District where thousands of Google employees work. They are established locations where Defendants' business has been carried out for several years, and Defendants publicly advertise their presence in the District.

12. On information and belief, YouTube employees work in this District at the physical locations where Google employees also work and/or some of YouTube's employees reside and work at their residences in this District. Examples of such employees are included in Exhibits 1 - 15.

13. Further, YouTube is a wholly owned subsidiary of Google and, as explained in greater detail below, Google acts as YouTube's agent in this District in furtherance of its business with respect to the acts constituting their joint and several infringement in this case. YouTube has the right, among other things, to direct or control Google's actions with respect to various aspects of YouTube's business. Similarly, as discussed in further detail below, YouTube has consented that Google act on YouTube's behalf, and Google has consented to act on YouTube's behalf as to the conduct forming the basis of these defendants' joint and several infringement in this case.

14. YouTube's Terms of Service contain a section entitled "Your Service Provider," wherein YouTube states, with respect to YouTube's services, that "***[t]he entity providing the Service is Google LLC***." Ex. 16 at 3 (YouTube's Terms of Service, "Your Service Provider", available at https://www.youtube.com/static?template=terms) (emphasis added). YouTube exercises direction and control over Google and its personnel upon information and belief in this district with respect to the provision of the YouTube service by Google. Google acts as YouTube's agent in delivering YouTube's services to its customers in this District.

15. As YouTube's agent, Google provides, for example, parental assistance to assist parents in supervising the use of YouTube's services by children.

> If you are a parent or legal guardian of a user under the age of 18, by allowing your child to use the Service, you are subject to the terms of this Agreement and responsible for your child's activity on the Service. You can find tools and resources to help you manage your family's experience on YouTube (including how to enable a child under the age of 13 to use the Service and YouTube Kids) in our Help Center ***and through Google's Family Link***.

Id. at 4 (YouTube's Terms of Service, "Permission by Parent or Guardian") (emphasis added).

16. YouTube's Terms of Service further state that many of YouTube's services can only be used if the customer has a Google account. Google acts as YouTube's agent with respect to the use and delivery of these services.

> **Google Accounts and YouTube Channels**
>
> You can use parts of the Service, such as browsing and searching for Content, without having a Google account. However, ***you do need a Google account to use some features***. ***With a Google account, you may be able to like videos, subscribe to channels, create your own YouTube channel, and more***. You can follow these instructions to create a Google account.

Id. at 5 (YouTube's Terms of Service, "Google Accounts and YouTube Channels") (emphasis added).

17. YouTube provides payments to content providers, for example through the YouTube partner program, based on the uploading of content to YouTube for viewing by its

customers. YouTube's Terms of Service state that Google, not YouTube, may withhold taxes from any payments by YouTube to its content providers.

> **Right to Monetize**
>
> You grant to YouTube the right to monetize your Content on the Service (and such monetization may include displaying ads on or within Content or charging users a fee for access). This Agreement does not entitle you to any payments. Starting November 18, 2020, any payments you may be entitled to receive from YouTube under any other agreement between you and YouTube (including for example payments under the YouTube Partner Program, Channel memberships or Super Chat) will be treated as royalties. ***If required by law, Google will withhold taxes from such payments***.

Id. at 11 (YouTube's Terms of Service, "Right to Monetize") (emphasis added). Google thus acts as YouTube's agent.

18. YouTube may impose restrictions on a channel for violating its YouTube Community Guidelines. Attempting to circumvent such restrictions is a violation of YouTube's Terms of Service. *Id.* at 12. (YouTube's Terms of Service, "Community Guidelines Strikes"). As a consequence of any such violation, Google, as YouTube's agent, can terminate the Google account of the YouTube user and terminate the user's access to YouTube (i.e., "the Service") on behalf of YouTube.

> If your channel has been restricted due to a strike, you must not use another channel to circumvent these restrictions. ***Violation of this prohibition is a material breach of this Agreement and Google reserves the right to terminate your Google account or your access to all or part of the Service.***

Id. (YouTube's Terms of Service, "Community Guidelines Strikes") (emphasis added).

19. YouTube's Terms of Service also state that YouTube can suspend or terminate the YouTube user's account at its agent, Google, for various reasons. *Id*. at 13 (YouTube's Terms of Service, "Terminations and Suspensions by YouTube") ("***YouTube reserves the right to suspend or terminate your Google account or your access to all or part of the Service*** if (a) you materially or repeatedly breach this Agreement; (b) we are required to do so to comply with a legal

requirement or a court order; or (c) we reasonably believe that there has been conduct that creates (or could create) liability or harm to any user, other third party, YouTube or our Affiliates.") (emphasis added).

20. As YouTube's agent, Google has physical places of business and employees in this District, including at least 500 W 2nd St., Austin, TX 78701 and 110 East Houston Street, # 300, San Antonio, TX 78205.

21. Google further acts as YouTube's agent with regard to advertising, which is a main source of revenue central to YouTube's business. Google Ads runs an advertising network and serves ads that appear in YouTube web pages and content, including video ads that advertisers wish to display on YouTube.

Google Ads Help

Describe your issue

In Google Ads, you can create compelling video campaigns with a range of video ad formats to engage customers in different ways on YouTube and across video partner sites. Available video ad formats include:

- Skippable in-stream ads
- Non-skippable in-stream ads
- In-feed video ads
- Bumper ads
- Outstream ads
- Masthead ads

While video ad content must be hosted on YouTube, video ads can appear on YouTube and across websites and apps running on Google video partners (depending on your ad format and campaign settings).

This article describes the benefits of video ads and compares the different video ad formats available. Explore the formats in detail below. You can also learn more about our policies and requirements.

Ex. 17 (available at https://support.google.com/google-ads/answer/2375464).

22. Any business or person who advertises on YouTube must advertise through Google Ads. Google thus acts as an agent on behalf of YouTube. YouTube generates substantial revenue through the display of these ads to users of YouTube's services.

YouTube Advertising 1-877-763-9810 START NOW

Do I need a Google Ads account to advertise on YouTube?

Yes. Google Ads helps businesses run ads across the entire Google advertising platform, which includes YouTube. That means you'll set up, run, and manage your YouTube Ads campaign with a Google Ads account. If you don't have an account yet, you can sign up here.

Ex. 18 (available at https://www.youtube.com/intl/en_us/ads/faqs/).

23. Google obtains advertisements from advertisers, selects advertisements for ad auctions, runs ad auctions, selects winning advertisements, and bills advertisers, including for advertisements on YouTube.

Google Ads

Google Ads (formerly Google AdWords and Google AdWords Express) is an online advertising solution that businesses use to promote their products and services on Google Search, YouTube, and other sites across the web. Google Ads also allows advertisers to choose specific goals for their ads, like driving phone calls or website visits. With a Google Ads account, advertisers can customize their budgets and targeting, and start or stop their ads at any time.

Ex. 19 (available at https://ads.google.com/home/faq/).

Google Ads Help Describe your issue

About the Display Network ad auction

Display network ads participate in a number of ad auctions. Before participating in those auctions, Google Ads uses an internal ad auction to determine which ads to submit, the order those ads will appear, and how much those ads will cost. Your ads are ranked among other advertisers' ads based on ad rank, which is based on your campaign targets, budget, and quality score. This means that if your ad group's quality score is sufficiently higher than the score of the ad group below yours, you ads can rank higher. Your ads are ranked among other advertisers' ads based on the value that winning the auction could create for you.

How are you charged?

You'll be charged up to the value delivered per your campaign settings. For example, if you choose to Pay for Conversions for your Display ads campaign, you'll be charged only for the conversions delivered. For campaigns where you're submitting bids directly into the auction, you'll be charged based on runner-up bids.

Ex. 20 (available at https://support.google.com/google-ads/answer/2996564?hl=en&ref_topic=10289453).

24. On information and belief, Google and YouTube have a contractual relationship whereby Google acts as YouTube's agent for advertising services. On information and belief, YouTube's primary source of revenue is advertising revenue and the vast majority of YouTube's advertising revenue is advertising revenue from Google Ads. On information and belief, YouTube relies on Google Ads for advertising revenue; and YouTube does not have its own advertising network.

25. Google and YouTube regularly conduct business in this district by sending data to, and receiving data from, YouTube end users via Google network infrastructure located in this district. Google provides networking infrastructure and communication for YouTube. All of YouTube's peering internet traffic has flowed through Google's network infrastructure since end of year 2009.

PeeringDB

Search here for a network, IX, or facility.

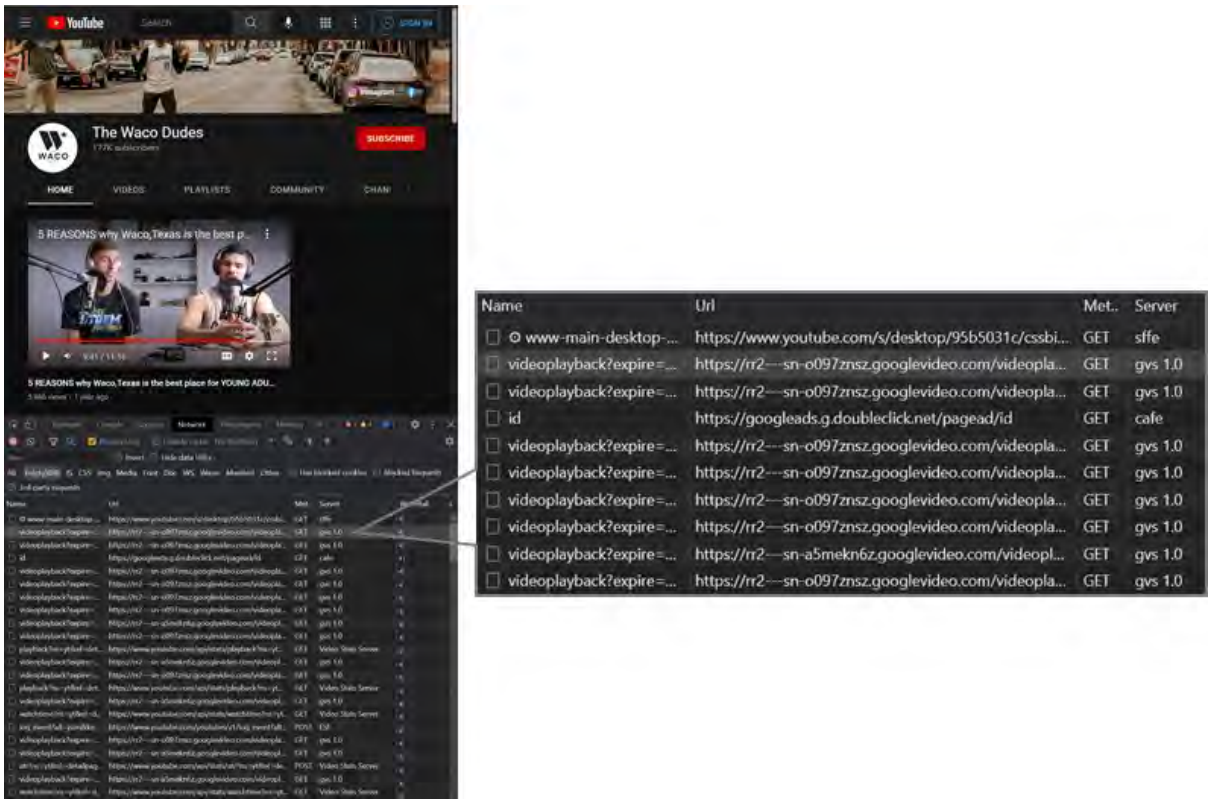
Advanced Search

YouTube, Inc.

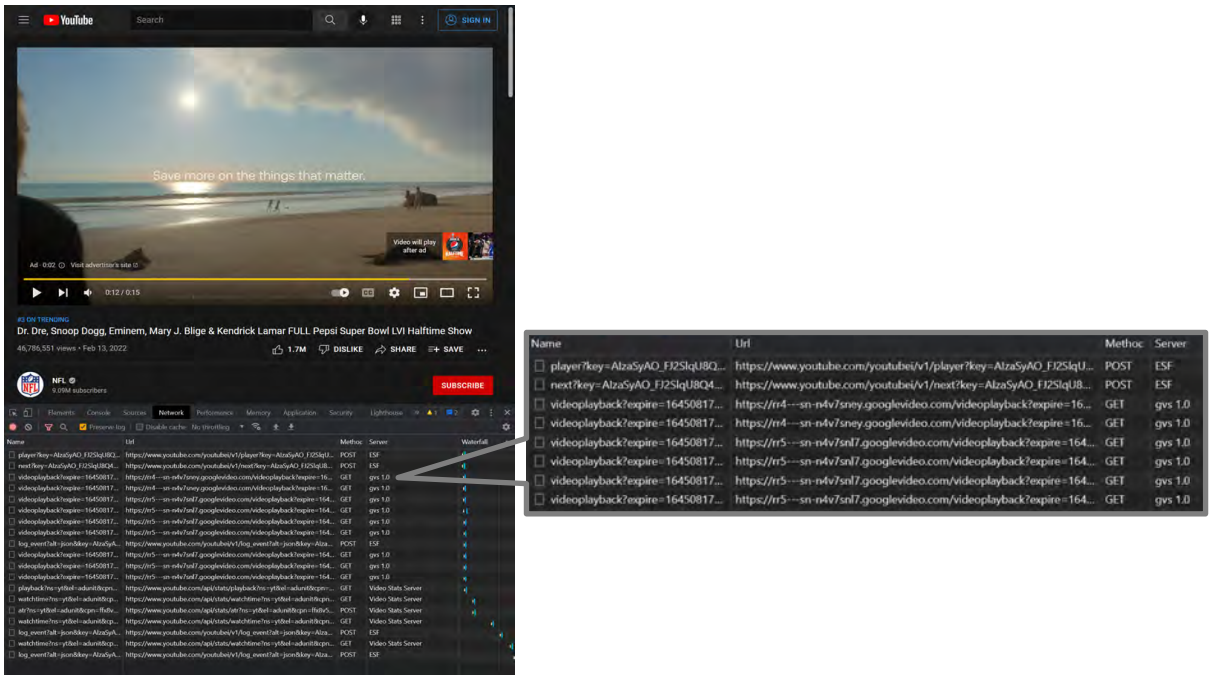
Organization	YouTube, Inc.
Also Known As	
Long Name	
Company Website	http://www.youtube.com
ASN	36561
IRR as-set/route-set	
Route Server URL	
Looking Glass URL	
Network Type	Content
IPv4 Prefixes	3
IPv6 Prefixes	0
Traffic Levels	Not Disclosed
Traffic Ratios	Heavy Outbound
Geographic Scope	North America
Protocols Supported	☑ Unicast IPv4 ○ Multicast ○ IPv6 ○ Never via route servers
Last Updated	2016-03-14T21:25:24Z
Public Peering Info Updated	
Peering Facility Info Updated	
Contact Info Updated	2020-01-22T04:24:10Z
Notes	All peering has migrated behind Google (AS15169, AS43515, AS36040) as of EOY 2009. AS36561 is not adding any more peers.

Ex. 21 (available at https://www.peeringdb.com/net/762). (emphasis added)

26. Google servers provide YouTube video advertising and other content over the Internet to YouTube's users. For example, the video content and video advertisements shown in the screen shots of YouTube below came from the server "gvs 1.0" at "googlevideo.com". On information and belief, "gvs" is an acronym for Google Video Server.



Ex. 22 (screenshot of Chrome browser and Chrome DevTools playing https://www.youtube.com/c/TheWacoDudes/featured).

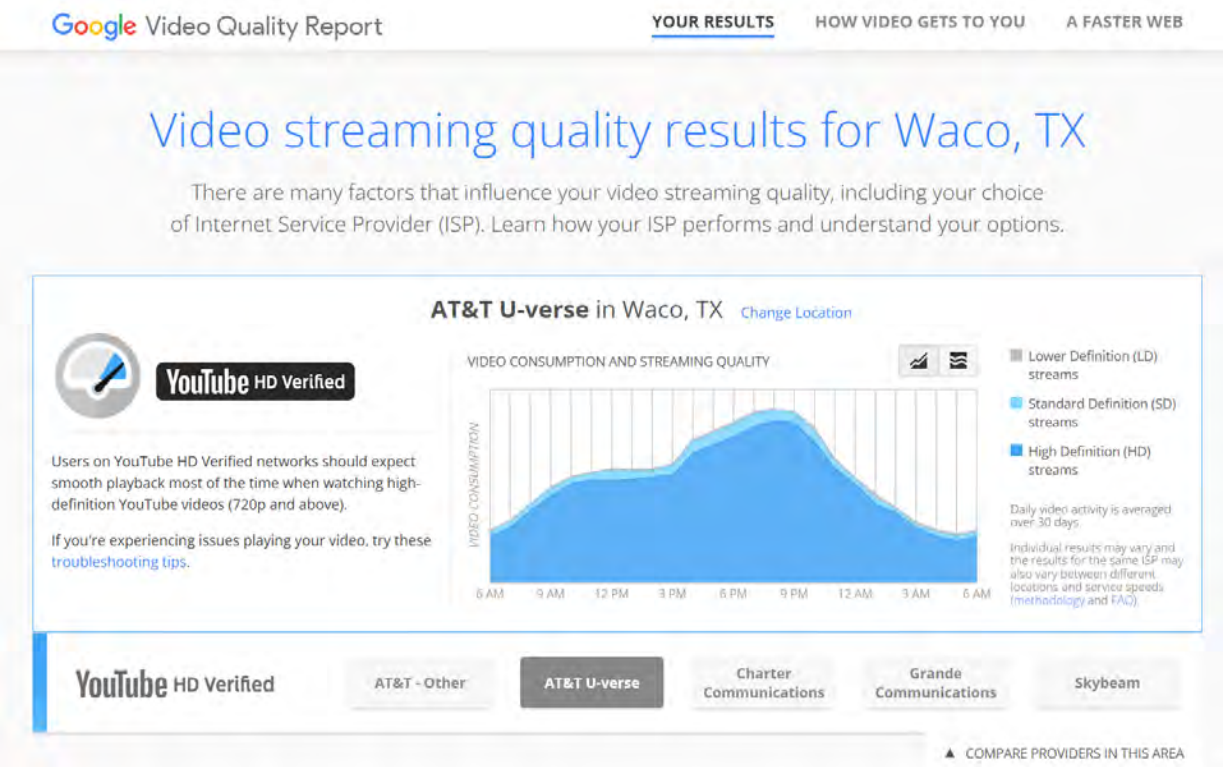


Ex. 23 (screenshot of Chrome browser and Chrome DevTools playing YouTube video advertisement).

27. On information and belief, Google and YouTube have a contractual relationship whereby Google acts as YouTube's agent for network services. On information and belief, YouTube relies on Google for networking services and to provide advertising and video content to YouTube users.

28. Defendants cache content at a Google Global Cache ("GGC") servers located in this District. Internet Service Providers' locations that house defendants' GGC are Google's and YouTube's regular and established places of business in this district. Internet Service Providers in this District that house defendants' GGC are agents of Google and YouTube. Google and YouTube have the right to direct or control the Internet Service Providers' actions. Google and YouTube have consented that the Internet Service Providers that house defendants' GGC shall act on Google and YouTube's behalf, and the Internet Service Providers that house defendants' GGC have consented to act on behalf of Google and YouTube.

29. YouTube delivers video, including "YouTube HD Verified" video, through GGC servers located in AT&T's, Charter's, and other Internet Service Providers' (ISPs) physical locations in Waco, TX.



Ex. 24 (available at https://www.google.com/get/videoqualityreport/#).

30. AT&T, Charter, and other ISPs in this District entered into a contract with Google to join Google's GGC program. Google states that, "[o]nce registered and qualified by Google, we will send you a simple agreement for joining the GGC program. After you have electronically signed this agreement, Google will ship you servers that you install in your facility and attach to your network. Google will work with you to configure the servers and bring them into service." Ex. 25 (https://peering.google.com/#/options/google-global-cache).

31. YouTube and Google regularly conduct business in this District by working with ISPs located in this District to communicate with YouTube end users using GGC servers and peering connections at ISP locations in this District. Google acts as YouTube's agent. Google regularly "work[s] with network operators to exchange traffic efficiently and cost-effectively" using peering connections and GGC servers. Google directs or controls ISP's actions. "Google works directly with network operators to implement and operate Google Global Cache nodes."

As another example, Google instructs ISPs to provide "occasional smart-hands support" for GGCs and "set the maximum egress bandwidth for each node deployed" at installation and "[a]fter activation." As another example, Google instructs certain ISPs to take action every week ("… update these filters weekly") and "peer with us directly."

Google aims to deliver its services with high performance, high reliability, and low latency for users, in a manner that respects open internet principles.

We've invested in network infrastructure that's aligned with this goal and that allows us to work with network operators to exchange traffic efficiently and cost-effectively.

Google's network infrastructure has three distinct elements:

- Data Centers
- Edge Points of Presence (POPs)
- Edge Nodes (Google Global Cache, or GGC)

Ex. 26 (available at https://peering.google.com/#/infrastructure) (emphasis added).

Google

Performance

Traffic exchange between Google and another network operator can be optimized for each relationship, using a combination of peering and Google Global Cache (GGC).

Google also provides access to the Google ISP Portal to operators with whom it has a direct Edge Network relationship. Using the ISP Portal, the peer can monitor and understand traffic flows and quality of experience metrics in near-real time. Request access to the Google ISP Portal here.

Ex. 27 (available at https://peering.google.com/#/options/peering).

Google

Can I control the bandwidth used by the node(s) in my network?

Yes, Google works with operators during node activation to set the maximum egress bandwidth for each node deployed. This process takes into account the node's configuration and network capacity available. After activation, this maximum can be changed by contacting the GGC Operations team.

…

Google works directly with network operators to implement and operate Google Global Cache nodes.

…

As AS15169 is Google's principal network, ISPs wishing to ensure they have IPv6 connectivity for Google services will need to either peer with us directly, or take a transit service from a provider that does. Almost all transit providers will be able to offer Google IPv6 routes.

…

No, but we maintain an RADB record. If you use prefix filters you should update these filters weekly to ensure new prefixes are reachable as they are introduced. (This only applies to route filtering.

Ex. 28 (available at https://peering.google.com/#/learn-more/faq).

Google

Google provides and supports the hardware and coordinates import logistics. We also monitor and operate the node 24x7. Our edge node hosts provide the necessary space and power, along with internet access to the node and some occasional smart-hands support.

Ex. 29 (available at https://peering.google.com/#/options/google-global-cache).

32. YouTube causes ISPs located in this District to cache YouTube content in, and serve YouTube content from, the GGC servers located in ISP facilities in this District, based on the content requested by YouTube users located in this District.

> The local node cache is filled on a read-through basis when content is requested by the end user. If the node already has the requested content in its local cache, it will serve the content via your network to the end user, improving the user experience and saving bandwidth. If the content is not stored on the node, and the content is cache-eligible, the node will retrieve it from Google, serve it to the user, and store it for future requests. Otherwise, the request will be served from the nearest upstream node which has the content. No content is pre-loaded.

Ex. 28 (available at https://peering.google.com/#/learn-more/faq).

33. Providing network infrastructure to ISPs in this District is critical to Google and YouTube's business. Google has "invested billions of dollars in the bandwidth and infrastructure necessary to bring our services as close to your Internet Service Provider's (ISP) front door as possible, for free." Ex. 30 (available at https://www.google.com/get/videoqualityreport/#what_youtube_is_doing (emphasis added)). "Google aims to deliver as much traffic as possible via edge nodes (GGC) in your network (if any) and peering connections, as this will generally provide the optimal user experience and lowest cost delivery for both the operator and Google . . . The majority of the traffic served by or through an edge node [i.e., GGC] is static content such as YouTube videos." Ex. 28 (available at https://peering.google.com/#/learn-more/faq). "Our edge nodes (also known as Google Global Cache, GGC) allow host network operators to optimise their traffic exchange with Google and enhance the quality of experience for users." Ex. 29 (available at https://peering.google.com/#/options/google-global-cache).

34. The "vast majority" of Google and YouTube internet traffic in this District flows through the GGC servers located in the ISP facilities located in this District and peering connections with ISPs located in this District. "Google directly interconnects with all major

Internet Service Providers (ISPs) and the vast majority of traffic from Google's network to our customers is transmitted via direct interconnections with the client's ISP." Ex. 31 (available at https://cloud.google.com/blog/products/networking/understanding-google-cloud-network-edge-points).

35. YouTube users located in this district upload content to YouTube. YouTube regularly conducts business in this District by sending data to, and receiving data from, YouTube user devices located in this District by way of GGC servers and peering connections located in this District. Users who upload content to YouTube (*i.e.*, content providers) are agents of YouTube, including for the purposes of creating and serving YouTube content that YouTube uses to generate advertising revenue as a core part of its business. YouTube has the right to direct or control the actions of end users who upload content to YouTube by *inter alia* YouTube's Terms of Service, Community Guidelines, and agreements with content providers under the YouTube Partnership Program. YouTube has consented that end users who upload content to YouTube shall act on YouTube's behalf, and end users who upload content to YouTube have consented to act.

36. Content providers in the YouTube Partner Program have a contractual relationship with YouTube whereby content providers upload videos and create YouTube web pages, receive a share of YouTube revenue, and agree that YouTube has the right to direct or control some of those user's actions. Content providers that are not in the YouTube Partner Program upload videos to YouTube, and YouTube generates advertising revenue by displaying those videos, but does not share revenue with the uploader.

YouTube Help Describe your issue

The YouTube Partner Program (YPP) gives creators greater access to YouTube resources and features like direct access to our Creator Support team. It also enables revenue sharing from ads being served on your content. In this article, you can review:

…

I'm no longer in YPP (or I was never in the program) and I'm seeing ads on my videos. Am I earning revenue from those ads?

> YouTube is able to serve ads on all content on the platform. If you were previously a member of YPP (and currently are not in the program), you may still see ads being served on your content. In this case, you do not receive a share of the revenue.

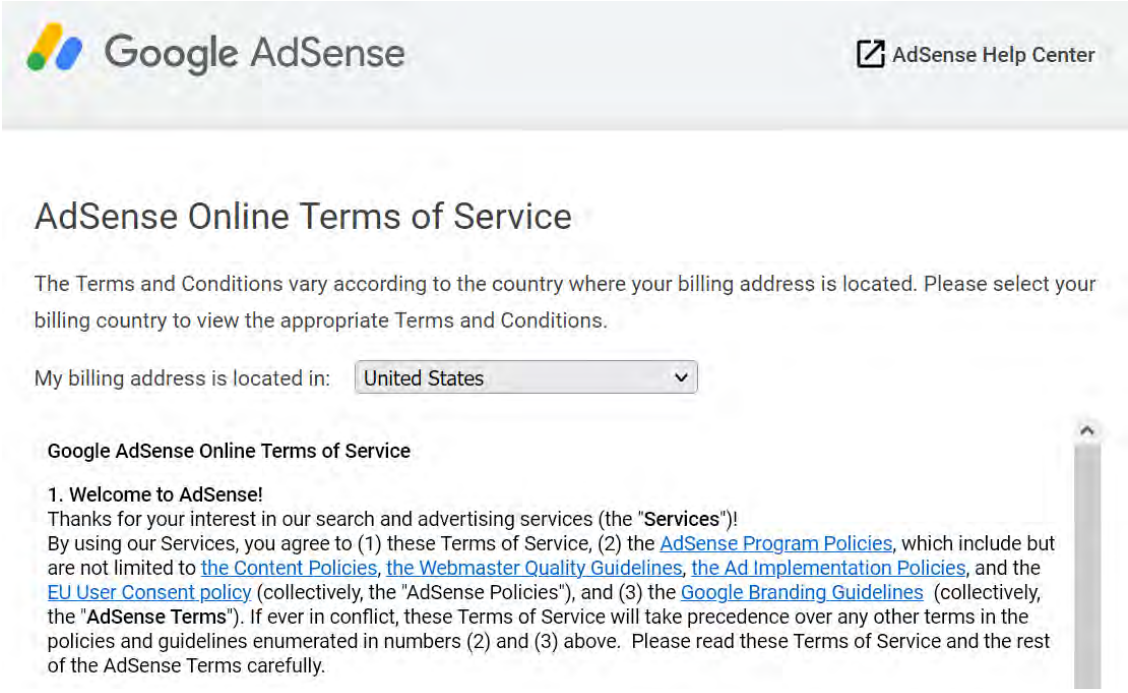
Ex. 33 (available at https://support.google.com/youtube/answer/72851).

37. Content providers in the YouTube Partner Program must enter into a contract with YouTube by signing the YouTube Partner Program terms, and must enter into a contract with Google to create a Google AdSense account.

YouTube Help Describe your issue

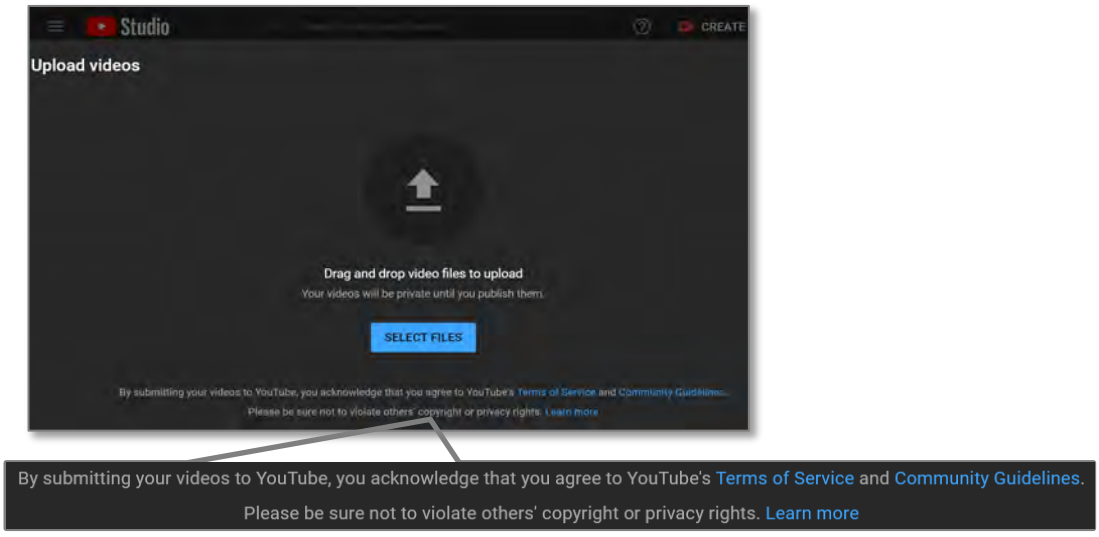
4. **Sign YPP terms.** You can ask to be notified when you reach the subscriber and public watch hour threshold. Once your channel meets the threshold, follow these instructions:
   a. Sign in to YouTube.
   b. In the top right, click your profile picture > **YouTube Studio**.
   c. In the left menu, click **Monetization**.
   d. If you're under the threshold, click **Notify me when I'm eligible** to get an email. You'll receive an email when you've reached 1,000 subscribers and 4,000 watch hours over the past 12 months. If you meet the threshold, click **Start** on the "Review Partner Program terms" card.
   e. Once you've signed the term, we'll mark this step with a green "Done" sign on the "Review Partner Program terms" card.
5. **Make sure you only have 1 AdSense account.** As part of the application process, you'll need to connect an AdSense account to get paid.
   a. Click **Start** on the "Sign up for Google AdSense" card.
      - If you already have an AdSense account, use the one that's already approved. You can link as many of your channels as you want to a single AdSense account.
      - If you don't have an AdSense account, you can create one by following the on-screen instructions.
   b. Once you've connected your AdSense, we'll mark this step with a green "Done" sign on the "Sign up for Google AdSense" card.

Ex. 33 (available at https://support.google.com/youtube/answer/72851).



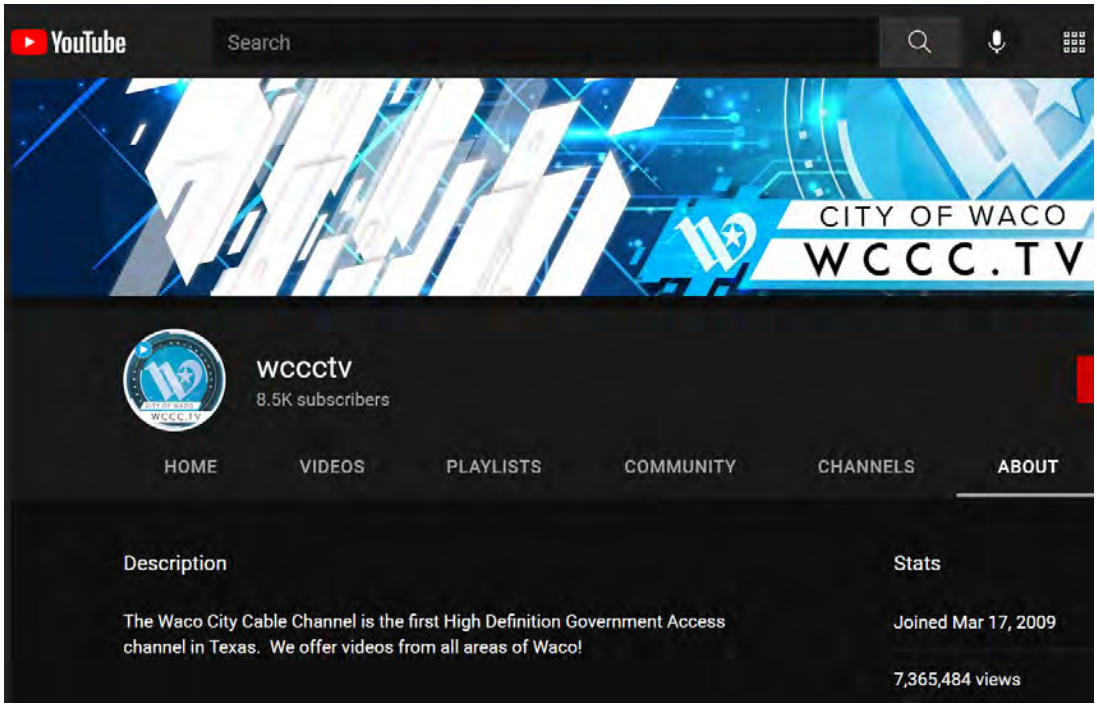
Ex. 34 (available at https://www.google.com/adsense/new/localized-terms).

38. All YouTube content providers who upload videos to YouTube, including users who are not in the YouTube Partner Program, agree that YouTube has the right to direct or control some of those user's actions, as specified, for example, in YouTube's Terms of Service and Community Guidelines.



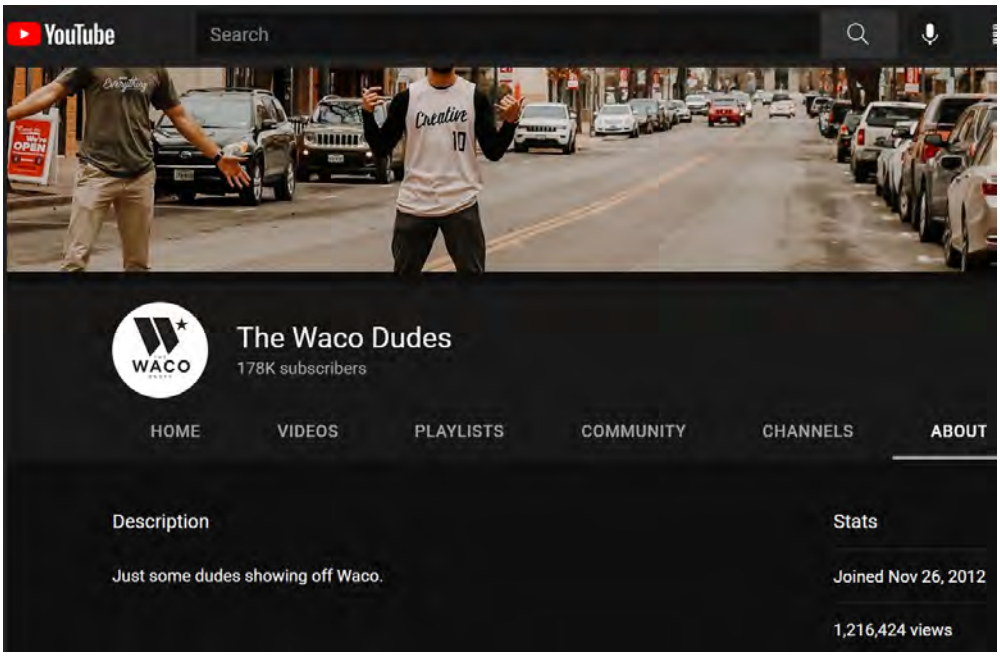
Ex. 35 (available at https://studio.youtube.com).

39. YouTube provides videos that The Waco City Cable Channel and other entities in this District upload to YouTube. YouTube generates advertising revenue from those videos. On information and belief, entities in this district have a contractual relationship with YouTube whereby entities enter into the YouTube Partner Program, upload videos and create YouTube web pages, and receive a share of YouTube advertising revenue.

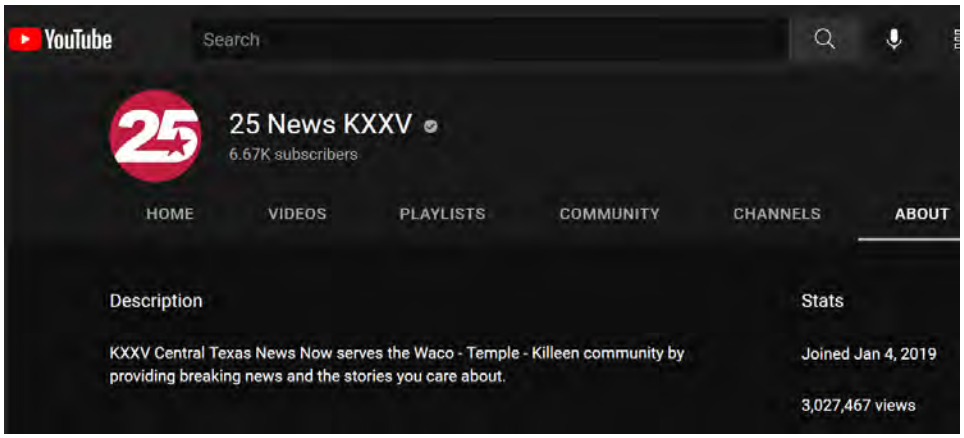


Ex. 36 (available at https://www.youtube.com/user/wccctv/about).

Ex. 37 (available at https://www.youtube.com/c/KCENNews/about).



Ex. 38 (available at https://www.youtube.com/c/TheWacoDudes/about).



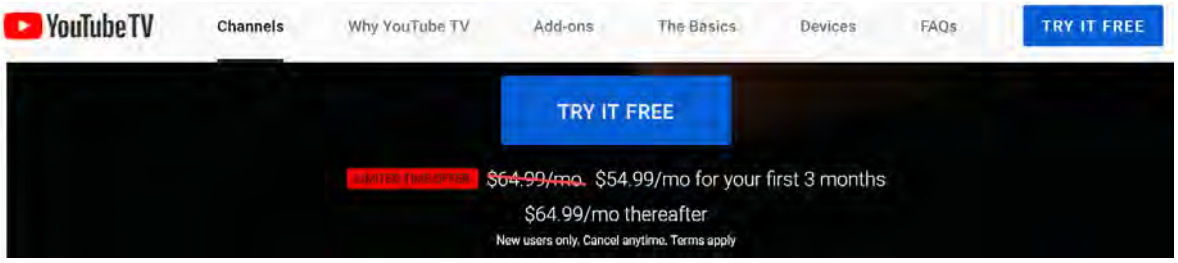
Ex. 39 (available at

https://www.youtube.com/channel/UCOE42duvEjXG48b6BtOFBGA/about).

40. Videos uploaded to YouTube are critical to YouTube's business. The vast majority of content available on YouTube is content that YouTube users have posted to YouTube. YouTube monetizes this video content as a core part of its business model.

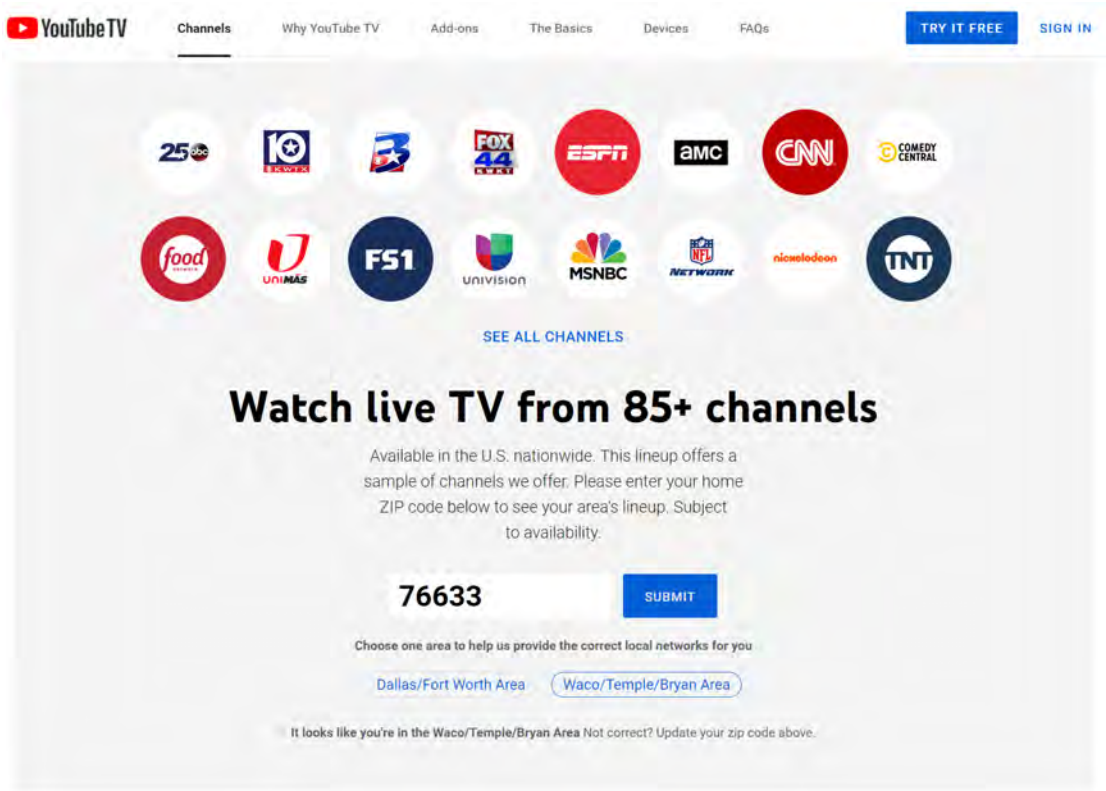
41. Additionally, certain local news stations in this District provide content to YouTube. YouTube regularly conducts business in this district by sending data to, and receiving data from, certain local news stations in this District. Certain local news stations are agents of YouTube. YouTube has the right to direct or control the actions of certain local news stations in this district by *inter alia* YouTube's Terms of Service, Community Guidelines, and any agreements between YouTube and the local news stations. YouTube consented that those local news stations shall act on YouTube's behalf, and those local news stations have consented to act.

42. YouTube TV charges users $65 per month for such content.

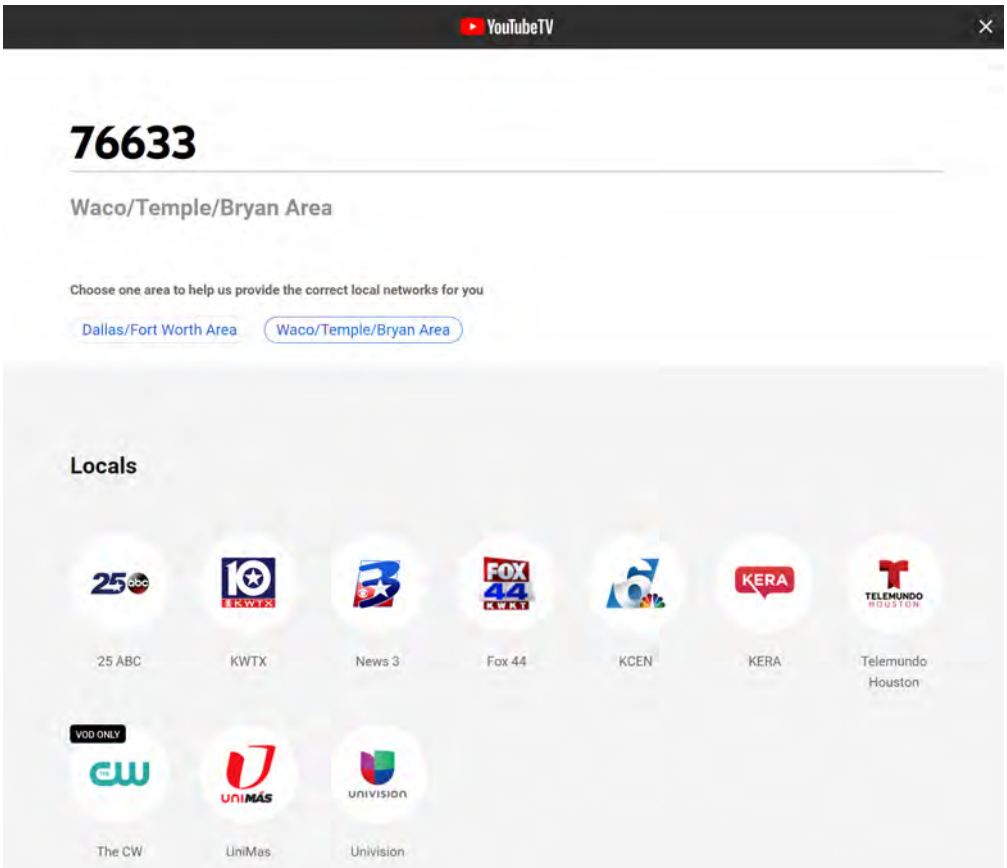


Ex. 40 (available at https://tv.youtube.com/welcome/).

43. YouTube TV broadcasts content from providers including local news stations in this District. On information and belief, YouTube has a contractual relationship with local news stations in this District whereby YouTube pays entities in this District to act as YouTube's agents regarding content that entities create in this District. Example of some such local news stations are shown below.



Ex. 40 (available at https://tv.youtube.com/welcome/).

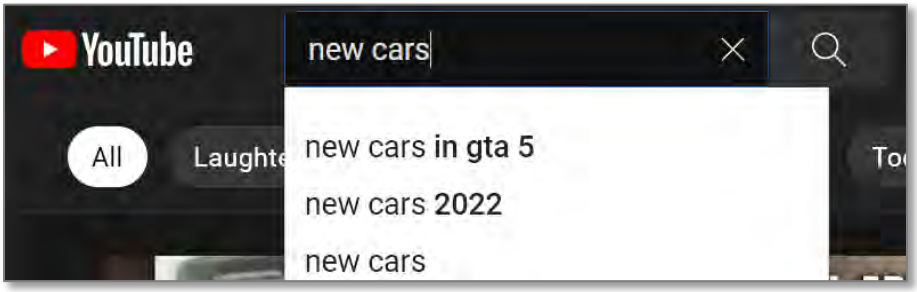


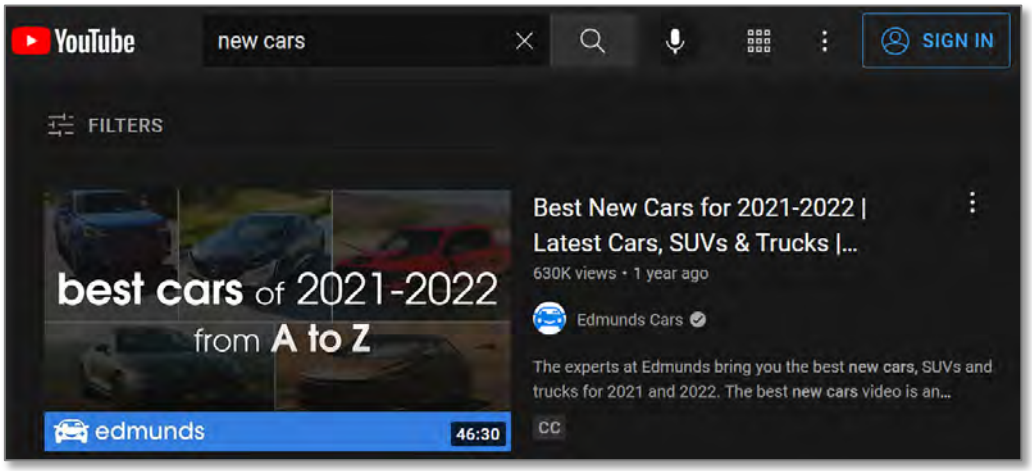
Ex. 41 (available at https://tv.youtube.com/welcome/).

44. YouTube regularly conducts business in this District by sending data to, and receiving data from, YouTube end user devices located in this District by way of GGC servers and peering connections located in this District. YouTube and Google gather information from YouTube end users and use that information for monetization purposes as a core part of their business. The information from end users gets passed back to Google and YouTube using peering connections at ISP locations in this District. YouTube end users are agents of Google and YouTube in furtherance of their businesses by virtue of voluntarily or involuntarily sharing information generated on Google's and YouTube's servers. YouTube end users, including users in this District, enter searches, select results, load and interact with YouTube pages, and load and interact with YouTube videos, such that YouTube end users are continuously providing data that YouTube and Google monetize as part of their core business model, including Google and

YouTube's advertising, content targeting, and video content business. YouTube and Google are doing business at the computer of each of its end users and customers located in this district. YouTube end users are thus agents of YouTube. YouTube has the right to direct or control the actions of end users *inter alia* through YouTube's Terms of Service and Community Guidelines. YouTube consented that end users shall act on YouTube's behalf, and end users have consented to act by supplying information to YouTube and Google.

45. YouTube end users enter searches and select results on YouTube.

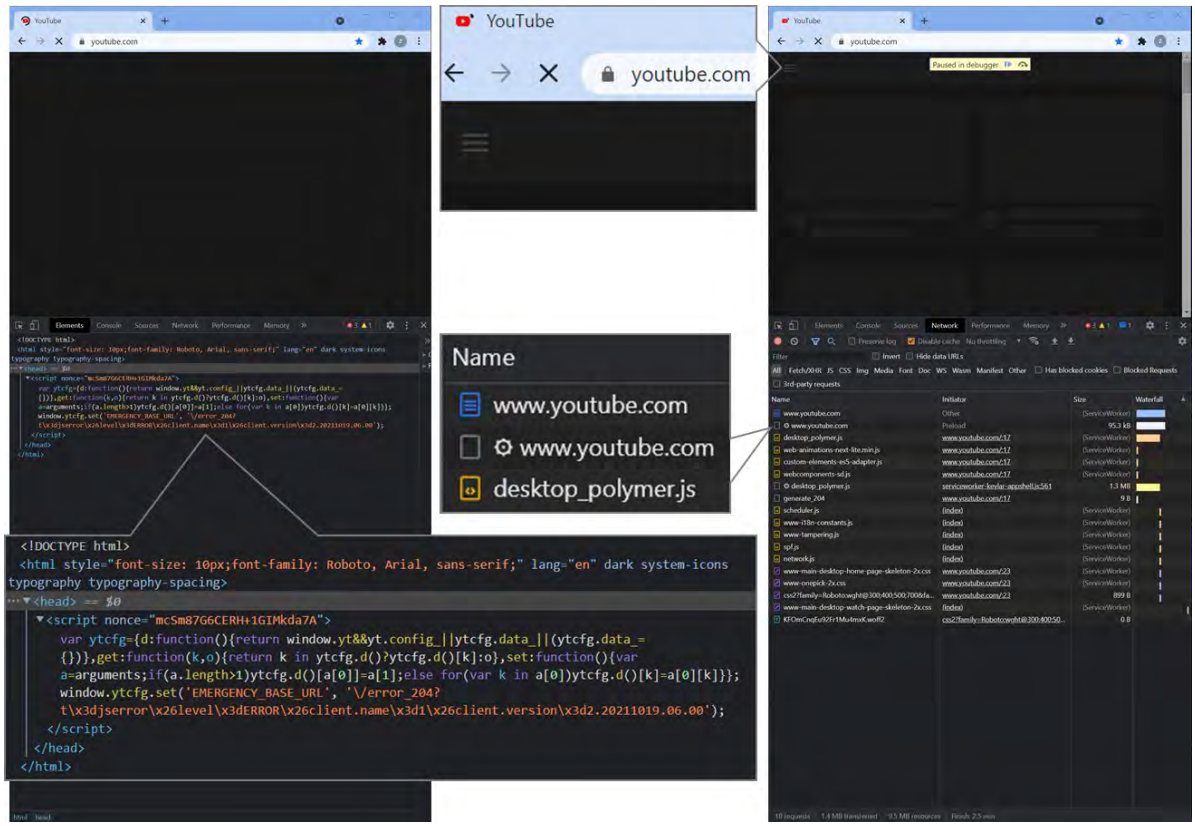




Ex. 42 (available at https://www.youtube.com).

46. YouTube end users load YouTube web pages and videos. For example, when a user requests a YouTube page, the end user's device triggers a series of events whereby the end user device receives instructions from YouTube and Google, executes those instructions, receives further instructions from YouTube and Google, and executes those further instructions, until the end user device eventually loads YouTube content.

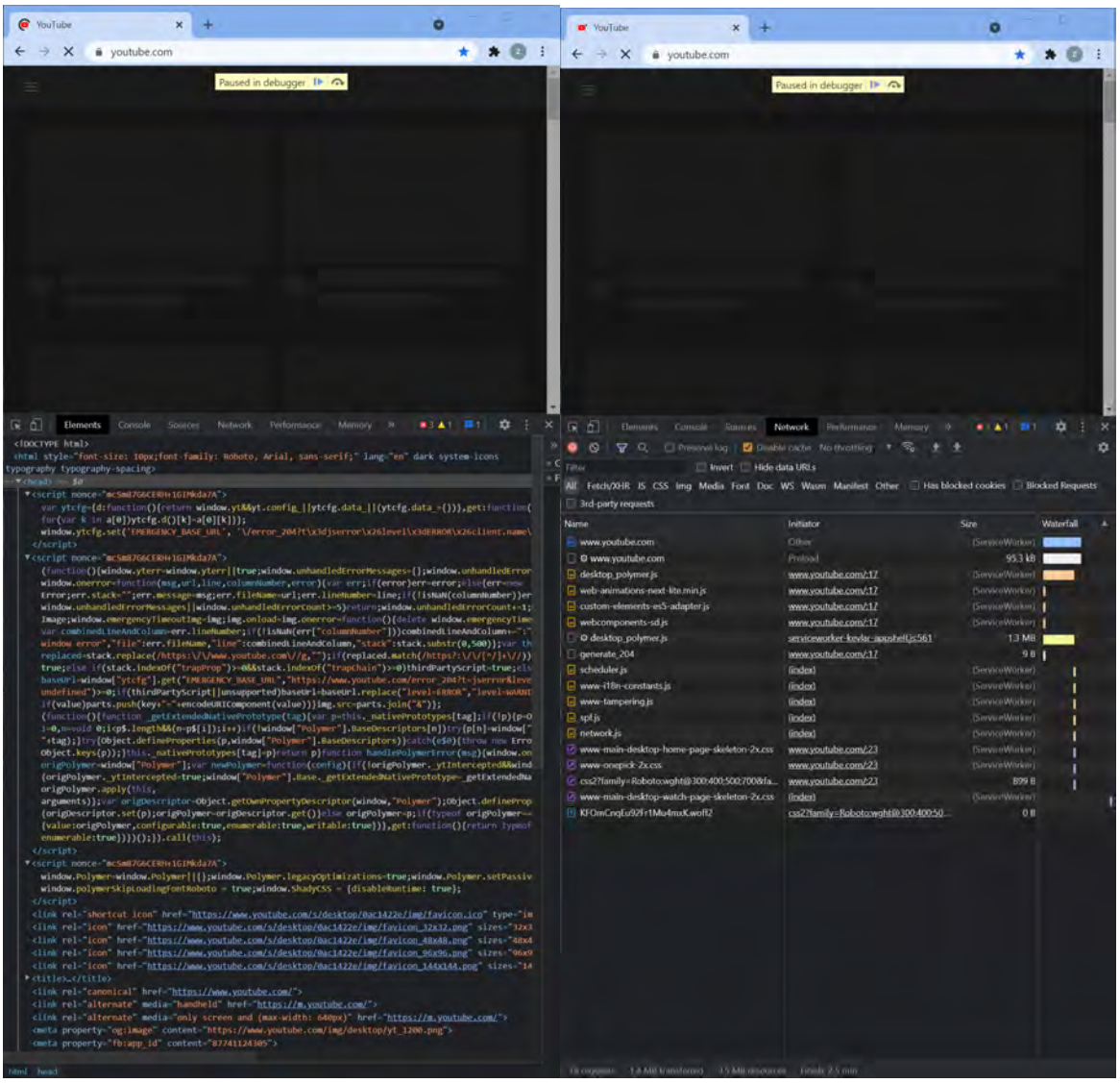
47. YouTube initially responds to the request for www.youtube.com with a visually empty html page that has a few lines of JavaScript.



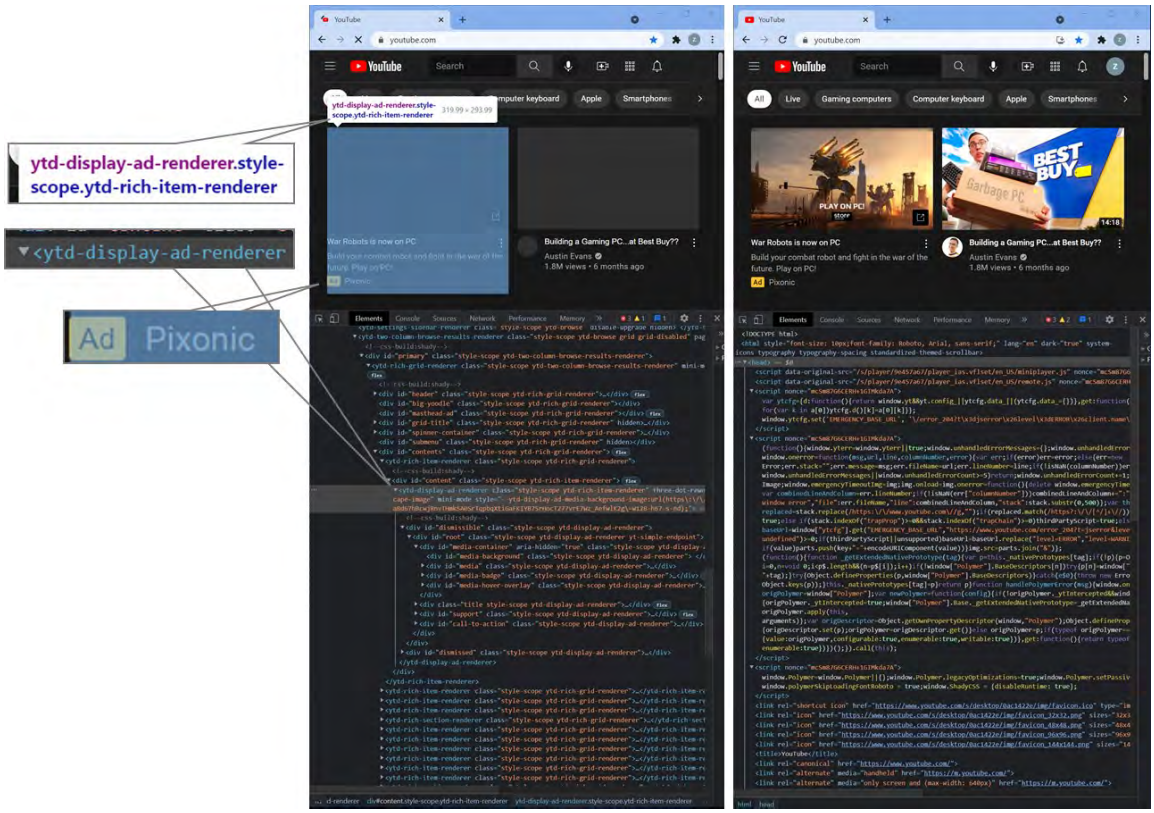
Ex. 43 (screenshot of Chrome browser and Chrome DevTools loading youtube.com)

48. The YouTube page will not successfully load unless the end user's device executes the JavaScript, iteratively communicates with YouTube servers, and performs the iterative steps necessary for the content to load. If, for example, the end user's device pauses the process after

the page partially loads and some of the elements that are part of the final page are visible, the page will not finish loading and will not show any ads or video.

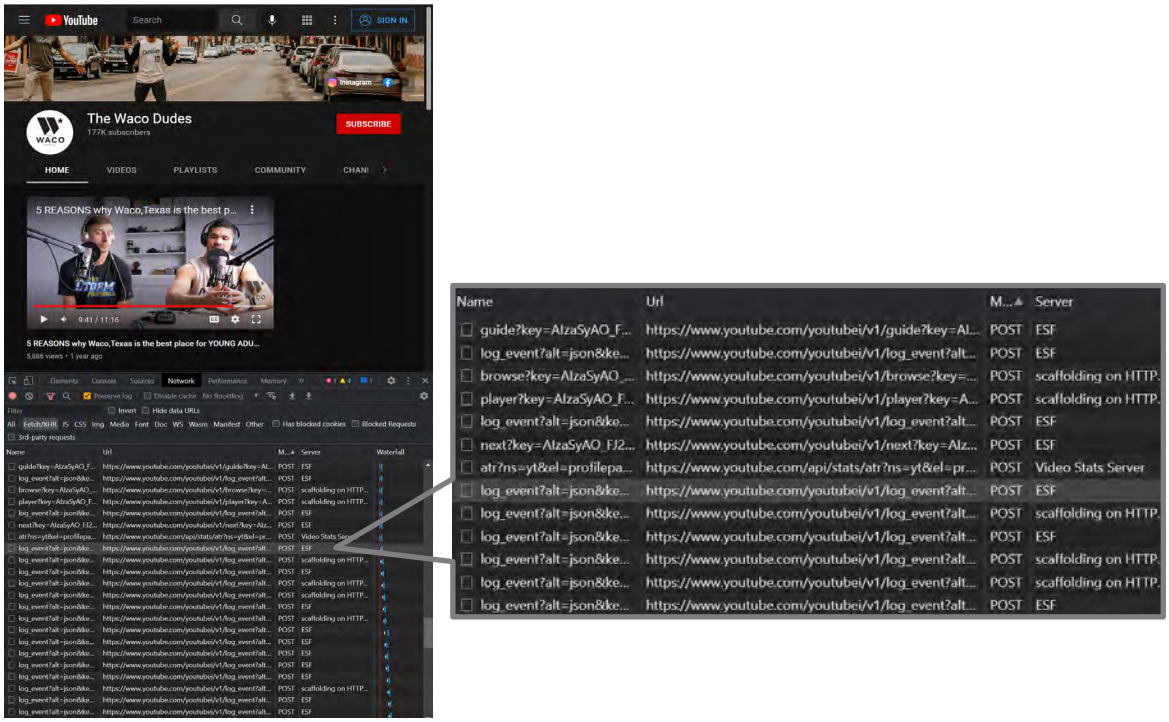


49. The JavaScript includes instructions to fetch additional JavaScript and data, including an instruction to display any advertisement that won a Google advertising auction.



Ex. 44 (screenshot of Chrome browser and Chrome DevTools loading youtube.com).

50. While YouTube end users interact with YouTube web pages and content, for example by viewing YouTube videos, end users continuously transmit data to YouTube. For example, end user computers send data regarding what users click and watch. For example, in the screen shot below, the YouTube end user device posted "log_event" and other tracking data to YouTube's "Video Stats Server" and "ESF" server using URLs such as "...youtube.com… /stats/ …".



Ex. 45 (screenshot of Chrome browser and Chrome DevTools playing https://www.youtube.com/c/TheWacoDudes/featured).

51. Each day, YouTube uses billions of pieces of data continuously collected from YouTube end users, including "clicks, watchtime, survey responses, sharing, likes, and dislikes" from users in this district, to improve YouTube's business of targeting advertising and other content to YouTube users worldwide.

Official Blog

> To provide such custom curation, our recommendation system doesn't operate off of a "recipe book" of what to do. It's constantly evolving, learning every day from over 80 billion pieces of information we call signals. That's why providing more transparency isn't as simple as listing a formula for recommendations, but involves understanding all the data that feeds into our system. A number of signals build on each other to help inform our system about what you find satisfying: clicks, watchtime, survey responses, sharing, likes, and dislikes.

Ex. 46 (available at https://blog.youtube/inside-youtube/on-youtubes-recommendation-system).

52. YouTube and Google use data collected from end users, including those in this District, to determine which advertisements to show the end users, including advertisements that relate to YouTube videos or web pages that YouTube users in this District are viewing. YouTube shows video ads to YouTube end users, including users in this District, "when they watch or search for videos on YouTube." Advertisements that appear on YouTube are targeted based on data collected from end users, including users in this District, where such data includes what users are watching on YouTube, users' locations, "interests and habits," and whether users are "actively researching or planning to purchase products or services like" what the advertiser is selling.

Google Ads Help Describe your issue

Video campaigns run on YouTube and across the web through Google Ads. By targeting your Video campaigns on YouTube and Google video partners, you can advertise to people at moments that matter. With a wide variety of targeting methods available to you, such as demographic groups, interests, placements, and your data segments, you can reach specific or niche audiences based on who they are, what they're interested in, and what content they're viewing.

- **Topics:** Target your video ads to specific topics on YouTube and the Google Display Network. Topic targeting lets you reach a broad range of videos, channels, and websites related to the topics you select. For example, if you target the "Automotive" topic, then your ad will show on YouTube to people watching videos about cars.
- **Keywords:** Depending on your video ad format, you can show your video ads based on words or phrases (keywords) related to a YouTube video, YouTube channel, or type of website that your audience is interested in.

Ex. 47 (available at https://support.google.com/google-ads/answer/2454017) (emphasis added).

Google Ads

Overview How it works Cost FAQ Advanced campaigns

Bring your story to life with Video ads

Reach potential customers when they watch or search for videos on YouTube—and only pay when they show interest.

...

Reach your audience

Choose who you want to see your video ads based on location, interests, and more. Your video will appear before or next to related videos or in search results. Video ads can create a one-to-one communication with potential customers.

Location

U.S. and Canada

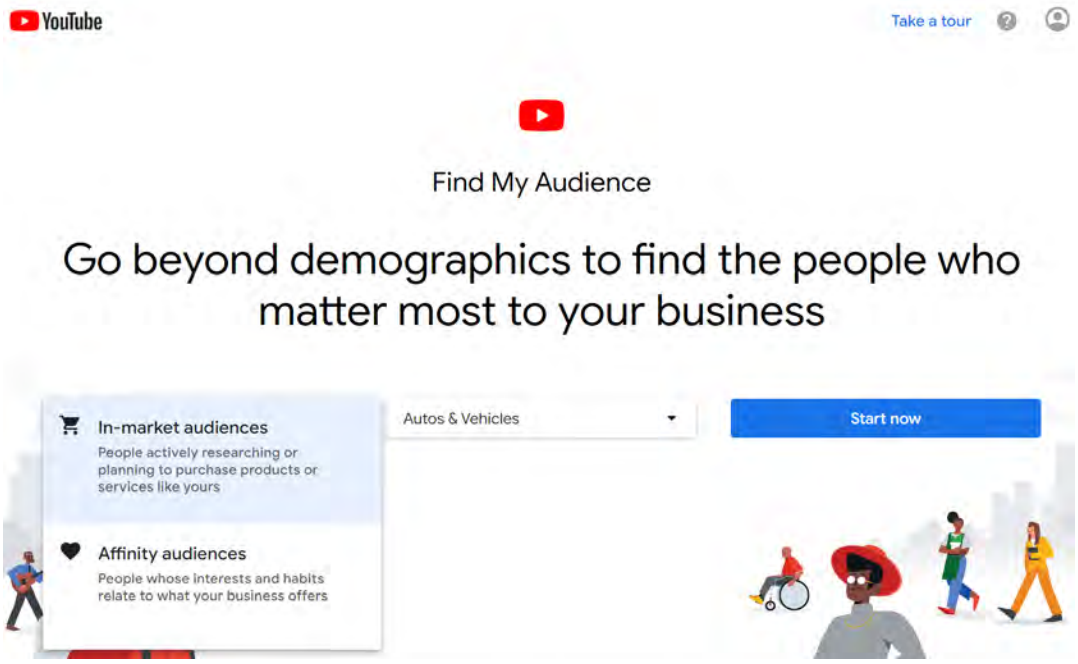
Argentina

Interest

Electronics

Games

Ex. 48 (available at https://ads.google.com/home/campaigns/video-ads/).



Ex. 49 (available at https://www.thinkwithgoogle.com/feature/findmyaudience/).

53. YouTube and Google use data collected from end users, includer users in this District, to determine how much to charge advertisers. For example, an advertiser may be charged based on whether a YouTube end user viewed a video ad, watched the video ad for 30 seconds or to the end of the video, or interacted with the video ad. As another example, YouTube and Google track whether users, including users in this District, view an ad, click on an ad, or convert, in order to determine whether to charge an advertiser that has agreed to pay for viewable impressions, clicks, or conversions. Google provides video ad metrics to YouTube advertisers in furtherance of Google and YouTube's advertising business.

YouTube Advertising

Why YouTube | How it works | News and inspiration | Resources

Maximize your budget with bidding

While your budget sets the maximum you'll spend overall, your bids set the maximum you'll pay for an ad to appear. Whether you are looking to optimize for views, impressions, or conversions, there are a variety of bidding strategies to help you reach your goals.

Ex. 50 (available at https://www.youtube.com/intl/en_us/ads/how-it-works/set-up-a-campaign/budget/).

Google Ads Help | Describe your issue

About cost-per-view (CPV) bidding

Cost-per-view (CPV) bidding is the default way to set the amount you'll pay for TrueView video ads in Google Ads. With CPV bidding, you'll pay for video views or interactions (such as clicks on call-to-action overlays, cards, and companion banners). A **view** is counted when someone watches 30 seconds of your video ad (or the duration if it's shorter than 30 seconds) or interacts with the ad, whichever comes first.

Ex. 51 (available at https://support.google.com/google-ads/answer/2472735).

Google Ads Help | Describe your issue

About video ad metrics and reporting

This article describes the different metrics used to analyze the performance of your video ads. You can find metrics such as impressions, views, engagement, and clicks, as well as the type of audience you're reaching.

…

- Video viewership (also known as "quartile reporting")
  - **Video played to: 25%** shows how often a video is played to 25% of its length.
  - **Video played to: 50%** shows how often a video is played until the middle of its view length.
  - **Video played to: 75%** shows how often a video is played to 75% of its length.
  - **Video played to: 100%** shows how often a video is played to its completion.

Ex. 52 (available at https://support.google.com/google-ads/answer/2375431).

Google Ads Help Describe your issue

In addition to these bidding strategies, you can choose to pay for clicks, pay for conversions, or pay for viewable impressions.

Payment mode	Description	Compatible bidding strategies
Pay for clicks	Pay the cost for every user who clicks on your ad	Maximize conversions Target CPA Target ROAS
Pay for conversions	Pay the cost for every user who converts on your ad	Eligible advertisers using Target CPA
Pay for viewable impressions	Pay the cost for every viewable impression seen by users you target	Target CPA (when bidding towards click-through and view-through conversions)*

Ex. 53 (available at https://support.google.com/google-ads/answer/10276703).

54. Google and YouTube use data collected from end users, including uses in this District, to determine how much to pay YouTube Program Partners. YouTube provides "a share of advertising revenue from viewers watching your video" and determines how much to pay each YouTube Program Partner pursuant to YouTube's contract with that YouTube Program Partner.

YouTube Help Describe your issue

How do I earn revenue?

Advertising revenue

When you enable your channel for monetization, you can turn on ads from Google and its partners for your videos and share revenue from them.

There are no guarantees under the YouTube partner agreement about how much or whether you'll be paid. Earnings are generated based on a share of advertising revenue from viewers watching your video. Learn more about how ads show on videos you monetize.

…

What's my revenue share?

Revenue share refers to your percentage of gross revenue that is outlined in your specific partner agreement with YouTube. You can review your YouTube Partner Program Terms or Commerce Product Addendum for specific details about your revenue share:

1. Sign in to YouTube Studio .
2. From the left menu, select **Settings** .
3. Select **Agreements**.
4. Click **View agreement** next to YouTube Partner Program Terms or Commerce Product Addendum to find details about your revenue share.

Ex. 54 (available at https://support.google.com/youtube/answer/72902).

55. All YouTube users agree that YouTube has the right to direct or control the user's action as specified in YouTube's Terms of Service, which states "Your use of the Service is subject to these terms, the YouTube Community Guidelines and the Policy, Safety and Copyright Policies … If you do not understand the Agreement, or do not accept any part of it, then you may not use the Service." Ex. 16 at 3-4 (available at https://www.youtube.com/static?template=terms). YouTube users consent to acting in accordance with YouTube's terms and YouTube consents to its users uploading content for its business purposes.

THE ASSERTED PATENTS

56. On May 20, 2008, the United States Patent Office issued the ’414 patent titled “Method And System For Inserting Advertisements Into Broadcast Content,” naming G. Eric Engstrom as the inventor. A true and correct copy of the ’414 patent is attached as Exhibit A.

57. On September 22, 2015, the United States Patent Office issued the ’960 patent titled “Venue And Event Recommendations For A User Device Of A Portable Media Player Device,” naming Evan Feldman and Jonathan Nelson as inventors. A true and correct copy of the ’960 patent is attached as Exhibit B.

58. On April 2, 2019, the United States Patent Office issued the ’021 patent titled “Venue And Event Recommendations For A User Device Of A Portable Media Player Device,” naming Evan Feldman and Jonathan Nelson as inventors. A true and correct copy of the ’021 patent is attached as Exhibit C.

59. On March 23, 2021, the United States Patent Office issued the ’040 patent titled “Venue And Event Recommendations For A User Device Of A Portable Media Player Device,” naming Evan Feldman and Jonathan Nelson as inventors. A true and correct copy of the ’040 patent is attached as Exhibit D.

60. On December 15, 2020, the United States Patent Office issued the ’169 patent titled “Method And System For Generating And Sending A Hot Link Associated With A User Interface To A Device,” naming G. Eric Engstrom, Peter Zatloukal and Tyrol Graham as inventors. A true and correct copy of the ’169 patent is attached as Exhibit E.

61. Wildseed Mobile is the owner of all right, title, and interest in and to each of the Asserted Patents with full and exclusive right to bring suit to enforce the Asserted Patents, including the right to recover for past damages and/or royalties prior to the expiration of the Asserted Patents.

62. The Asserted Patents are valid and enforceable.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,376,414

63. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

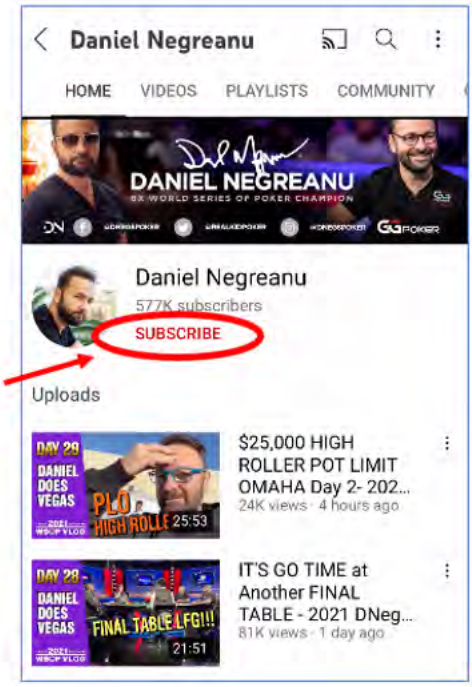
64. Defendants make, use, offer for sale, and/or sell in the United States and/or import into the United States products and services that provide video content and video advertisements to cellular devices. Specifically, Google, through its online store and retailers, provides cellular devices including the Google Pixel line of smartphones to consumers. Google also operates servers that provide video advertisements to be played on cellular devices via the YouTube app or on the YouTube website via a browser, such as the Chrome browser. YouTube operates servers that provide videos to cellular devices via the YouTube app and YouTube website, including providing videos and notifications to subscribers of YouTube channels. (collectively, the "'414 Patent Accused Products").

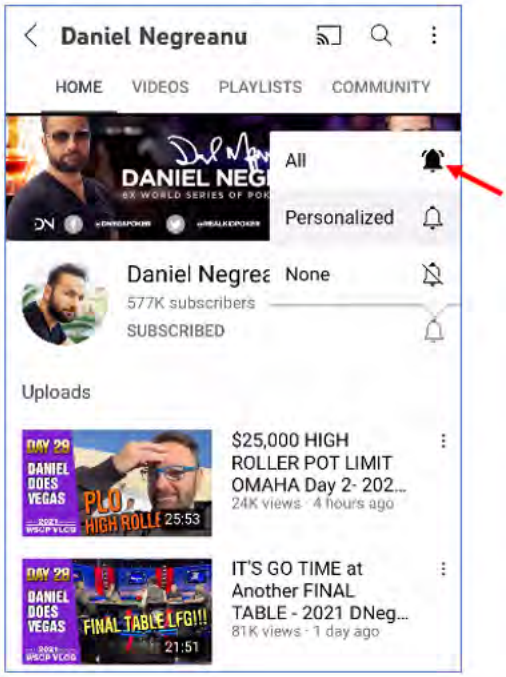
65. The '414 Patent Accused Products infringe at least claims 1, 9, and 14 of the '414 patent in the exemplary manner described below.

66. **Claim 1:** Defendants have directly and/or indirectly infringed and continue to directly/or and indirectly infringe, literally and/or under the doctrine of equivalents, by using and providing the '414 Patent Accused Products, which provide a method for playing content and advertisements on a cellular device.

67. The '414 Patent Accused Products autonomously provide to a server, by the cellular device, information associated with a user of the cellular device, the information taken by the cellular device from a message sent to the cellular device from another user of another cellular device, the message identifying characteristics of the user of the cellular device. For example,

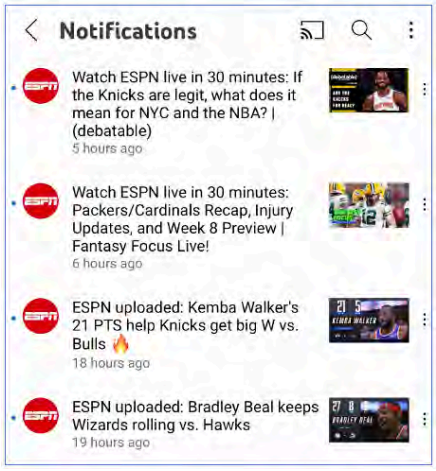
the YouTube app allows users to subscribe to YouTube channels. A subscriber can choose to receive a notification message every time the channel adds a new video.





Source: YouTube app screenshots.

68. When a YouTube channel owner uploads a video using a cellular device a notification message is sent to each subscriber. Notification messages are delivered to subscribers' cellular devices via email and the YouTube app.



Source: YouTube app screenshot.

Difference between Notifications and Subscriptions Feed

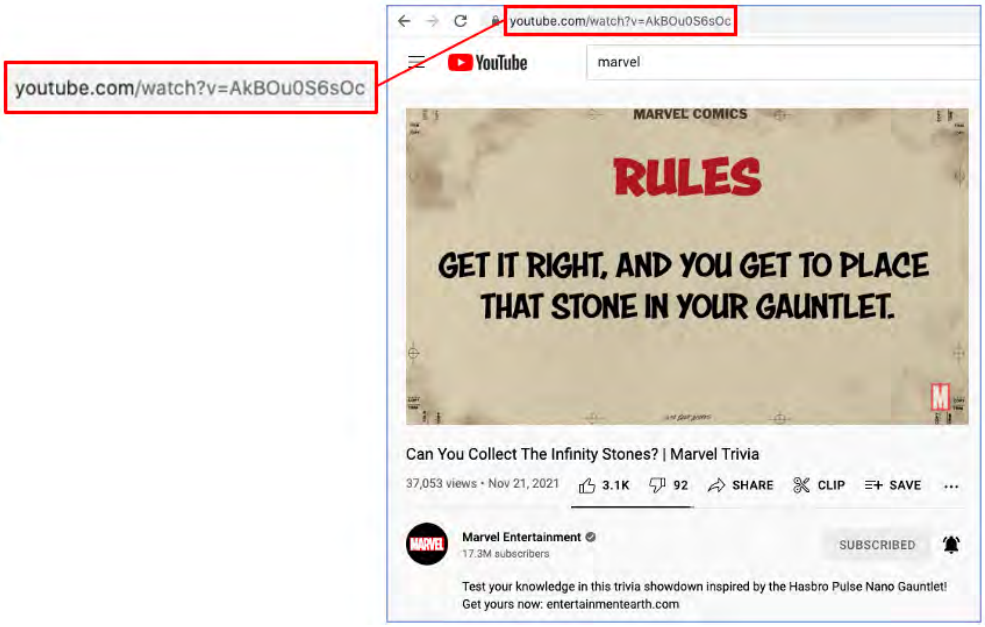
Subscriptions feed, available on both mobile and a computer, will show all recently uploaded videos from your subscriptions.

Notifications tell you when there are new videos and updates from your subscriptions. We'll send emails, notifications on mobile, or inbox notifications on your computer. When you subscribe to a channel, you'll automatically get personalized notifications with highlights of activity.

To get all notifications from a subscribed channel, tap the Notification bell . The bell will then change to a ringing bell to indicate that you've selected all notifications.

Source: https://support.google.com/youtube/answer/3382248?co=GENIE.Platform%3DAndroid&oco=1#zippy=

69. The notification message is associated with a video, which is itself associated with a certain topic of interest to the subscriber (i.e., a characteristic of the user). Additionally, the notification message contains a unique identifier that identifies the video ("Video ID"). This video identifier is embedded in the URL used to retrieve the video for playback. The Video ID is shown in the URL used by a web browser to retrieve the YouTube video. For example, in the screenshot below, the Video ID is "AkBOu0S6sOc."

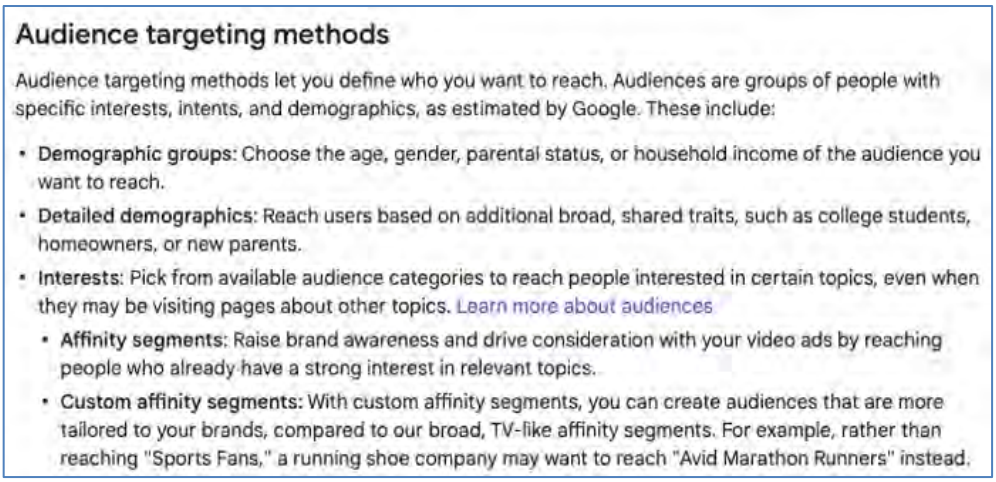


Source: https://www.youtube.com/watch?v=AkBOu0S6sOc.

70. Additionally, the Video ID is autonomously provided to the YouTube servers periodically via HTML Post methods (referred to as "docid" in this example) while the user watches the video.

Source: Screenshot of Chrome browser Developer Tools loading https://www.youtube.com/watch?v=AkBOu0S6sOc

71. The Video ID identifies the video that the user is watching. YouTube uses the Video ID to track the videos that a user watches to create a profile of the user that YouTube uses to determine which targeted ads to send to the user.



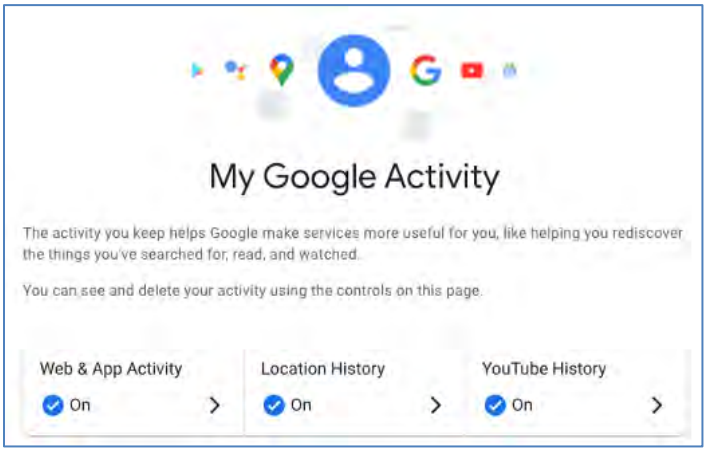
Audience targeting methods

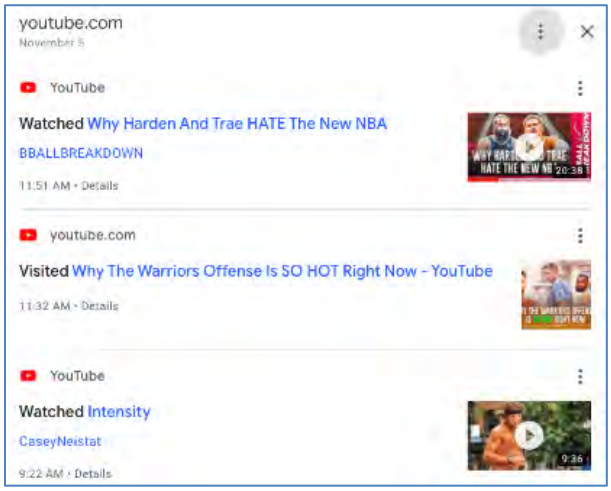
Audience targeting methods let you define who you want to reach. Audiences are groups of people with specific interests, intents, and demographics, as estimated by Google. These include:

- **Demographic groups:** Choose the age, gender, parental status, or household income of the audience you want to reach.
- **Detailed demographics:** Reach users based on additional broad, shared traits, such as college students, homeowners, or new parents.
- **Interests:** Pick from available audience categories to reach people interested in certain topics, even when they may be visiting pages about other topics. Learn more about audiences
  - **Affinity segments:** Raise brand awareness and drive consideration with your video ads by reaching people who already have a strong interest in relevant topics.
  - **Custom affinity segments:** With custom affinity segments, you can create audiences that are more tailored to your brands, compared to our broad, TV-like affinity segments. For example, rather than reaching "Sports Fans," a running shoe company may want to reach "Avid Marathon Runners" instead.

Ex. 47 (https://support.google.com/youtube/answer/2454017).

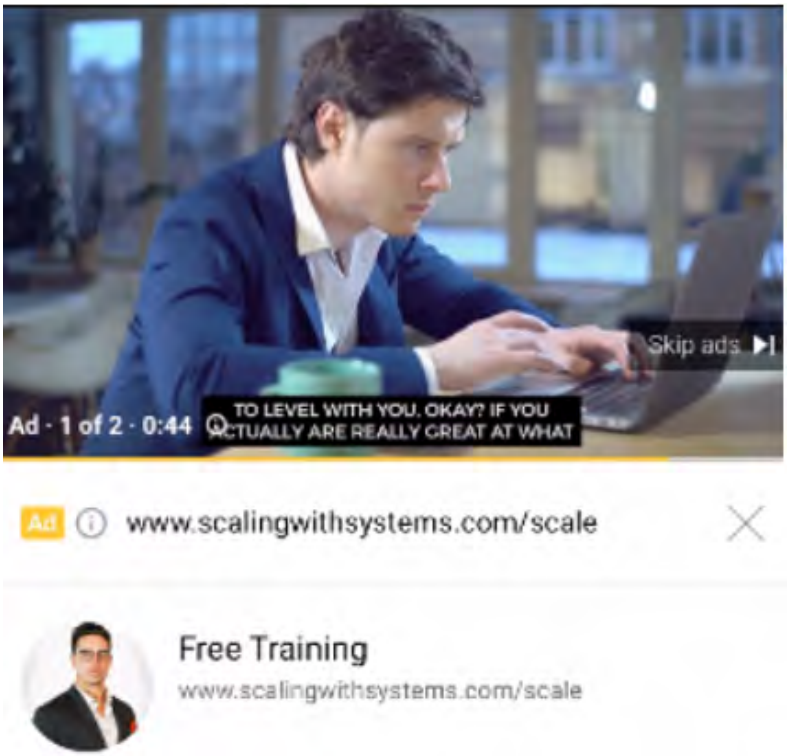
72. In Google's My Activity website, users can see the online activity that Google tracks. Google uses this information to target ads, including YouTube ads.





Source: https://myactivity.google.com/myactivity

73. The cellular device will receive, from the server, at least one advertisement to be played on the cellular device, wherein the at least one received advertisement is determined by the server based at least in part on the provided information. For example, the cellular device will receive, from the YouTube servers, advertisements to be played based on the provided information (user's topics of interest, interests, affinities, etc.). The following shows an advertisement being played.



Source: Screenshot of mid-roll ad playing on YouTube app.

74. YouTube includes targeting of advertisements based on the characteristics of the user, including the user's preferred content.

Audience targeting methods

Audience targeting methods let you define who you want to reach. Audiences are groups of people with specific interests, intents, and demographics, as estimated by Google. These include:

- **Demographic groups:** Choose the age, gender, parental status, or household income of the audience you want to reach.
- **Detailed demographics:** Reach users based on additional broad, shared traits, such as college students, homeowners, or new parents.
- **Interests:** Pick from available audience categories to reach people interested in certain topics, even when they may be visiting pages about other topics. Learn more about audiences
  - **Affinity segments:** Raise brand awareness and drive consideration with your video ads by reaching people who already have a strong interest in relevant topics.
  - **Custom affinity segments:** With custom affinity segments, you can create audiences that are more tailored to your brands, compared to our broad, TV-like affinity segments. For example, rather than reaching "Sports Fans," a running shoe company may want to reach "Avid Marathon Runners" instead.

Ex. 47 (https://support.google.com/youtube/answer/2454017).

75. If a determined time interval occurs, the cellular devices stops playing of content and plays at least one of the determined advertisements. For example, the cellular device can play

advertisements during a video at set time intervals. YouTube allows for mid-roll ads that play at a determined time interval either set by the channel owner or automatically set by Google.

Manage mid-roll ad breaks in long videos

When you upload videos that are 8 minutes or longer, you can enable ads during the middle of the video (known as "mid-rolls") in addition to having them at the beginnings and ends of videos.

Source: https://support.google.com/youtube/answer/6175006

There are 2 ways to place mid-roll ads:

- **Automated ad breaks**: You can turn on automatically placed mid-roll ads, which means we'll find the best ad placement and frequency, creating a more balanced experience for viewers.
- **Manual ad breaks**: If you choose to manually place ad breaks, try to place at natural breaks for best results. Avoid placing mid-roll breaks at disruptive points, such as mid-sentence or mid-action. If you've created your content to build in natural ad breaks, you may turn on manual ad break placement to ensure the ads show the way you want them to.

Source: https://support.google.com/youtube/answer/6175006

76. For manually placed mid-roll ads, the channel owner uses YouTube Studio to add "ad breaks" at the desired times.

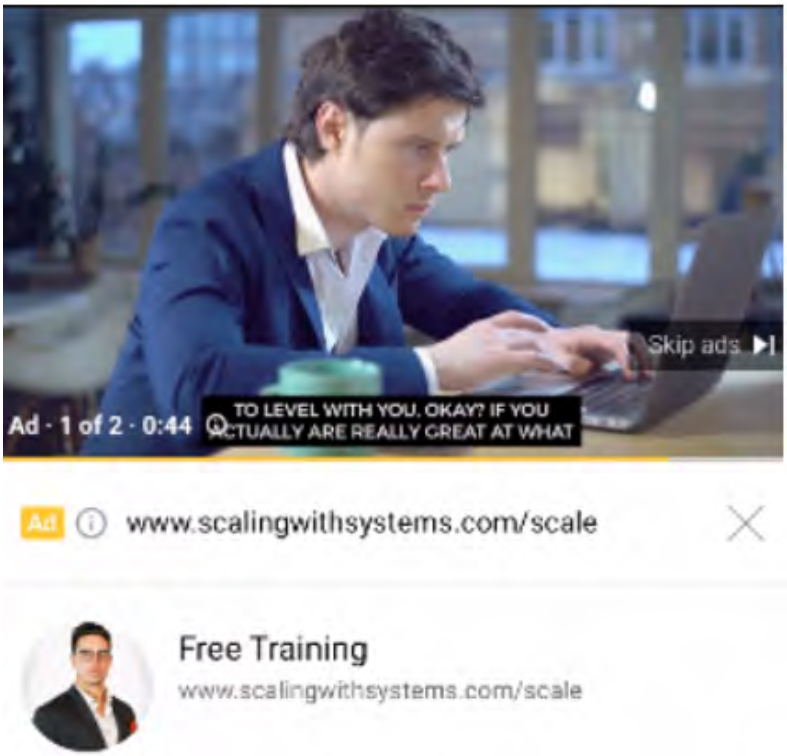
Manual placement

You can manually set mid-roll ad breaks if, for example, your video was already created to have mid-roll ad breaks appear in certain locations.

1. Sign in to YouTube Studio .
2. From the left menu, select **Videos**.
3. Choose a video, then select **Monetization**.
4. If you haven't already, enable monetization for the video.
5. Beneath "Location of video ads", check the box next to "During video (mid-roll)".
6. Select **MANAGE MID-ROLLS**.
   - **Add an ad break**: Click **+ ADD BREAK**. Enter the start time of the ad, or drag the vertical bar to the desired time.
   - **Delete an ad break**: Click Delete next to the ad break .
7. In the top-right, click **Continue** and then **Save**.

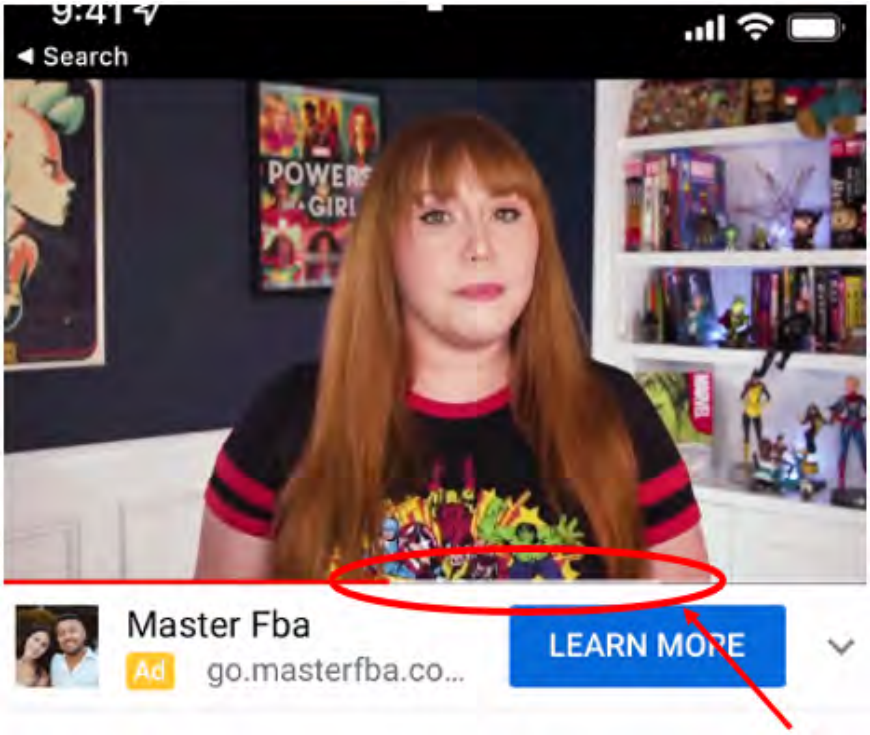
Source: https://support.google.com/youtube/answer/6175006

77. The cellular device records the content that was stopped while the advertisement plays. Advertisements will pause the video content and play while the content is recorded. As shown in this advertisement, the video content is paused while the advertisement plays.



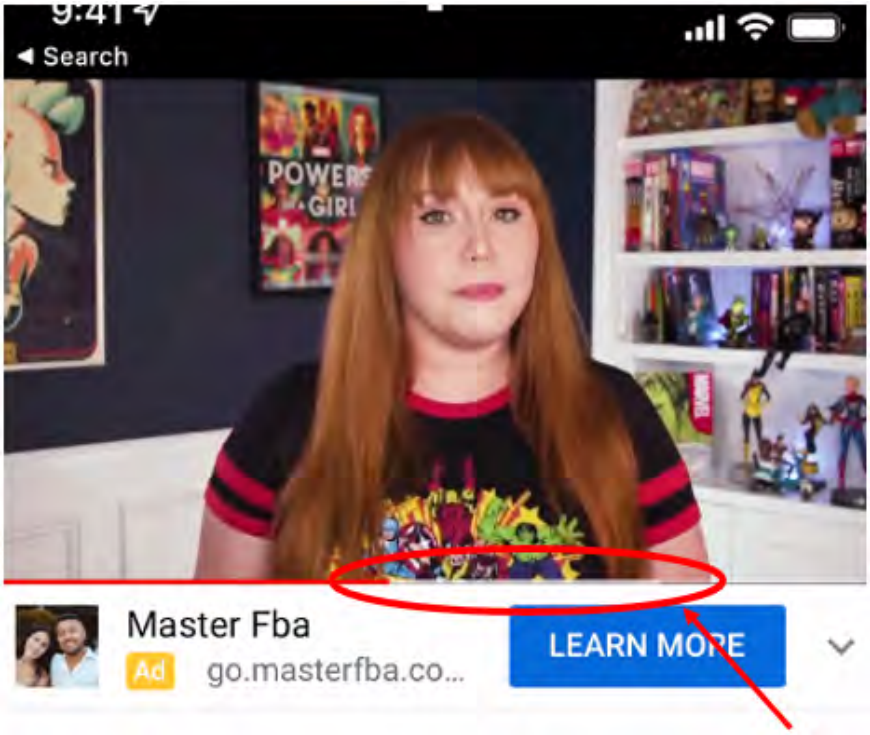
Source: Screenshot of mid-roll ad playing on YouTube app.

78. As shown when the video content starts up again, it has been recorded (e.g., buffered) while the advertisement played, as shown in the advancement of the grey bar showing the buffering of the video content after it is initiated again after the advertisement.



Source: Screenshot of mid-roll ad playing on YouTube app.

79. When the playing of the at least one determined advertisement is completed, the cellular device resumes playing the stopped content, from where the stopping of the playing of the content occurred, using the recorded (i.e., buffered) content. The below shows the cellular device resuming play of the video content (and recorded portions of the content) after pausing the content for an advertisement.



80. **Direct Infringement:** Defendants themselves directly infringe at least claim 1 of the ’414 patent, for example, when Defendants operate, use and/or test the Accused Products to perform the method of claim 1.

81. **Inducement:** Defendants have indirectly infringed and continue to indirectly infringe the ’414 patent by inducing direct infringement of the ’414 patent by their clients, customers, and users who directly infringe in the manner described above. Defendants were made aware of the ’414 patent and their infringement of the ’414 patent at least as early as November 30, 2021 when Wildseed Mobile provided notice of infringement of the ’414 patent to Sundar Pichai of Google and Susan Wojcicki of YouTube. From at least the time that Defendants received notice, Defendants have been actively inducing their clients, customers, and users to directly infringe at least claim 1 of the ’414 patent as described above.

82. Defendants have taken affirmative steps to induce infringement of the ’414 patent by their clients, customers, and users by, for example, advertising and distributing the ’414 Patent Accused Products and providing instruction materials, training, and services instructing clients,

customers, and users to act in a manner that infringes the ’414 patent. For example, Google sells Google Pixel phones to consumers on its website. See https://store.google.com/category/phones. Additionally, YouTube makes the YouTube app available for download onto cellular devices through the Google Play Store and Apple App Store. See https://play.google.com/store/apps/details?id=com.google.android.youtube, https://apps.apple.com/us/app/youtube-watch-listen-stream/id544007664. Defendants have taken affirmative actions to induce infringement by intentionally instructing their clients, customers, and users to infringe the claims of the ’414 patent by providing instructional materials to clients, customers, and users regarding YouTube subscriptions and notifications on Google’s website. See https://support.google.com/youtube/answer/4489286, https://support.google.com/youtube/answer/3382248.

83. Defendants have specifically intended, and still intend, that their clients, customers, and users infringe the ’414 patent. Defendants have been, and still are, aware that the acts of their clients, customers, and users described above constitute infringement of the ’414 patent. Defendants have known and intended that their continued actions would actively induce the infringement of at least claim 1 of the ’414 patent by their clients, customers, and users. With knowledge of both the ’414 patent and their infringement of the ’414 patent, Defendants acted with specific intent or willful blindness to actively aid and abet their clients, customers, and users in infringing at least claim 1 of the ’414 patent. Defendants are thus liable for infringement of the ’414 patent under 35 U.S.C. § 271(b).

84. **Contributory:** Defendants contribute to infringement of the ’414 patent by offering to commercially distribute and commercially distributing the YouTube app, which includes and/or implements Defendants’ YouTube and Google Ads services, to clients, customers, and users, which in combination with a cellular device, such as a smartphone or tablet, satisfy

each and every limitation of the claims, as described above. First, to the extent a device is not preloaded with the YouTube app, Defendants provide the YouTube app to clients, customers, and users, who then install it on their devices, such as Apple iOS and Android smartphones and tablets. The underlying direct infringement, as described above, occurs, for example, when an end-user installs and runs a compatible version of the YouTube app on their device. The YouTube app, which includes and/or implements Defendants' YouTube and Google Ads services, constitutes a material part of the invention of the '414 patent as is apparent from the infringement allegations described above, which detail infringement by the YouTube app. Since at least the date Defendants received notice of the '414 patent and their infringement of the '414 patent, Defendants have known that the YouTube app is especially made and adapted for use in infringing the '414 patent. The YouTube app, including and/or implementing Defendants' YouTube and Google Ads services, provides the user with access to YouTube services. The YouTube app, including and/or implementing Defendants' YouTube and Google Ads services, is not a staple article or commodity of commerce and has no substantial non-infringing uses. The only purpose of the accused functionality of the accused YouTube app is to play content and advertisements as described above. Furthermore, the YouTube app is only operable when installed on a cellular device. As explained above, the YouTube app is designed and configured to infringe at least claim 1 of the '414 patent.

85. Second, to the extent Defendants' devices are manufactured by third-party vendors, Defendants contribute to infringement of the '414 patent by providing material parts of the invention, including the YouTube app loaded onto the cellular devices. The YouTube app is a material part of the invention, as is apparent from the infringement allegations described above, which detail infringement by the YouTube app. The underlying direct infringement, as described above, occurs when a third-party vendor makes, uses (e.g., tests), offers for sale, and/or sells in

the United States cellular devices that use the YouTube app to access Defendants' YouTube and Google Ads services. The YouTube app, including and/or implementing Defendants' YouTube and Google Ads services, provides the user with access to YouTube services. Since at least the date Defendants received notice of the '414 patent and their infringement of the '414 patent, Defendants have known that the YouTube app, including and/or implementing Defendants' YouTube and Google Ads services, to be especially made or especially adapted for use in infringement of the '414 patent, and not to be a staple article, nor commodity of commerce suitable for substantial non-infringing use. The only purpose of the accused functionality of the accused YouTube app is to play content and advertisements as described above. Furthermore, the YouTube app is only operable when installed on a cellular device. As explained above, the YouTube app is designed and configured to infringe at least claim 1 of the '414 patent. In both cases, Defendants are liable for infringement of the '414 patent under 35 U.S.C. § 271(c).

86. **Claim 9:** Defendants have directly and/or indirectly infringed and continue to directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, by or through making, using, offering for sale, selling within the United States and/or importing Google Pixel smartphones with a web browser capable of accessing YouTube, and the YouTube app.

87. The accused Google Pixel smartphones are cellular devices comprising a memory for storing logical instructions. For example, the Google Pixel 6 is a smartphone that includes a memory for storing logical instructions, including software code.

Memory and Storage

8 GB LPDDR5 RAM

128 GB / 256 GB UFS 3.1 storage[9]

Source: https://store.google.com/product/pixel_6_specs

88. The Google Pixel smartphones include a wireless interface unit for sending and receiving data. For example, the Google Pixel 6 includes cellular and Wi-Fi wireless interfaces for sending and receiving data.

Network[14]

[5G Sub 6GHz][15] Model GB7N6

GSM/EDGE: Quad-band (850, 900, 1800, 1900 MHz)

UMTS/HSPA+/HSDPA: Bands 1,2,4,5,6,8,19

LTE: Bands

B1/2/3/4/5/7/8/12/13/14/17/18/19/20/25/26/28/29/30/32/38/39/40/41/42/46/48/66/71

5G Sub-6[15]: Bands

n1/2/3/5/7/8/12/14/20/25/28/30/38/40/41/48/66/71/77/78

eSIM

[5G mmWave + Sub 6GHz][15]

Model G9S9B[15]

GSM/EDGE: Quad-band (850, 900, 1800, 1900 MHz)

UMTS/HSPA+/HSDPA: Bands 1,2,4,5,6,8,19

LTE: Bands

B1/2/3/4/5/7/8/12/13/14/17/18/19/20/25/26/28/29/30/32/38/39/40/41/42/46/48/66/71

5G Sub-6[15]: Bands n1/2/3/5/7/8/12/14/20/25/28/30/38/40/41/48/66/71/77/78

5G mmWave[15]: Bands n257/n258/n260/n261

eSIM

Source: https://store.google.com/product/pixel_6_specs

Connectivity & Location

Wi-Fi 6E (802.11ax) with 2.4G+5GHz+6GHz, HE160, MIMO

Bluetooth® v5.2 with dual antennas for enhanced quality and connection

NFC

Google Cast

Dual Band GNSS

GPS, GLONASS, Galileo, QZSS

Source: https://store.google.com/product/pixel_6_specs

89. The Google Pixel smartphones include a processor for executing the logical instructions stored in the memory, the execution of the logical instructions causing actions to be

performed. For example, the Google Pixel 6 includes a Google Tensor processor that executes software code stored in the memory and causes the device to perform the programmed actions.

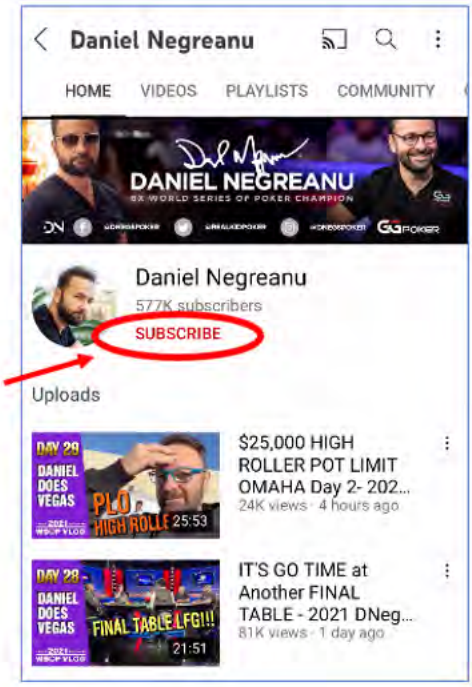
Processors

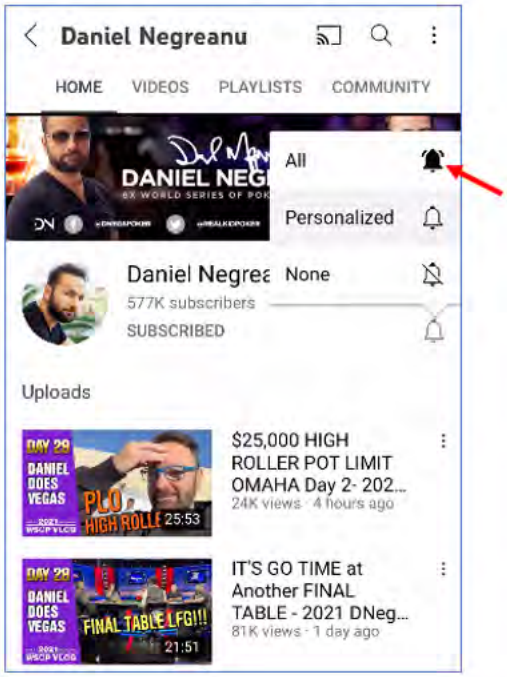
Google Tensor

Titan M2™ security coprocessor

Source: https://store.google.com/product/pixel_6_specs

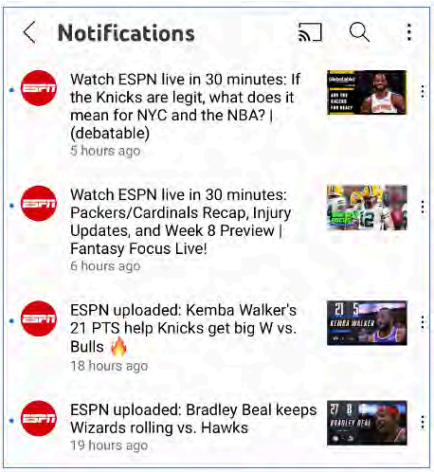
90. The Google Pixel smartphones running the YouTube app or accessing the YouTube website autonomously provide to a server information associated with a user of the cellular device, the information taken by the cellular device from a message sent to the cellular device from another user of another cellular device, the message identifying characteristics of the user of the cellular device. For example, the YouTube app allows users to subscribe to YouTube channels. A subscriber can choose to receive a notification message every time the channel adds a new video.



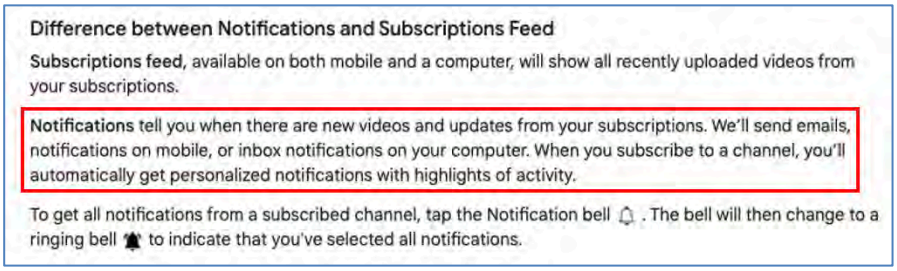


Source: YouTube app screenshots.

91. When a YouTube channel owner uploads a video using a cellular device a notification message is sent to each subscriber. Notification messages are delivered to subscribers' cellular devices via email and the YouTube app.

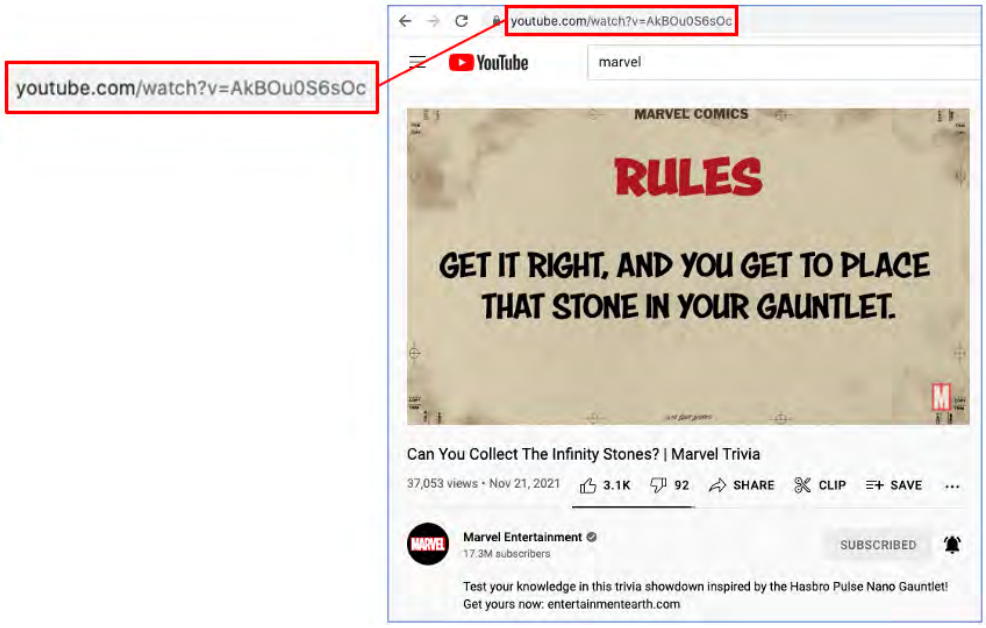


Source: YouTube app screenshot.



Source:
https://support.google.com/youtube/answer/3382248?co=GENIE.Platform%3DAndroid&oco=1#zippy=

92. The notification message is associated with a video, which is itself associated with a certain topic of interest to the subscriber (i.e., a characteristic of the user). Additionally, the notification message contains a unique identifier that identifies the video ("Video ID"). This video identifier is embedded in the URL used to retrieve the video for playback. The Video ID is shown in the URL used by a web browser to retrieve the YouTube video. For example, in the screenshot below, the Video ID is "AkBOu0S6sOc."



Source: https://www.youtube.com/watch?v=AkBOu0S6sOc.

93. Additionally, the Video ID is autonomously provided to the YouTube servers periodically via HTML Post methods (referred to as "docid" in this example) while the user watches the video.

Source: Screenshot of Chrome browser Developer Tools loading https://www.youtube.com/watch?v=AkBOu0S6sOc

94. The Video ID identifies the video that the user is watching. YouTube uses the Video ID to track the videos that a user watches to create a profile of the user that YouTube uses to determine which targeted ads to send to the user.

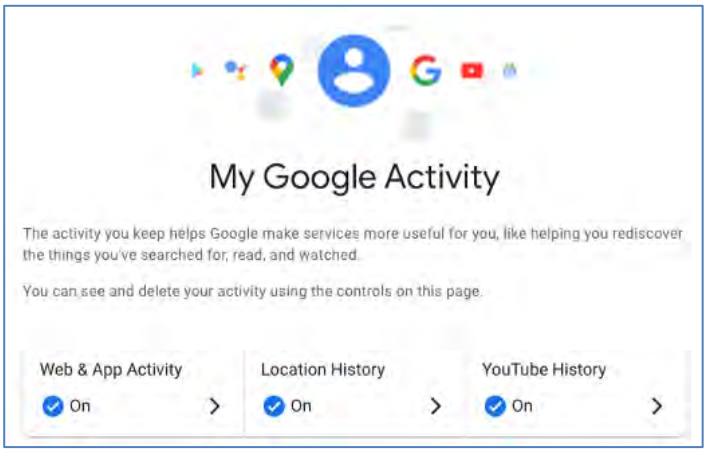
Audience targeting methods

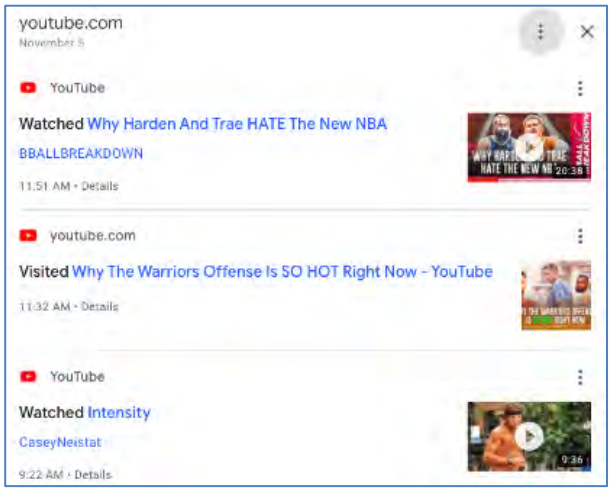
Audience targeting methods let you define who you want to reach. Audiences are groups of people with specific interests, intents, and demographics, as estimated by Google. These include:

- **Demographic groups:** Choose the age, gender, parental status, or household income of the audience you want to reach.
- **Detailed demographics:** Reach users based on additional broad, shared traits, such as college students, homeowners, or new parents.
- **Interests:** Pick from available audience categories to reach people interested in certain topics, even when they may be visiting pages about other topics. Learn more about audiences
  - **Affinity segments:** Raise brand awareness and drive consideration with your video ads by reaching people who already have a strong interest in relevant topics.
  - **Custom affinity segments:** With custom affinity segments, you can create audiences that are more tailored to your brands, compared to our broad, TV-like affinity segments. For example, rather than reaching "Sports Fans," a running shoe company may want to reach "Avid Marathon Runners" instead.

Ex. 47 (https://support.google.com/youtube/answer/2454017).

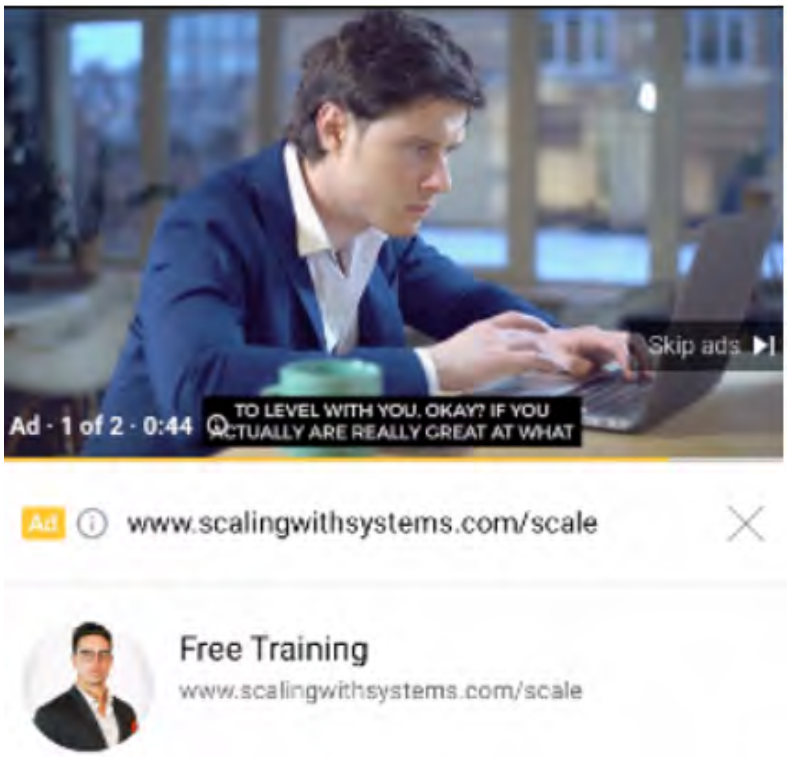
95. In Google's My Activity website, users can see the online activity that Google tracks. Google uses this information to target ads, including YouTube ads.





Source: https://myactivity.google.com/myactivity

96. The Google Pixel smartphones running the YouTube app or accessing the YouTube website receive from the server at least one advertisement, wherein the at least one received advertisement is determined by the server based at least in part on the provided information. For example, the YouTube app will receive from the YouTube servers advertisements to be played based on the provided information (user's topics of interest, interests, affinities, etc.). The following shows an advertisement being played.



Source: Screenshot of mid-roll ad playing on YouTube app.

97. YouTube includes targeting of advertisements based on the characteristics of the user, including the user's preferred content.

Audience targeting methods

Audience targeting methods let you define who you want to reach. Audiences are groups of people with specific interests, intents, and demographics, as estimated by Google. These include:

- **Demographic groups:** Choose the age, gender, parental status, or household income of the audience you want to reach.
- **Detailed demographics:** Reach users based on additional broad, shared traits, such as college students, homeowners, or new parents.
- **Interests:** Pick from available audience categories to reach people interested in certain topics, even when they may be visiting pages about other topics. Learn more about audiences
  - **Affinity segments:** Raise brand awareness and drive consideration with your video ads by reaching people who already have a strong interest in relevant topics.
  - **Custom affinity segments:** With custom affinity segments, you can create audiences that are more tailored to your brands, compared to our broad, TV-like affinity segments. For example, rather than reaching "Sports Fans," a running shoe company may want to reach "Avid Marathon Runners" instead.

Ex. 47 (https://support.google.com/youtube/answer/2454017).

98. If a determined time interval occurs, the Google Pixel smartphones with the YouTube app will stop playing of content, and play the at least one determined advertisement, the playing of the at least one determined advertisement comprising recording the content which playing was stopped while the at least one determined advertisement is playing. For example, YouTube allows for mid-roll ads that play at a determined time interval either set by the channel owner or automatically set by Google.

Manage mid-roll ad breaks in long videos

When you upload videos that are 8 minutes or longer, you can enable ads during the middle of the video (known as "mid-rolls") in addition to having them at the beginnings and ends of videos.

Source: https://support.google.com/youtube/answer/6175006

There are 2 ways to place mid-roll ads:

- **Automated ad breaks:** You can turn on automatically placed mid-roll ads, which means we'll find the best ad placement and frequency, creating a more balanced experience for viewers.
- **Manual ad breaks:** If you choose to manually place ad breaks, try to place at natural breaks for best results. Avoid placing mid-roll breaks at disruptive points, such as mid-sentence or mid-action. If you've created your content to build in natural ad breaks, you may turn on manual ad break placement to ensure the ads show the way you want them to.

Source: https://support.google.com/youtube/answer/6175006

99. For manually placed mid-roll ads, the channel owner uses YouTube Studio to add "ad breaks" at the desired times.

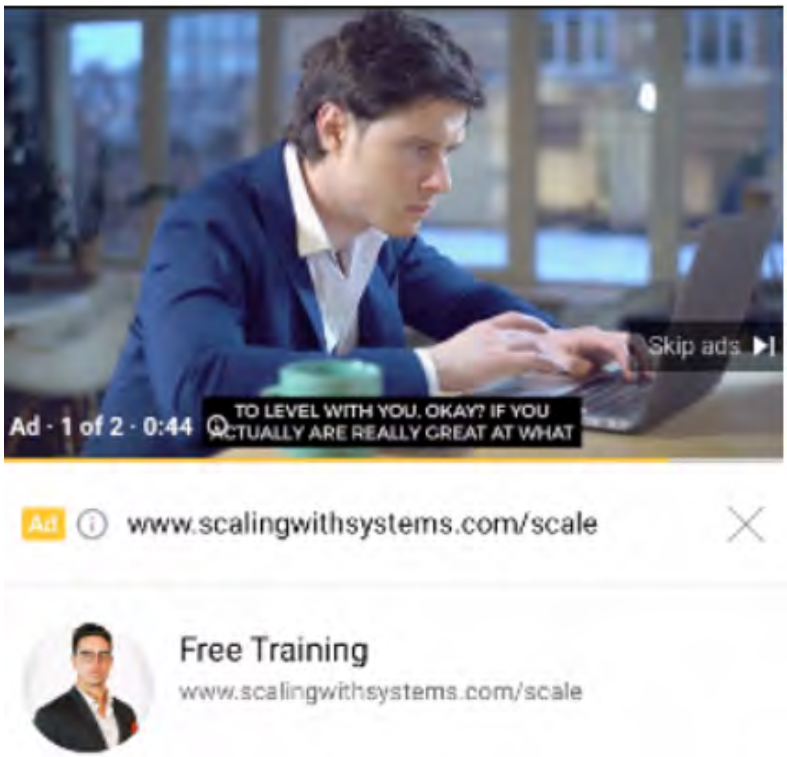
Manual placement

You can manually set mid-roll ad breaks if, for example, your video was already created to have mid-roll ad breaks appear in certain locations.

1. Sign in to YouTube Studio .
2. From the left menu, select **Videos**.
3. Choose a video, then select **Monetization**.
4. If you haven't already, enable monetization for the video.
5. Beneath "Location of video ads", check the box next to "During video (mid-roll)".
6. Select **MANAGE MID-ROLLS**.
   - **Add an ad break**: Click **+ ADD BREAK**. Enter the start time of the ad, or drag the vertical bar to the desired time.
   - **Delete an ad break**: Click Delete next to the ad break .
7. In the top-right, click **Continue** and then **Save**.

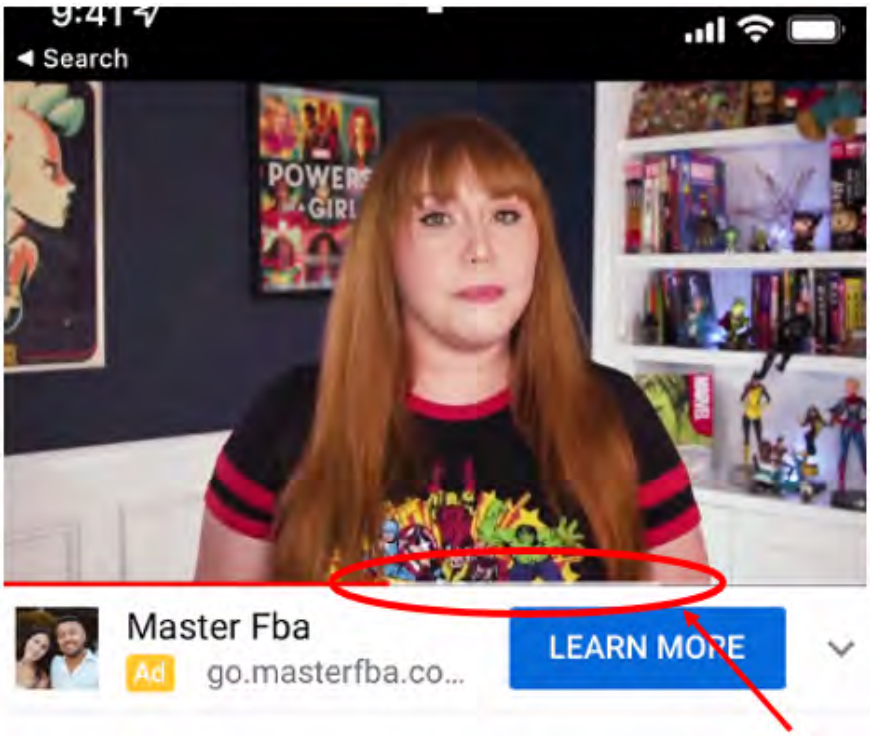
Source: https://support.google.com/youtube/answer/6175006

100. The cellular device records the content that was stopped while the advertisement plays. Advertisements will pause the video content and play while the content is recorded. As shown in this advertisement, the video content is paused while the advertisement plays.



Source: Screenshot of mid-roll ad playing on YouTube app.

101. As shown when the video content starts up again, it has been recorded (e.g., buffered) while the advertisement played, as shown in the advancement of the grey bar showing the buffering of the video content after it is initiated again after the advertisement.



Source: Screenshot of mid-roll ad playing on YouTube app.

102. When the playing of the at least one determined advertisement is completed, the cellular device resumes playing the stopped content, from where the stopping of the playing of the content occurred, using the recorded (i.e., buffered) content.

103. **Inducement:** Defendants have indirectly infringed and continue to indirectly infringe the '414 Patent by inducing direct infringement of the '414 Patent by their clients, customers, and users who directly infringe in the manner described above. Defendants were made aware of the '414 patent and their infringement of the '414 patent at least as early as November 30, 2021 when Wildseed Mobile provided notice of infringement of the '414 patent to Sundar Pichai of Google and Susan Wojcicki of YouTube. From at least the time that Defendants

received notice, Defendants have been actively inducing their clients, customers, and users to directly infringe at least claim 9 of the ’414 patent as described above.

104. Defendants have taken affirmative steps to induce infringement of the ’414 patent by their clients, customers, and users by, for example, advertising and distributing the ’414 Patent Accused Products and providing instruction materials, training, and services instructing clients, customers, and users to act in a manner that infringes the ’414 patent. For example, Google sells Google Pixel phones to consumers on its website. See https://store.google.com/category/phones. Additionally, YouTube makes the YouTube app available for download onto cellular devices through the Google Play Store and Apple App Store. See https://play.google.com/store/apps/details?id=com.google.android.youtube, https://apps.apple.com/us/app/youtube-watch-listen-stream/id544007664. Defendants have taken affirmative actions to induce infringement by intentionally instructing their clients, customers, and users to infringe the claims of the ’414 patent by providing instructional materials to clients, customers, and users regarding YouTube subscriptions and notifications on Google’s website. See https://support.google.com/youtube/answer/4489286, https://support.google.com/youtube/answer/3382248.

105. Defendants have specifically intended, and still intend, that their clients, customers, and users infringe the ’414 patent. Defendants have been, and still are, aware that the acts of their clients, customers, and users described above constitute infringement of the ’414 patent. Defendants have known and intended that its continued actions would actively induce the infringement of at least claim 9 of the ’414 patent by their clients, customers, and users. With knowledge of both the ’414 patent and its infringement of the ’414 patent, Defendants acted with specific intent or willful blindness to actively aid and abet their clients, customers, and users in

infringing at least claim 9 of the ’414 patent. Defendants are thus liable for infringement of the ’414 patent under 35 U.S.C. § 271(b).

106. **Contributory**: Defendants contribute to infringement of the ’414 patent by offering to commercially distribute and commercially distributing the YouTube app, which includes and/or implements Defendants’ YouTube and Google Ads services, to clients, customers, and users, which in combination with a cellular device, such as a smartphone or tablet, satisfy each and every limitation of the claims, as described above. First, to the extent a device is not preloaded with the YouTube app, Defendants provide the YouTube app to clients, customers, and users, who then install it on their devices, such as Apple iOS and Android smartphones and tablets. The underlying direct infringement, as described above, occurs, for example, when an end-user installs and runs a compatible version of the YouTube app on their device. The YouTube app, which includes and/or implements Defendants’ YouTube and Google Ads services, constitutes a material part of the invention of the ’414 patent, as is apparent from the infringement allegations described above, which detail infringement by the YouTube app. Since at least the date Defendants received notice of the ’414 patent and their infringement of the ’414 patent, Defendants have known that the YouTube app is especially made and adapted for use in infringing the ’414 patent. The YouTube app, including and/or implementing Defendants’ YouTube and Google Ads services, provides the user with access to YouTube services. The YouTube app, including and/or implementing Defendants’ YouTube and Google Ads services, is not a staple article or commodity of commerce and has no substantial non-infringing uses. The only purpose of the accused functionality of the accused YouTube app is to play content and advertisements as described above. Furthermore, the YouTube app is only operable when installed on a cellular device. As explained above, the YouTube app is designed and configured to infringe at least claim 9 of the ’414 patent.

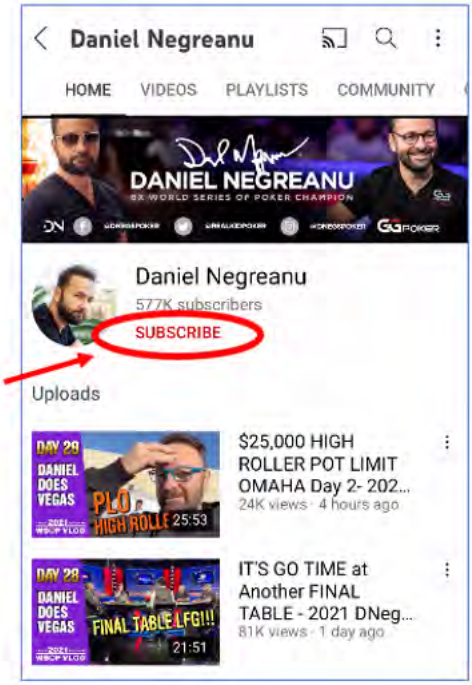
107. Second, to the extent Defendants' devices are manufactured by third-party vendors, Defendants contribute to infringement of the '414 patent by providing material parts of the invention, including the YouTube app loaded onto the cellular devices. The YouTube app is a material part of the invention, as is apparent from the infringement allegations described above, which detail infringement by the YouTube app. The underlying direct infringement, as described above, occurs when a third-party vendor makes, uses (e.g., tests), offers for sale, sells and/or imports into the United States cellular devices that use the YouTube app to access Defendants' YouTube and Google Ads services. The YouTube app, including and/or implementing Defendants' YouTube and Google Ads services, provides the user with access to YouTube services. Since at least the date Defendants received notice of the '414 patent and their infringement of the '414 patent, Defendants have known that the YouTube app, including and/or implementing Defendants' YouTube and Google Ads services, to be especially made or especially adapted for use in infringement of the '414 patent, and not to be a staple article, nor commodity of commerce suitable for substantial noninfringing use. The only purpose of the accused functionality of the accused YouTube app is to play content and advertisements as described above. Furthermore, the YouTube app is only operable when installed on a cellular device. As explained above, the YouTube app is designed and configured to infringe at least claim 9 of the '414 patent. In both cases, Defendants are liable for infringement of the '414 patent under 35 U.S.C. § 271(c).

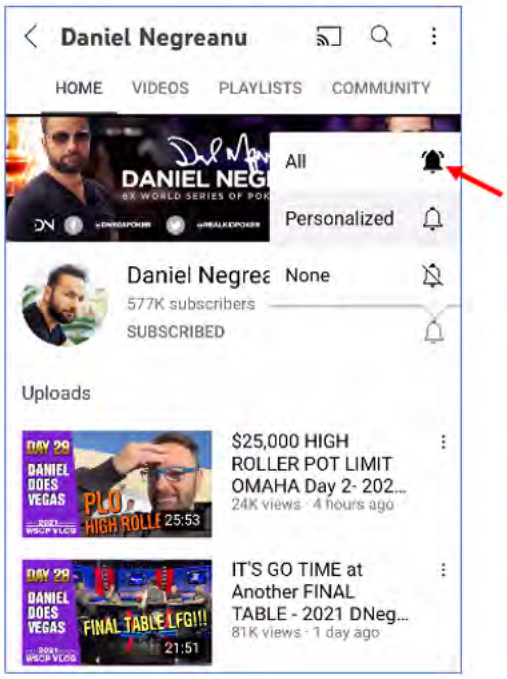
108. **Claim 14:** Defendants have directly infringed and continue to directly infringe, literally and/or under the doctrine of equivalents, by or through operating within the United States the YouTube servers and Google Ads servers.

109. The YouTube and Google Ads servers are articles of manufacture comprising a storage medium and a plurality of programming instructions stored on the storage medium and

adapted to instantiate a server for providing content and advertisements to cellular devices, the server configured to cause actions to be performed. For example, YouTube and Google Ads servers include hard drives (storage medium) that store software (programming instructions) and deliver content and advertisements to cellular devices.

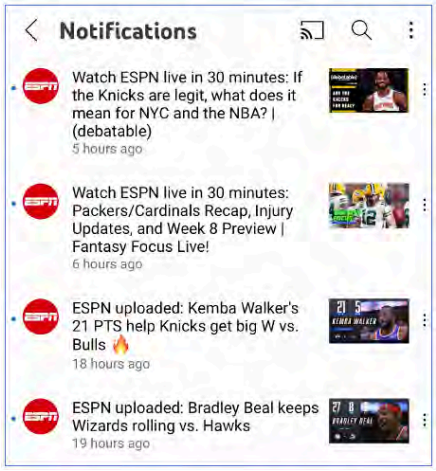
110. The YouTube and Google Ads servers receive information associated with a user of a cellular device from the cellular device, independent of user input, the information taken by the cellular device from a message sent to the cellular device from another user of another cellular device, the message identifying characteristics of the user of cellular the device. For example, the YouTube app allows users to subscribe to YouTube channels. A subscriber can choose to receive a notification message every time the channel adds a new video.



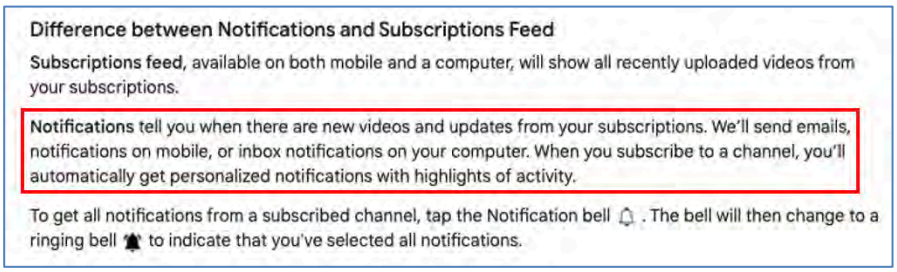


Source: YouTube app screenshots.

111. When a YouTube channel owner uploads a video using a cellular device a notification message is sent to each subscriber. Notification messages are delivered to subscribers' cellular devices via email and the YouTube app.

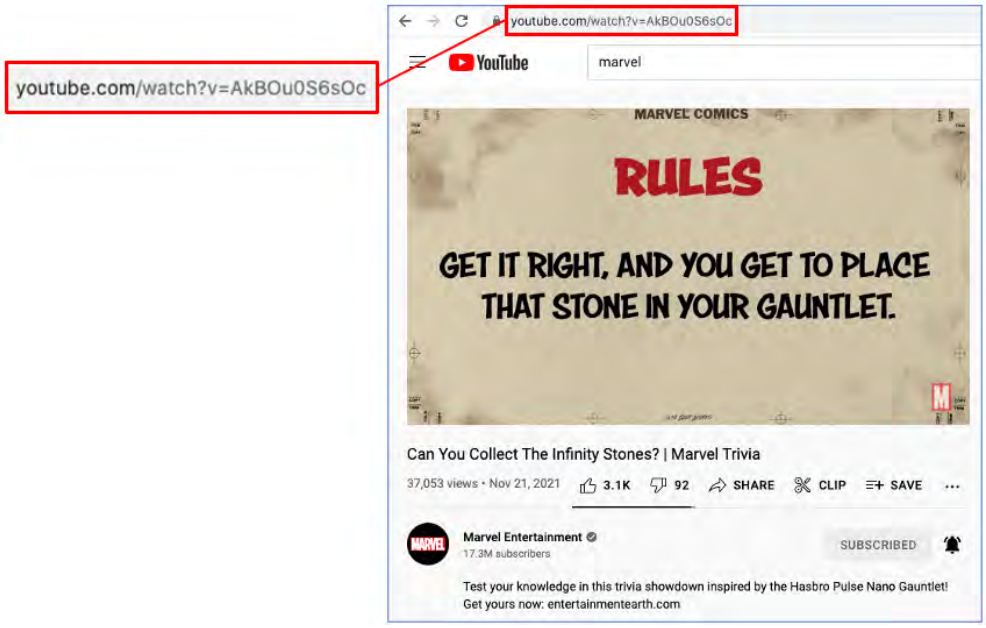


Source: YouTube app screenshot.



Source:
https://support.google.com/youtube/answer/3382248?co=GENIE.Platform%3DAndroid&oco=1#zippy=

112. The notification message is associated with a video, which is itself associated with a certain topic of interest to the subscriber (i.e., a characteristic of the user). Additionally, the notification message contains a unique identifier that identifies the video ("Video ID"). This video identifier is embedded in the URL used to retrieve the video for playback. The Video ID is shown in the URL used by a web browser to retrieve the YouTube video. For example, in the screenshot below, the Video ID is "AkBOu0S6sOc."



Source: https://www.youtube.com/watch?v=AkBOu0S6sOc.

113. Additionally, the Video ID is autonomously provided to the YouTube servers periodically via HTML Post methods (referred to as "docid" in this example) while the user watches the video.

Source: Screenshot of Chrome browser Developer Tools loading https://www.youtube.com/watch?v=AkBOu0S6sOc.

114. The Video ID identifies the video that the user is watching. YouTube uses the Video ID to track the videos that a user watches to create a profile of the user that YouTube uses to determine which targeted ads to send to the user.

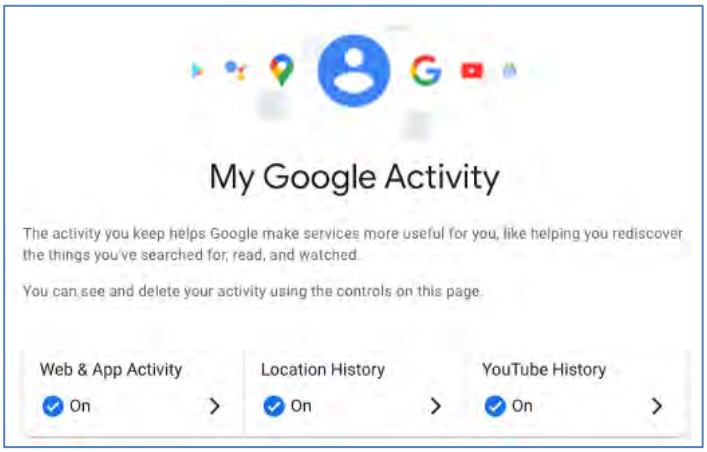
Audience targeting methods

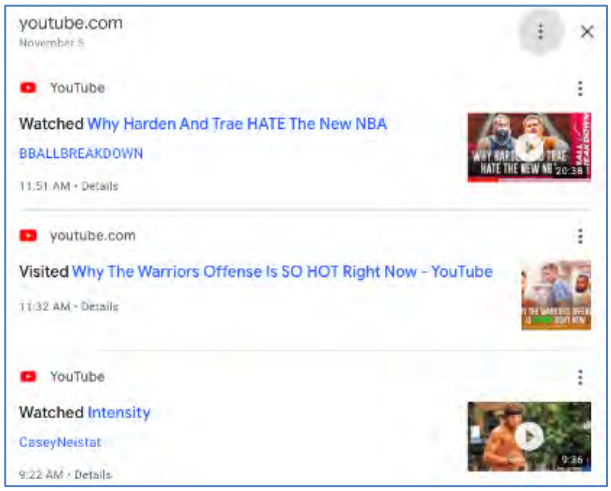
Audience targeting methods let you define who you want to reach. Audiences are groups of people with specific interests, intents, and demographics, as estimated by Google. These include:

- **Demographic groups:** Choose the age, gender, parental status, or household income of the audience you want to reach.
- **Detailed demographics:** Reach users based on additional broad, shared traits, such as college students, homeowners, or new parents.
- **Interests:** Pick from available audience categories to reach people interested in certain topics, even when they may be visiting pages about other topics. Learn more about audiences
  - **Affinity segments:** Raise brand awareness and drive consideration with your video ads by reaching people who already have a strong interest in relevant topics.
  - **Custom affinity segments:** With custom affinity segments, you can create audiences that are more tailored to your brands, compared to our broad, TV-like affinity segments. For example, rather than reaching "Sports Fans," a running shoe company may want to reach "Avid Marathon Runners" instead.

Ex. 47 (https://support.google.com/youtube/answer/2454017).

115. In Google's My Activity website, users can see the online activity that Google tracks. Google uses this information to target ads, including YouTube ads.





Source: https://myactivity.google.com/myactivity

116. The YouTube and Google Ads servers employ the received information to determine at least one advertisement to be played on the cellular device. For example, YouTube and Google Ads servers select advertisements to be played based on the provided information (user's topics of interest, interests, affinities, etc.).

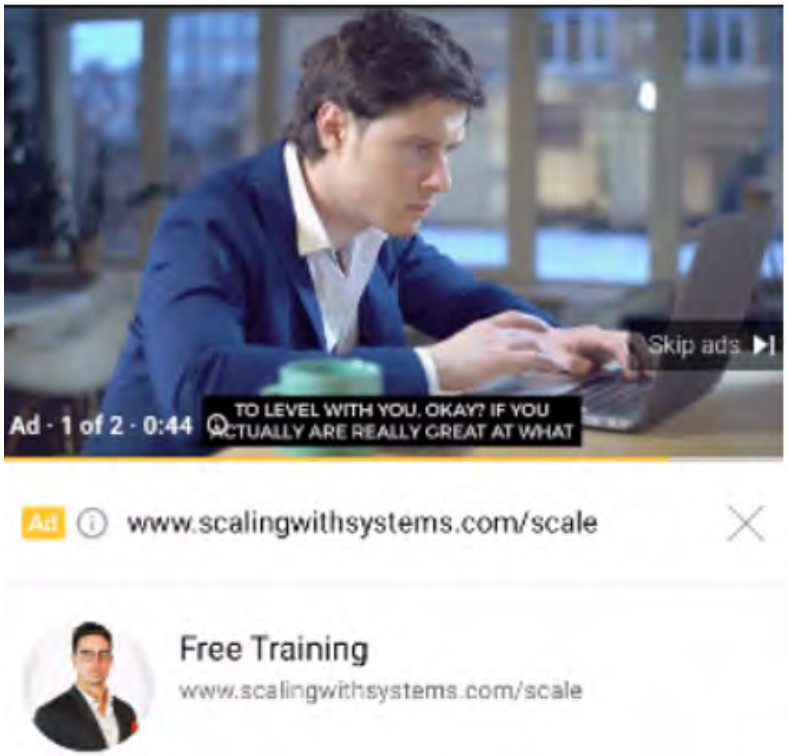
Audience targeting methods

Audience targeting methods let you define who you want to reach. Audiences are groups of people with specific interests, intents, and demographics, as estimated by Google. These include:

- **Demographic groups:** Choose the age, gender, parental status, or household income of the audience you want to reach.
- **Detailed demographics:** Reach users based on additional broad, shared traits, such as college students, homeowners, or new parents.
- **Interests:** Pick from available audience categories to reach people interested in certain topics, even when they may be visiting pages about other topics. Learn more about audiences
  - **Affinity segments:** Raise brand awareness and drive consideration with your video ads by reaching people who already have a strong interest in relevant topics.
  - **Custom affinity segments:** With custom affinity segments, you can create audiences that are more tailored to your brands, compared to our broad, TV-like affinity segments. For example, rather than reaching "Sports Fans," a running shoe company may want to reach "Avid Marathon Runners" instead.

Ex. 47 (https://support.google.com/youtube/answer/2454017).

117. The accused YouTube and Google Ads servers provide the at least one determined advertisement to the cellular device. The following shows an advertisement provided by the YouTube and Google Ads servers being played on the YouTube app.



Source: Screenshot of mid-roll ad playing on YouTube app.

118. If a determined time interval occurs, playing of the content by the cellular device is stopped and the at least one determined advertisement is played on the cellular device. For example, the cellular device can play advertisements during a video at set time intervals. YouTube allows for mid-roll ads that play at a determined time interval either set by the channel owner or automatically set by YouTube.

> **Manage mid-roll ad breaks in long videos**
>
> When you upload videos that are 8 minutes or longer, you can enable ads during the middle of the video (known as "mid-rolls") in addition to having them at the beginnings and ends of videos.

Source: https://support.google.com/youtube/answer/6175006

> There are 2 ways to place mid-roll ads:
>
> - **Automated ad breaks**: You can turn on automatically placed mid-roll ads, which means we'll find the best ad placement and frequency, creating a more balanced experience for viewers.
> - **Manual ad breaks**: If you choose to manually place ad breaks, try to place at natural breaks for best results. Avoid placing mid-roll breaks at disruptive points, such as mid-sentence or mid-action. If you've created your content to build in natural ad breaks, you may turn on manual ad break placement to ensure the ads show the way you want them to.

Source: https://support.google.com/youtube/answer/6175006

119. For manually placed mid-roll ads, the channel owner uses YouTube Studio to add "ad breaks" at the desired times.

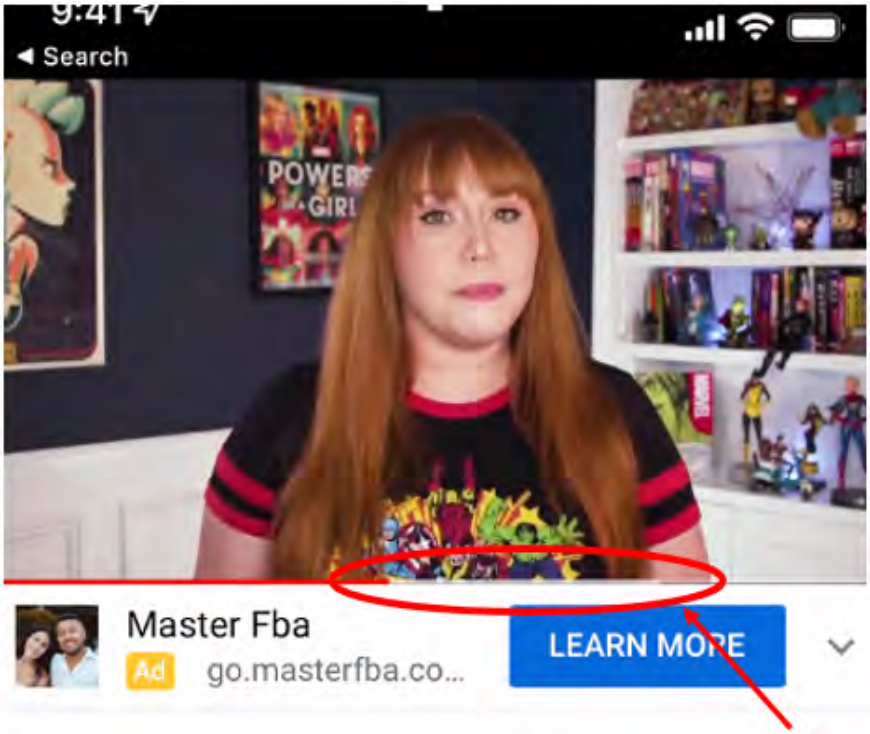
Manual placement

You can manually set mid-roll ad breaks if, for example, your video was already created to have mid-roll ad breaks appear in certain locations.

1. Sign in to YouTube Studio.
2. From the left menu, select **Videos**.
3. Choose a video, then select **Monetization**.
4. If you haven't already, enable monetization for the video.
5. Beneath "Location of video ads", check the box next to "During video (mid-roll)".
6. Select **MANAGE MID-ROLLS**.
   - **Add an ad break**: Click **+ ADD BREAK**. Enter the start time of the ad, or drag the vertical bar to the desired time.
   - **Delete an ad break**: Click Delete next to the ad break.
7. In the top-right, click **Continue** and then **Save**.

Source: https://support.google.com/youtube/answer/6175006

120. The cellular device records the content that was stopped while the advertisement plays. Advertisements will pause the video content and play while the content is recorded. As shown when the video content starts up again, it has been recorded (e.g., buffered) while the advertisement played, as shown in the advancement of the grey bar showing the buffering of the video content after it is initiated again after the advertisement.



Source: Screenshot of mid-roll ad playing on YouTube app.

121. When the playing of the at least one determined advertisement is completed, the cellular device resumes playing the stopped content, from where the stopping of the playing of the content occurred, using the recorded (i.e., buffered) content.

122. Since at least November 30, 2021, when the Defendants received a letter from Wildseed Mobile providing notice of the '414 patent and of their infringement of the '414 patent, Defendants' continuing infringement of the '414 patent has been willful and intentional. Since at least November 30, 2021, Defendants have been continuing to willfully infringe the '414 patent by refusing to take a license and continuing to make, use, test, sell, license, and/or offer for sale/license the '414 Patent Accused Products. Defendants have been aware that they infringe the '414 patent since at least November 30, 2021 and instead of taking a license, Defendants have opted to make the business decision to "efficiently infringe" the '414 patent. Defendants thus knew, or should have known, that its conduct amounted to infringement of the '414 patent since at least November 30, 2021, when the Defendants received a letter from Wildseed Mobile

informing them of the ’414 patent and of their infringement of the ’414 patent. Therefore, Defendants are liable for willful infringement of the ’414 patent.

123. Defendants’ infringement has damaged and injured and continues to damage and injure Wildseed Mobile.

COUNT II – INFRINGEMENT OF U.S. PATENT NO. 9,141,960

124. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

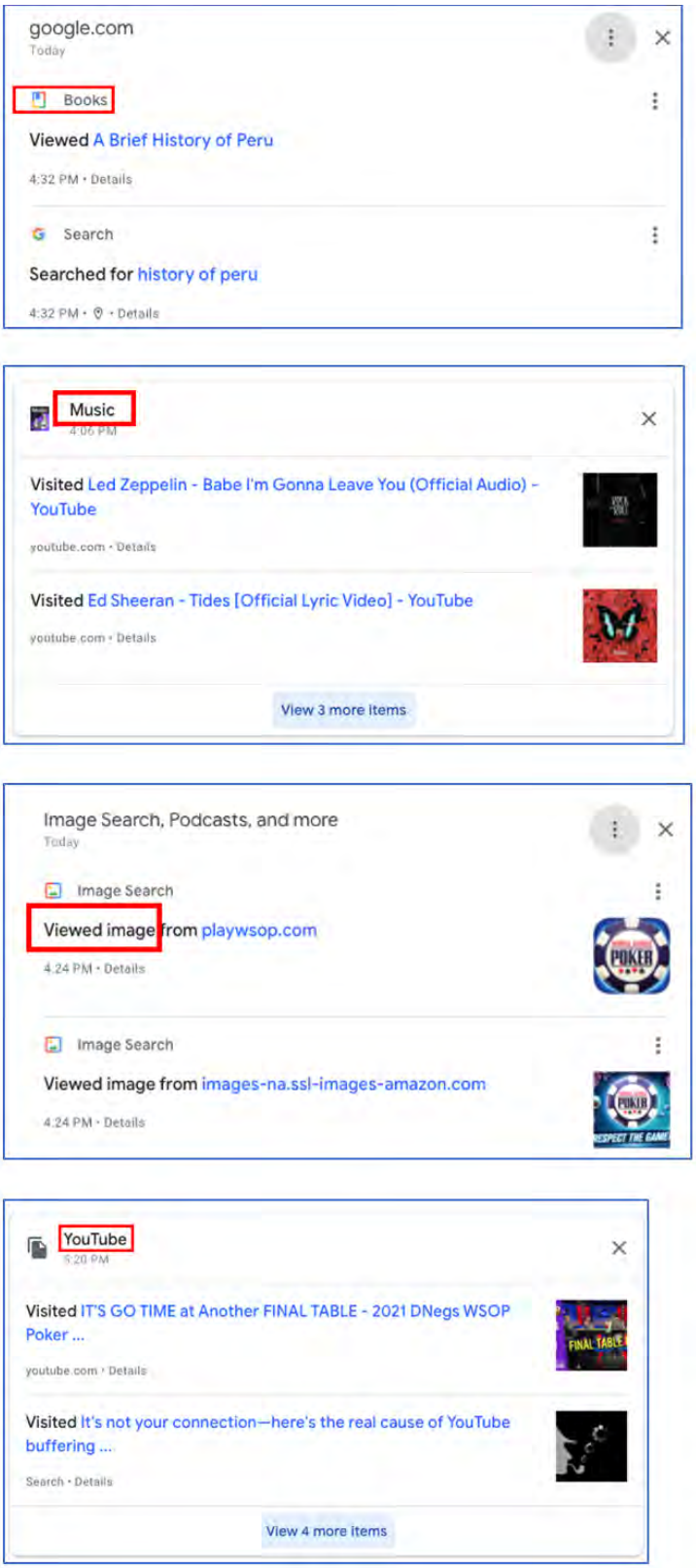
125. Defendants make, use, offer for sale, and/or sell in the United States and/or import into the United States products and services that provide event and venue recommendations and portable media player devices that receive event and venue recommendations. Google operates Google Search servers that provide venue and event search results to users of portable media player devices via the Google Search website and the Google app. Additionally, Google operates servers that track users’ online activities so that Google can infer entertainment preferences of a user. Google provides the Google Pixel smartphones, which are portable media player devices. Additionally, YouTube provides the YouTube app, which executes on the Google Pixel smartphones and accesses and plays media files. (collectively, the “’960 Patent Accused Products”).

126. The ’960 Patent Accused Products infringe at least claims 1 and 16 of the ’960 patent in the exemplary manner described below.

127. **Claim 1:** Google has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, by operating Google Search servers that perform each and every limitation of Claim 1.

128. Google Search servers retrieve a plurality of media stored on or accessed using a portable media player device, or information about said plurality of media. For example, Google’s

My Activity website shows the information that Google servers track about user's online activity, including activity on mobile devices (portable media player devices), and whether the media accessed was textual (e.g., books and websites with textual content), image (e.g., pictures), audio (e.g., music and podcasts), or video (e.g., videos on YouTube) media.



Source: https://myactivity.google.com

129. Google Search servers infer, based at least in part of the retrieved plurality of media or the retrieved information about said plurality of media, one or more entertainment preferences of a user of the portable media player device. For example, Google servers track users' activities on Google apps, sites, and services and use this information to provide better recommendations.

> **How recommendations work**
>
> Event recommendations are based on what's popular or trending on Google and similarities with popular events in the past. If you're signed in to your Google Account and have **Personal results** turned on, Google's recommendations are also based on your activity in Google products. These are events Google thinks you may be interested in, but it's up to you to decide what events are right for you. You can turn off **Personal results** in Your Data in Search.

Source: https://support.google.com/websearch/answer/9083858

130. Google Search servers access one or more sources of information about venues or events proximal to a current location of the user. For example, when a search is performed for an event without adding a location, Google Search servers access sources of information (Google Search Index) about venues or events near the user's location.

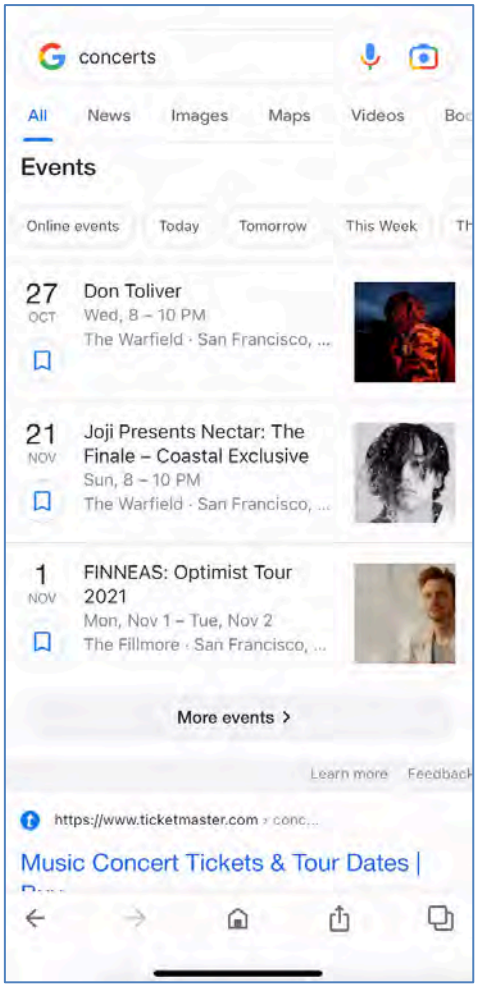
> **How Search organizes information**
>
> Before you search, web crawlers gather information from across hundreds of billions of webpages and organize it in the Search index.

Source: https://www.google.com/search/howsearchworks/crawling-indexing/

> **Search for events on Google**
>
> You can find events on google.com on your mobile device or computer. Choose an event that looks interesting to you to learn more about it, get directions, or find out where to buy tickets.
>
> **Important:** This feature is not available in all languages or countries.
>
> To get started, try these searches: `events near me` or `family friendly events`.
>
> **Search by location**
>
> - To find events near you: Search for an event without adding a location. For example, search `events` or `events near me`.
> - To find events somewhere else: Add a location to your search. For example, enter `concerts in Chicago`.

Source: https://support.google.com/websearch/answer/9083858

131. Google Search servers identify at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user. The Google Search servers generate a recommendation indicating the identified venue or event as a venue or event of interest to the user and communicate the recommendation to the user. For example, when a user searches for "concerts" in the Google App, the Google Search servers identify at least one venue and event of interest to and near the current location of the user (in this example, San Francisco) and send the recommendation to the user.



Source: Screenshot of Google app.

132. **<u>Claim 16:</u>** Defendants have directly and/or indirectly infringed and continue to directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, by or through

making, using, offering for sale, selling within the United States and/or importing Google Pixel smartphones with a web browser that can access Google Search servers and/or with the Google app and the YouTube app.

133. Google Pixel smartphones are portable media player devices comprising a storage medium configured to store one or more of a plurality of media and information about said plurality of media. For example, the Google Pixel 6 has 4GB of RAM and a 64GB hard drive that can store a variety of media files and metadata with information about those files.

Memory & storage	**Memory** 4GB LPDDR4x RAM **Storage** • Internal storage: 64GB[2] • Unlimited online storage for photos and videos[3]

Source: https://support.google.com/pixelphone/answer/7158570

Transfer files between your computer & Pixel phone

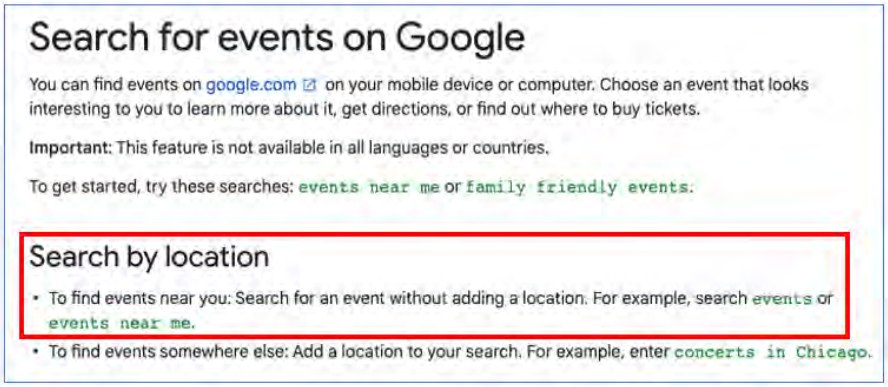
You can use your Google Account or a USB cable to move photos, music, and other files between your computer and phone.

Source: https://support.google.com/pixelphone/answer/2840804

134. The Google Pixel smartphones include a player coupled to the storage medium and endowed with executable instructions operable, upon execution, to cause the portable media player device to selectively play the media. For example, the Pixel 6 can play audio and video media files and display images and text media. Additionally, the YouTube app executing on a Google Pixel 6 can play media downloaded from YouTube servers.

135. The Google Pixel smartphones receive from the server, in response to providing the server with the current location, a recommendation indicating a venue or event of interest located proximal to the current location of the user as being of interest to the user. When a user

searches for events or venues in the Google app on a Google Pixel 6, the Pixel 6 provides its location to Google's servers, which in turn use the location information provided by the Pixel 6 to recommend a venue or event that is near the location of the user (in the example below, San Francisco).



Search for events on Google

You can find events on google.com on your mobile device or computer. Choose an event that looks interesting to you to learn more about it, get directions, or find out where to buy tickets.

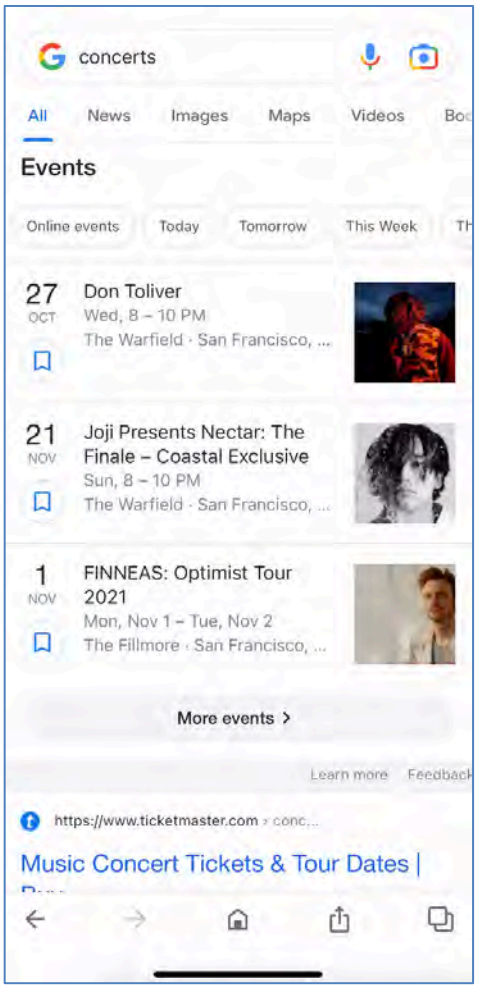
Important: This feature is not available in all languages or countries.

To get started, try these searches: `events near me` or `family friendly events`.

Search by location

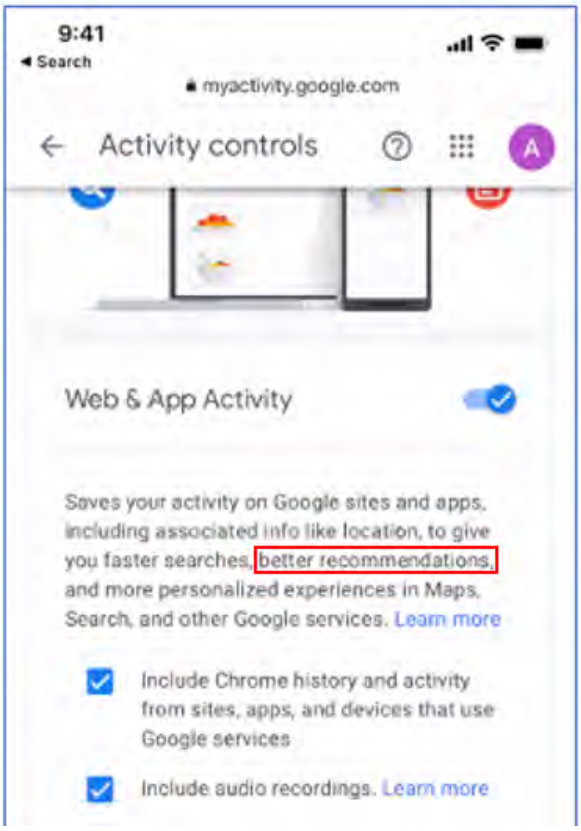
- To find events near you: Search for an event without adding a location. For example, search `events` or `events near me`.
- To find events somewhere else: Add a location to your search. For example, enter `concerts in Chicago`.

Source: https://support.google.com/websearch/answer/9083858



Source: Screenshot of Google app.

136. The recommendation received by the Google Pixel smartphones is generated by the server based at least in part on the inferred current location of the user, data accessed by the server from one or more sources of information about venues or events proximal to the current location of the user, and at least one inferred entertainment preference of the user, the event or venue of interest being one of said venues or events. As described above, when a user searches for events or venues in the Google app, the Google Search servers use the location of the user in determining the results. Additionally, the Google Search servers also infer the user's entertainment preferences by analyzing previous online activity, including the media accessed by the user.



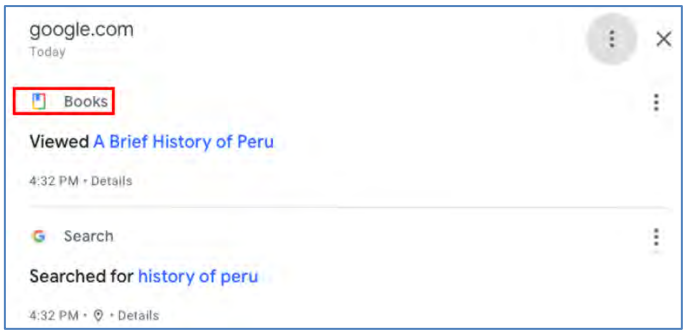
Source: https://myactivity.google.com

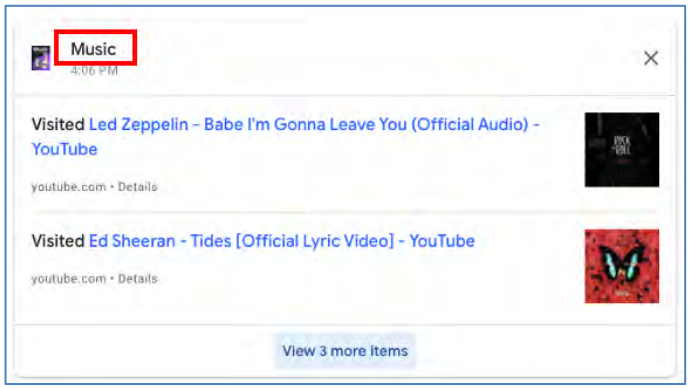
How recommendations work

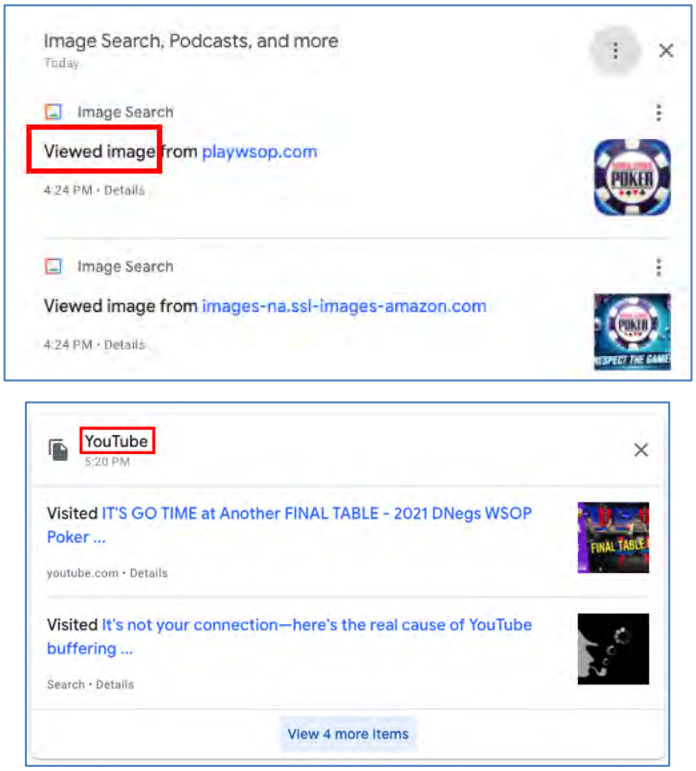
Event recommendations are based on what's popular or trending on Google and similarities with popular events in the past. If you're signed in to your Google Account and have **Personal results** turned on, Google's recommendations are also based on your activity in Google products. These are events Google thinks you may be interested in, but it's up to you to decide what events are right for you. You can turn off **Personal results** in Your Data in Search .

Source: https://support.google.com/websearch/answer/9083858

137. The at least one entertainment preference is inferred by the server based at least in part on an analysis, by the server, of the plurality of media stored on or accessed using the portable media player device or the information about said plurality of media. As discussed above, the Google Search servers also infer the user's entertainment preferences by analyzing previous online activity, including the media accessed by the user. This includes considering the various media the user accessed using Google and YouTube products and services, including text, image, audio, and video media.







Source: https://myactivity.google.com

138. **Inducement:** Defendants have indirectly infringed and continue to indirectly infringe the '960 patent by inducing direct infringement of the '960 patent by their clients, customers, and users who directly infringe in the manner described above. Defendants were made aware of the '960 patent and their infringement of the '960 patent at least as early as November 30, 2021 when Wildseed Mobile provided notice of infringement of the '960 patent to Sundar Pichai of Google and Susan Wojcicki of YouTube. From at least the time that Defendants received notice, Defendants have been actively inducing their clients, customers, and users to directly infringe at least claim 1 of the '960 patent as described above.

139. Defendants have taken affirmative steps to induce infringement of the '960 patent by their clients, customers, and users by, for example, advertising and distributing the '960 Patent Accused Products and providing instruction materials, training, and services instructing clients, customers, and users to act in a manner that infringes the '960 patent. For example, Google sells Google Pixel phones to consumers on its website. See https://store.google.com/category/phones.

Additionally, Google provides instruction to clients, customers, and users on how to use Google to search for venues and events on its website in a manner that infringes the ’960 patent. See e.g., https://support.google.com/websearch/answer/9083858. Google makes the Google app available for download onto portable media player devices through the Google Play Store and Apple App Store. See https://play.google.com/store/apps/details?id=com.google.android.googlequicksearchbox, https://apps.apple.com/us/app/google/id284815942. YouTube makes the YouTube app available for download onto portable media player devices through the Google Play Store and Apple App Store. See https://play.google.com/store/search?q=youtube, https://play.google.com/store/apps/details?id=com.google.android.youtube, https://apps.apple.com/us/app/youtube-watch-listen-stream/id544007664.

140. Defendants have specifically intended, and still intend, that their clients, customers, and users infringe the ’960 patent. Defendants have been, and still are, aware that the acts of their clients, customers, and users described above constitute infringement of the ’960 patent. Defendants have known and intended that their continued actions would actively induce the infringement of at least claim 1 of the ’960 patent by their clients, customers, and users. With knowledge of both the ’960 tent and its infringement of the ’960 patent, Defendants acted with specific intent or willful blindness to actively aid and abet their clients, customers, and users in infringing at least claim 1 of the ’960 patent. Defendants are thus liable for infringement of the ’960 patent under 35 U.S.C. § 271(b).

141. **Contributory:** Defendants contribute to infringement of the ’960 patent by offering to commercially distribute and commercially distributing their Google Search services and the Chrome Browser, Google app, and YouTube app to clients, customers, and users, which in combination with a portable media player device, such as a smartphone or tablet, satisfy each

and every limitation of the claims, as described above. First, to the extent a device is not preloaded with the Chrome browser, Google app, or YouTube app, Defendants provide them to clients, customers, and users, who then install them on their devices, such as Apple iOS and Android smartphones and tablets. The underlying direct infringement, as described above, occurs, for example, when an end-user installs and runs at least a compatible version of the Chrome Browser, Google app, and/or YouTube app and accesses the Google Search service. Individually, and in combination, the Google Search service and the Chrome Browser, Google app, and/or YouTube app constitute a material portion of the invention, as is apparent from the infringement allegations described above, which detail infringement by the Chrome browser, Google app, and YouTube app. Since at least the date Defendants received notice of the '960 patent and their infringement of the '960 patent, Defendants have known that the Google Search services and the Chrome Browser, Google app, and YouTube app are especially made and adapted for use in infringing the '960 patent. The Google Search service and the Chrome Browser, Google app, and YouTube app are not a staple articles or commodities of commerce and have no substantial non-infringing uses. The only purpose of the accused functionality of the accused Chrome Browser, Google app, and YouTube app is to provide event and venue recommendations as described above. Furthermore, the Chrome Browser, Google app, and YouTube app are only operable when installed on a portable media player device. As explained above, the Google Search service and the Chrome Browser, Google app, and YouTube app are designed and configured to infringe at least claim 1 of the '960 patent.

142. Second, to the extent Defendants' devices are manufactured by third-party vendors, Defendants contribute to infringement of the '960 patent by providing material parts of the invention, including the Chrome Browser, Google app, and/or YouTube app loaded onto the portable media player devices. The Chrome browser, Google app, and YouTube app are a

material part of the invention, as is apparent from the infringement allegations described above, which detail infringement by the Chrome browser, Google app, and YouTube app. The underlying direct infringement, as described above, occurs when a third-party vendor makes, uses (e.g., tests), offers for sale, sells and/or imports into the United States portable media player devices that use the Chrome Browser or Google app, with the YouTube app installed, to access Google Search services. Since at least the date Defendants received notice of the ’960 patent and their infringement of the ’960 patent, Defendants have known that the Google Search services and the Chrome Browser, Google app, and YouTube app are especially made and adapted for use in infringing the ’960 patent. Defendants know the Chrome Browser, Google app, and YouTube app to be especially made or especially adapted for use in infringement of the ’960 patent, and not to be a staple article, nor commodity of commerce suitable for substantial noninfringing use. The only purpose of the accused functionality of the accused Chrome Browser, Google app, and YouTube app is to provide event and venue recommendations as described above. Furthermore, the Chrome Browser, Google app, and YouTube app are only operable when installed on a portable media player device. As explained above, the Chrome Browser, Google app, and YouTube app are designed and configured to infringe at least claim 1 of the ’960 patent. In both cases, Defendants are liable for infringement of the ’960 patent under 35 U.S.C. § 271(c).

143. **Willfulness:** Defendants’ continuing infringement of the ’960 patent has been willful and intentional. Since at least November 30, 2021, when the Defendants received a letter from Wildseed Mobile informing them of the ’960 patent and of their infringement of the ’960 patent, Defendants have been continuing to willfully infringe the ’960 patent by refusing to take a license and continuing to make, use, test, sell, license, and/or offer for sale/license the ’960 Patent Accused Products. Defendants have been aware that they infringe the ’960 patent since at least November 30, 2021; and instead of taking a license, Defendants have opted to make the

business decision to "efficiently infringe" the '960 patent. Defendants thus knew, or should have known, that its conduct amounted to infringement of the '414 patent since at least November 30, 2021, when the Defendants received a letter from Wildseed Mobile informing them of the '960 patent and of their infringement of the '960 patent. Therefore, Defendants are liable for willful infringement of the '960 patent.

144. Defendants' infringement has damaged and injured and continues to damage and injure Wildseed Mobile.

COUNT III – INFRINGEMENT OF U.S. PATENT NO. 10,251,021

145. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

146. Defendants make, use, offer for sale, and/or sell in the United States and/or import into the United States products and services that provide event and venue recommendations and media player devices that receive event and venue recommendations. Google operates Google Search servers that provide venue and event search results to users of portable media player devices via the Google Search website and the Google app. Additionally, Google and YouTube operate servers that track users' online activities so that Google can infer entertainment preferences of a user. Google provides the Google Pixel smartphones, which are portable media player devices. Additionally, YouTube provides the YouTube app, which executes on the Google Pixel smartphones and accesses and plays media files. (collectively, the "'021 Patent Accused Products").

147. The '021 Patent Accused Products infringe at least claims 1 and 10 of the '021 patent in the exemplary manner described below.

148. **Claim 1:** Defendants have directly infringed and continue to directly infringe, literally and/or under the doctrine of equivalents, by operating Google Search and YouTube servers that include each and every limitation of Claim 1.

149. Google Search and YouTube servers include one or more non-transitory computer-readable media comprising instructions written thereon, wherein execution of the instructions by one or more processors of a computer server cause the computer server to take certain actions. For example, Google Search and YouTube servers include hard drives (non-transitory computer-readable media) that store software code (instructions) that control the server.

150. Google Search and YouTube servers control receipt of media or information about the media, the media being stored on a portable media player device or accessed using the portable media player device. For example, when a user uses a mobile device to access text or image media through the Google app or Google Search website, or to access video or audio media through YouTube, Google and YouTube servers receive and store information about the media being accessed using the mobile device. Google's My Activity website shows the user information that Google tracks and that the '021 Patent Accused Products use, including whether the media accessed was textual (e.g., books and websites with textual content), image (e.g., pictures), audio (e.g., music and podcasts), or video (e.g., videos on YouTube) media.

google.com
Today

Books

Viewed A Brief History of Peru

4:32 PM • Details

Search

Searched for history of peru

4:32 PM • • Details

Music
4:06 PM

Visited Led Zeppelin - Babe I'm Gonna Leave You (Official Audio) - YouTube

youtube.com • Details

Visited Ed Sheeran - Tides [Official Lyric Video] - YouTube

youtube.com • Details

View 3 more items

Image Search, Podcasts, and more
Today

Image Search

Viewed image from playwsop.com

4:24 PM • Details

Image Search

Viewed image from images-na.ssl-images-amazon.com

4:24 PM • Details

YouTube
5:20 PM

Visited IT'S GO TIME at Another FINAL TABLE - 2021 DNegs WSOP Poker ...

youtube.com • Details

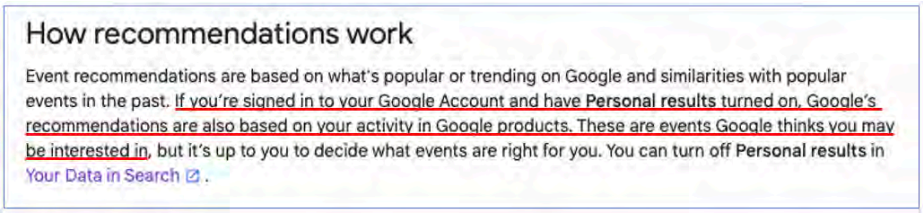
Visited It's not your connection—here's the real cause of YouTube buffering ...

Search • Details

View 4 more items

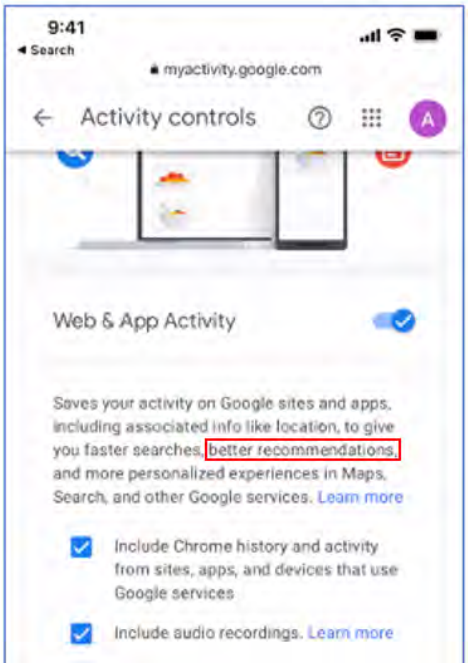
Source: https://myactivity.google.com.

151. Google Search servers infer one or more entertainment preferences of a user of the portable media player device based at least in part on the retrieved media, the retrieved information about the media, and a plurality of media content types of the media stored on or accessed by the portable media player device wherein the plurality of media content types comprises textual media, image media, audio media, and video media. As discussed above, Google and YouTube servers track users' online activities, including the types of media accessed by users such as text, image, audio, and video media. Google Search servers use this information about the users' previous online activities to infer one or more entertainment preferences of the user of the portable media player device.


How recommendations work

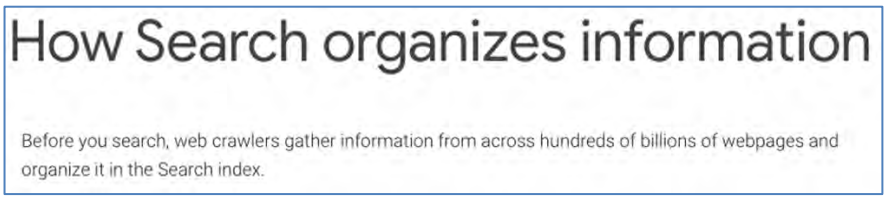
Event recommendations are based on what's popular or trending on Google and similarities with popular events in the past. If you're signed in to your Google Account and have **Personal results** turned on, Google's recommendations are also based on your activity in Google products. These are events Google thinks you may be interested in, but it's up to you to decide what events are right for you. You can turn off **Personal results** in Your Data in Search.

Source: https://support.google.com/websearch/answer/9083858



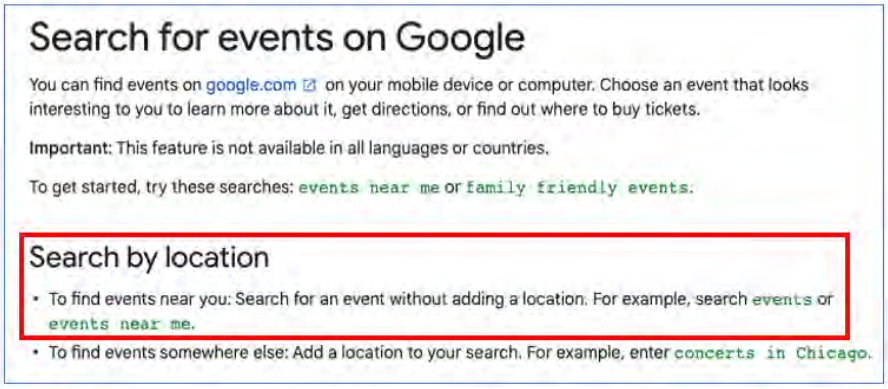
Source: https://myactivity.google.com

152. Google Search servers will access one or more sources of information about venues or events that are proximal to the location of the portable media player device. For example, the Google Search servers build a search index (source of information) that they access when responding to user searches for venues or events.



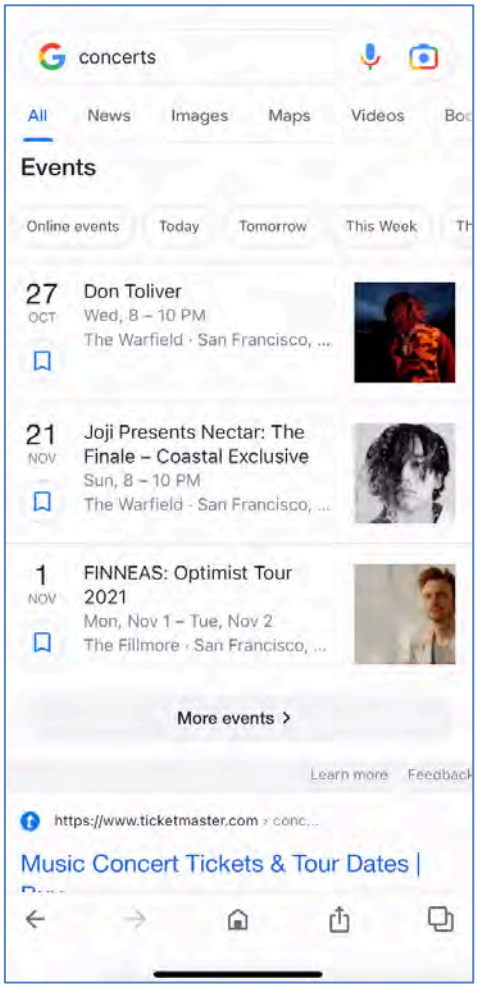
Source: https://www.google.com/search/howsearchworks/crawling-indexing/

153. Additionally, the Google Search servers use the current location of the user when determining which venues or events to display in the search results.



Source: https://support.google.com/websearch/answer/9083858

154. Google Search servers will identify at least one of said venues or events as being of interest to the user based at least in part on the one or more entertainment preferences inferred by the server and the current location of the user. For example, when a user searches for "concerts" using the Google App, the Google Search servers provide search results, including event and venue information, based at least in part on the inferred entertainment preferences and current location of the user (in this example, in San Francisco).



Source: Screenshot of Google mobile app

155. Google Search servers generate a recommendation indicating the identified venue or event as a venue or event of interest to the user. For example, the Google Search servers will generate search results based on the venues or events identified in response to the user's search request, as discussed above.

156. The Google Search servers control communication of the recommendation to the user. For example, the Google Search servers control transmission of the search results including venues and events to the user. The results are displayed in the Google app.

157. **<u>Claim 10:</u>** Defendants have directly and/or indirectly infringed and continue to directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, by or through making, using, offering for sale, selling within the United States and/or importing Google Pixel

smartphones that can access Google Search servers with a web browser and/or the Google app and that can access YouTube with a web browser and/or the YouTube app.

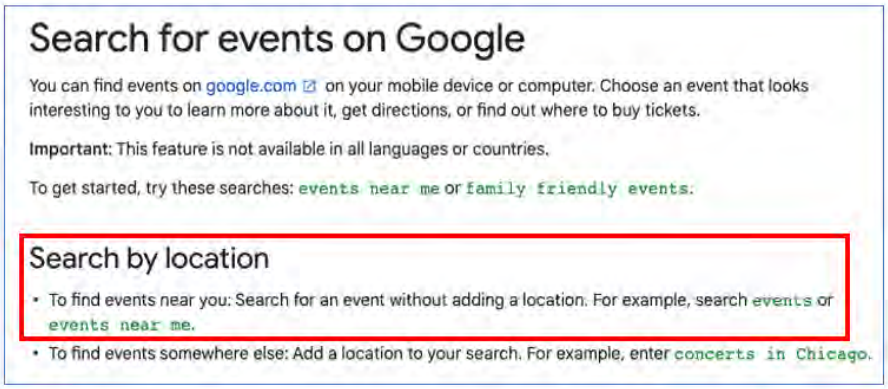
158. Google Pixel smartphones include one or more non-transitory computer-readable media (NTCRM) comprising instructions that, when executed by one or more processors of a portable media player device, control the actions of the device. For example, the Google Pixel 6 has 4GB of RAM and a 64GB hard drive that software code (instructions) that control the device.

Memory & storage	**Memory** 4GB LPDDR4x RAM **Storage** • Internal storage: 64GB[2] • Unlimited online storage for photos and videos[3]

Source: https://support.google.com/pixelphone/answer/7158570?hl=en - zippy=,pixel-a

159. Google Pixel smartphones operate a media player application to access media from a local storage of the portable media player device or a remote storage. For example, Google Pixel 6 smartphones with the YouTube app access media, such as audio and video media, from remote YouTube servers.

160. Google Pixel smartphones establish a network connection with a server, the server to provide location and preference based venue or event recommendations. For example, a Pixel 6 smartphones establish a network connection with Google Search servers, via a web browser or the Google app, which provide event and venue recommendations located near the user in response to user searches.



Search for events on Google

You can find events on google.com on your mobile device or computer. Choose an event that looks interesting to you to learn more about it, get directions, or find out where to buy tickets.

Important: This feature is not available in all languages or countries.

To get started, try these searches: `events near me` or `family friendly events`.

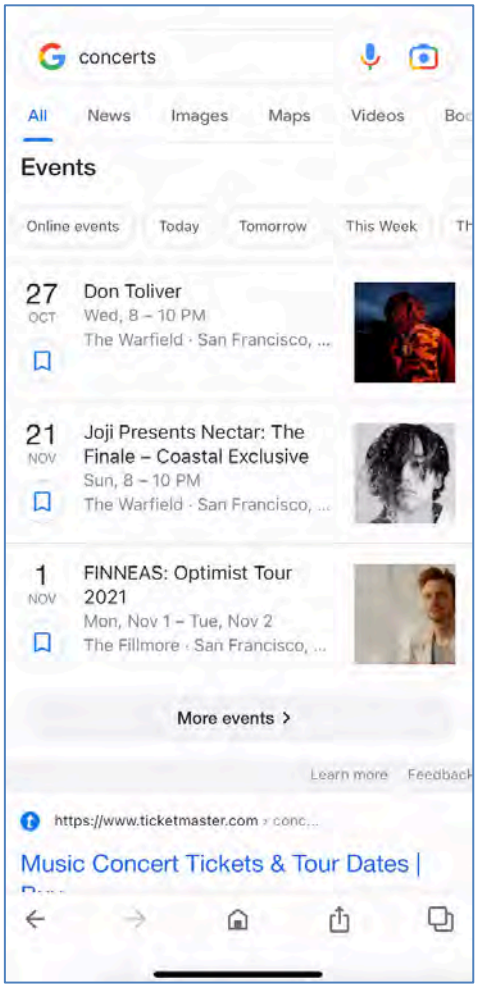
Search by location

- To find events near you: Search for an event without adding a location. For example, search `events` or `events near me`.
- To find events somewhere else: Add a location to your search. For example, enter `concerts in Chicago`.

Source: https://support.google.com/websearch/answer/9083858

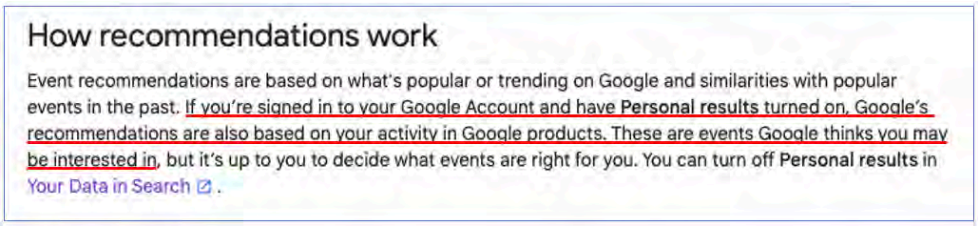
161. Google Pixel smartphones control transmission, to the server, of location information associated with the portable media player device to facilitate the server in inferring a current location of a user of the portable media player device. For example, Google Pixel 6 smartphones send location information to Google Search servers, either through the web browser or the Google app, to facilitate Google Search servers in inferring the location of the user.

162. Google Pixel smartphones control receipt, from the server, of a recommendation indicating an event or venue of interest that is proximate to the inferred current location of the user. For example, when a user searches for "concerts," the Google App shows search results received from Google's servers, including event and venue information, near the location of the Accused Product (in this example, in San Francisco).



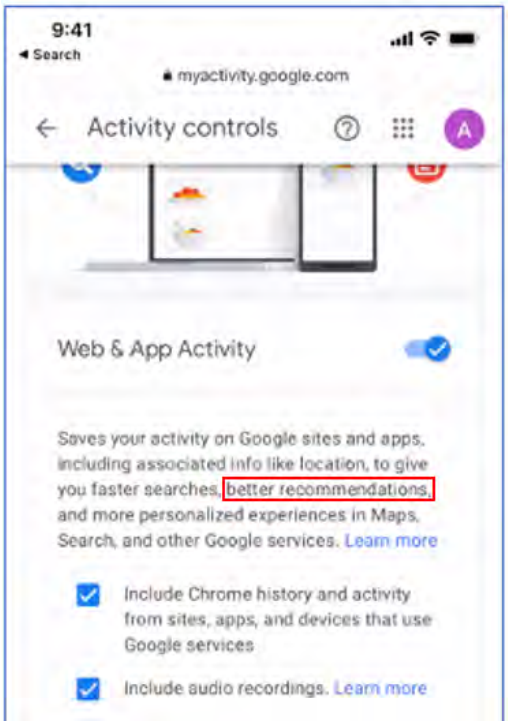
Source: Screenshot of Google app.

163. The recommendation is based on one or more inferred preferences of the user and the location information. As discussed above, Google Search servers consider the location of the user when determining search results for venues and events. Additionally, when searching for venues and events, Google Search servers determine the user's entertainment preferences by analyzing the user's previous online activity


How recommendations work

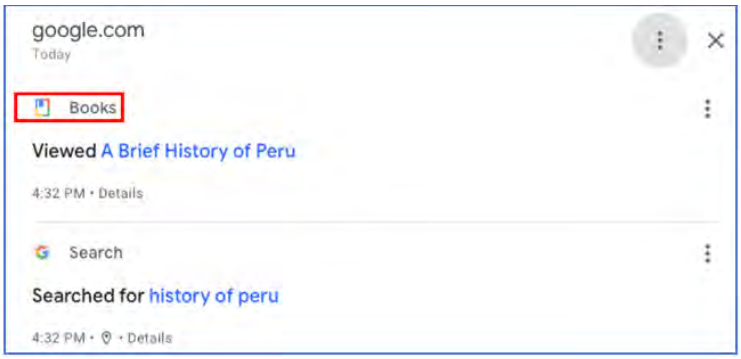
Event recommendations are based on what's popular or trending on Google and similarities with popular events in the past. If you're signed in to your Google Account and have **Personal results** turned on, Google's recommendations are also based on your activity in Google products. These are events Google thinks you may be interested in, but it's up to you to decide what events are right for you. You can turn off **Personal results** in Your Data in Search.

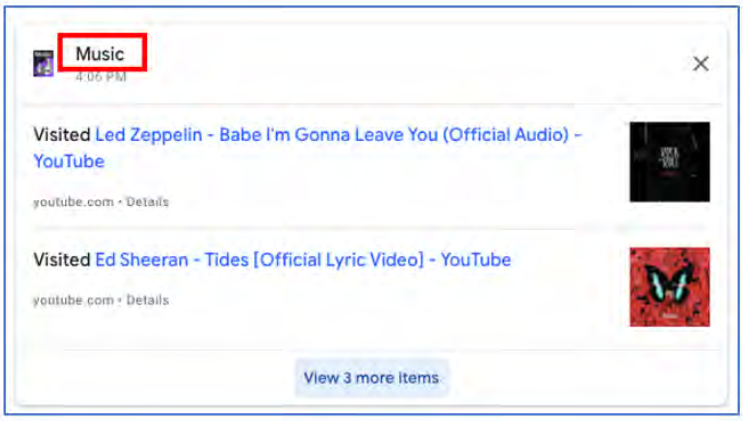
Source: https://support.google.com/websearch/answer/9083858

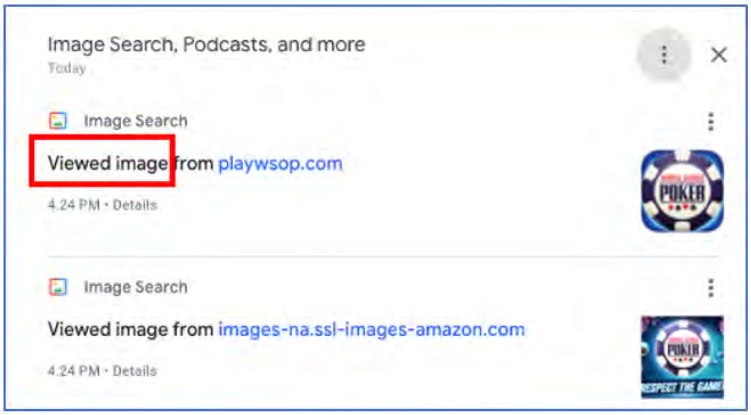


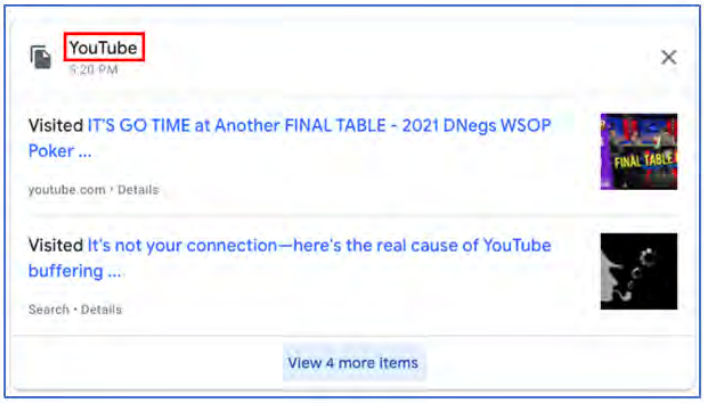
Source: https://myactivity.google.com

164. The inferred preferences are based at least in part on the accessed media, media content types of the accessed media from among a plurality of media content types, and information about the accessed media, wherein the plurality of media content types comprises textual media, image media, audio media, and video media. For example, Google's My Activity website shows the user information that Google tracks and that Google Search servers use, including whether the media accessed was textual (e.g., books and websites with textual content), image (e.g., pictures), audio (e.g., music and podcasts), or video (e.g., videos on YouTube) media.



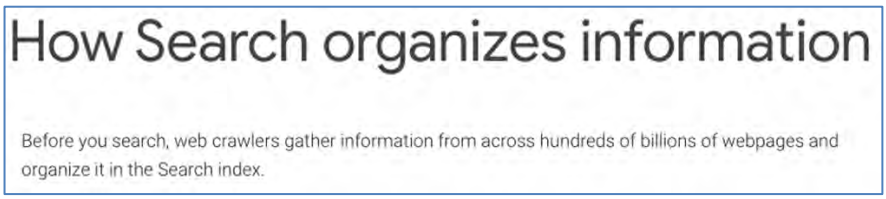






Source: https://myactivity.google.com

165. The event or venue of interest is selected from one or more sources of information about a plurality of venues or events proximate to the current location of the user. For example, Google Search servers will access one or more sources of information about venues or events (e.g., Google's Search Index) and select an event or venue near the user's current location.



Source: https://www.google.com/search/howsearchworks/crawling-indexing/

166. **Inducement:** Defendants have indirectly infringed and continue to indirectly infringe the '021 patent by inducing direct infringement of the '021 patent by their clients, customers, and users who directly infringe in the manner described above. Defendants were made aware of the '021 patent and their infringement of the '021 patent at least as early as November 30, 2021 when Wildseed Mobile provided notice of infringement of the '021 patent to Sundar Pichai of Google and Susan Wojcicki of YouTube. From at least the time that Defendants received notice, Defendants have been actively inducing their clients, customers, and users to directly infringe at least claim 10 of the '021 patent as described above.

167. Defendants have taken affirmative steps to induce infringement of the '021 patent by their clients, customers, and users by, for example, advertising and distributing the '021 Patent Accused Products and providing instruction materials, training, and services instructing clients, customers, and users to act in a manner that infringes the '021 patent. For example, Google sells Google Pixel phones to consumers on its website. See https://store.google.com/category/phones. Additionally, Google provides instruction to clients, customers, and users on how to use Google to search for venues and events on its website in a manner that infringes the '021 patent. See e.g., https://support.google.com/websearch/answer/9083858. Google makes the Google app available

for download onto portable media player devices through the Google Play Store and Apple App Store. See https://play.google.com/store/apps/details?id=com.google.android.googlequicksearchbox, https://apps.apple.com/us/app/google/id284815942. YouTube makes the YouTube app available for download onto portable media player devices through the Google Play Store and Apple App Store. See https://play.google.com/store/search?q=youtube, https://play.google.com/store/apps/details?id=com.google.android.youtube, https://apps.apple.com/us/app/youtube-watch-listen-stream/id544007664.

168. Defendants have specifically intended, and still intend, that their clients, customers, and users infringe the '021 patent. Defendants have been, and still are, aware that the acts of their clients, customers, and users described above constitute infringement of the '021 patent. Defendants have known and intended that its continued actions would actively induce the infringement of at least claim 10 of the '021 patent by their clients, customers, and users. With knowledge of both the '021 patent and its infringement of the '021 patent, Defendants acted with specific intent or willful blindness to actively aid and abet their clients, customers, and users in infringing at least claim 10 of the '021 patent. Defendants are thus liable for infringement of the '021 patent under 35 U.S.C. § 271(b).

169. **Contributory:** Defendants contribute to infringement of the '021 patent by offering to commercially distribute and commercially distributing their Google Search services and the Chrome Browser, Google app, and YouTube app to clients, customers, and users, which in combination with a portable media player device, such as a smartphone or tablet, satisfy each and every limitation of the claims, as described above. First, to the extent a device is not preloaded with the Chrome browser, Google app, or YouTube app, Defendants provide them to clients, customers, and users, who then install them on their devices, such as Apple iOS and Android

smartphones and tablets. The underlying direct infringement, as described above, occurs, for example, when an end-user installs and runs at least a compatible version of the Chrome Browser, Google app, and/or YouTube app. Individually and in combination, the Google Search service and the Chrome Browser, Google app, and/or YouTube app constitute a material portion of the invention, as is apparent from the infringement allegations described above, which detail infringement by the Chrome browser, Google app, and YouTube app. Since at least the date Defendants received notice of the '021 patent and their infringement of the '021 patent, Defendants have known that the Google Search services and the Chrome Browser, Google app, and YouTube app are especially made and adapted for use in infringing the '021 patent. The Google Search service and the Chrome Browser, Google app, and YouTube app are not a staple articles or commodities of commerce and have no substantial non-infringing uses. The only purpose of the accused functionality of the accused Chrome Browser, Google app, and YouTube app is to provide event and venue recommendations as described above. Furthermore, the Chrome Browser, Google app, and YouTube app are only operable when installed on a portable media player device. As explained above, the Google Search service and the Chrome Browser, Google app, and YouTube app are designed and configured to infringe at least claim 10 of the '021 patent.

170. Second, to the extent Defendants' devices are manufactured by third-party vendors, Defendants contribute to infringement of the '021 patent by providing material parts of the invention, including the Chrome Browser, Google app, and/or YouTube app loaded onto the portable media player devices. The Chrome browser, Google app, and YouTube app are a material part of the invention, as is apparent from the infringement allegations described above, which detail infringement by the Chrome browser, Google app, and YouTube app. The underlying direct infringement, as described above, occurs when a third-party vendor makes, uses (e.g., tests), offers for sale, sells and/or imports into the United States portable media player

devices that use the Chrome Browser or Google app, with the YouTube app installed, to access Google Search services. Defendants know the Chrome Browser, Google app, and YouTube app to be especially made or especially adapted for use in infringement of the ’021 patent, and not to be a staple article, nor commodity of commerce suitable for substantial noninfringing use. The only purpose of the accused functionality of the accused Chrome Browser, Google app, and YouTube app is to provide event and venue recommendations as described above. Furthermore, the Chrome Browser, Google app, and YouTube app are only operable when installed on a portable media player device. As explained above, the Chrome Browser, Google app, and YouTube app are designed and configured to infringe at least claim 10 of the ’021 patent. In both cases, Defendants are liable for infringement of the ’021 patent under 35 U.S.C. § 271(c).

171. **Willfulness:** Since at least November 30, 2021, when the Defendants received a letter from Wildseed Mobile providing notice of the ’021 patent and of their infringement of the ’021 patent, Defendants’ continuing infringement of the ’021 patent has been willful and intentional. Since at least November 30, 2021, Defendants have been continuing to willfully infringe the ’021 patent by refusing to take a license and continuing to make, use, test, sell, license, and/or offer for sale/license the ’021 Patent Accused Products. Defendants have been aware that they infringe the ’021 patent since at least November 30, 2021; and instead of taking a license, Defendants have opted to make the business decision to “efficiently infringe” the ’021 patent. Defendants thus knew, or should have known, that its conduct amounted to infringement of the ’021 patent since at least November 30, 2021, when the Defendants received a letter from Wildseed Mobile informing them of the ’021 patent and of their infringement of the ’021 patent. Therefore, Defendants are liable for willful infringement of the ’021 patent.

172. Defendants’ infringement has damaged and injured and continues to damage and injure Wildseed Mobile.

COUNT IV – INFRINGEMENT OF U.S. PATENT 10,959,040

173. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

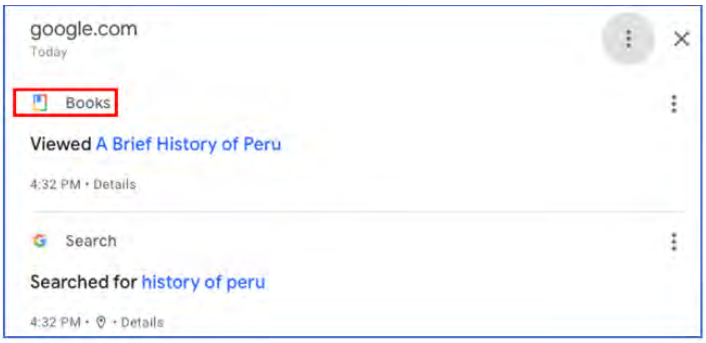
174. Defendants make, use, offer for sale, and/or sell in the United States and/or import into the United States products and services that provide event and venue recommendations and mobile devices that receive event and venue recommendations. Google operates Google Search servers that provide venue and event search results to users of portable media player devices via the Google Search website and the Google app. Additionally, Google operates servers that track users' online activities so that Google can infer entertainment preferences of a user. Google provides the Google Pixel smartphones, which are mobile devices. Additionally, YouTube provides the YouTube app, which executes on the Google Pixel smartphones and accesses and plays media files. (collectively, the "'040 Patent Accused Products").

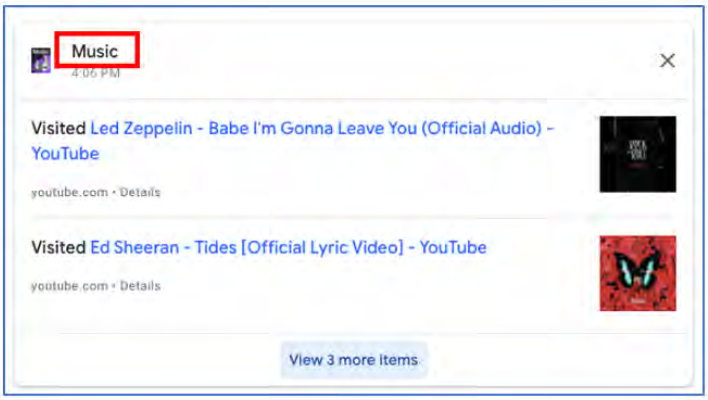
175. The '040 Patent Accused Products infringe at least claims 1 and 10 of the ' 040 patent in the exemplary manner described below.

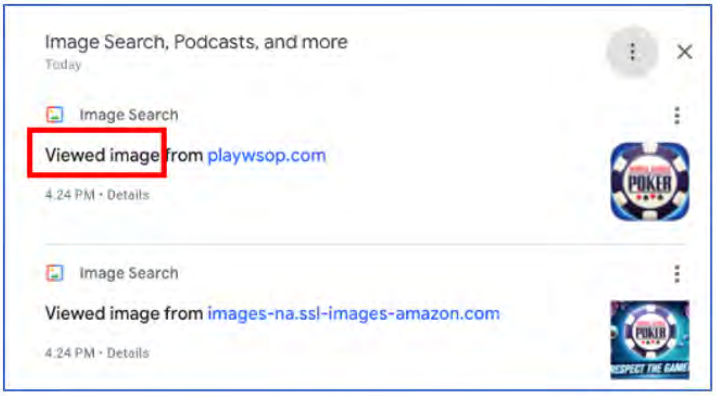
176. **Claim 1:** Google has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, by operating Google Search servers that perform each and every limitation of Claim 1.

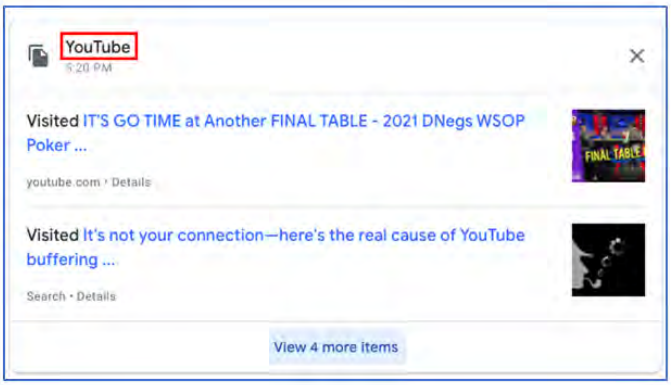
177. Google Search servers are servers comprising processor circuitry arranged to infer one or more entertainment preferences of a user of a mobile device based on retrieved information about media accessed by the mobile device and a plurality of media content types of the media, the plurality of media content types including textual media, image media, audio media, and video media. For example, Google's My Activity website shows the user information that Google tracks and that Google Search servers use to infer entertainment preferences of a user of a mobile device,

including whether the media accessed was textual (e.g., books and websites with textual content), image (e.g., pictures), audio (e.g., music and podcasts), or video (e.g., videos on YouTube) media.









Source: https://myactivity.google.com

178. Google Search servers access one or more sources of information about venues or events proximal to a current location of the user or the mobile device. When a user searches for venues or events, Google Search servers will access Google's Search Index (a source of information) to identify venues or events near the location of the user.

How Search organizes information

Before you search, web crawlers gather information from across hundreds of billions of webpages and organize it in the Search index.

Source: https://www.google.com/search/howsearchworks/crawling-indexing/

Search for events on Google

You can find events on google.com on your mobile device or computer. Choose an event that looks interesting to you to learn more about it, get directions, or find out where to buy tickets.

Important: This feature is not available in all languages or countries.

To get started, try these searches: `events near me` or `family friendly events`.

Search by location

- To find events near you: Search for an event without adding a location. For example, search `events` or `events near me`.
- To find events somewhere else: Add a location to your search. For example, enter `concerts in Chicago`.

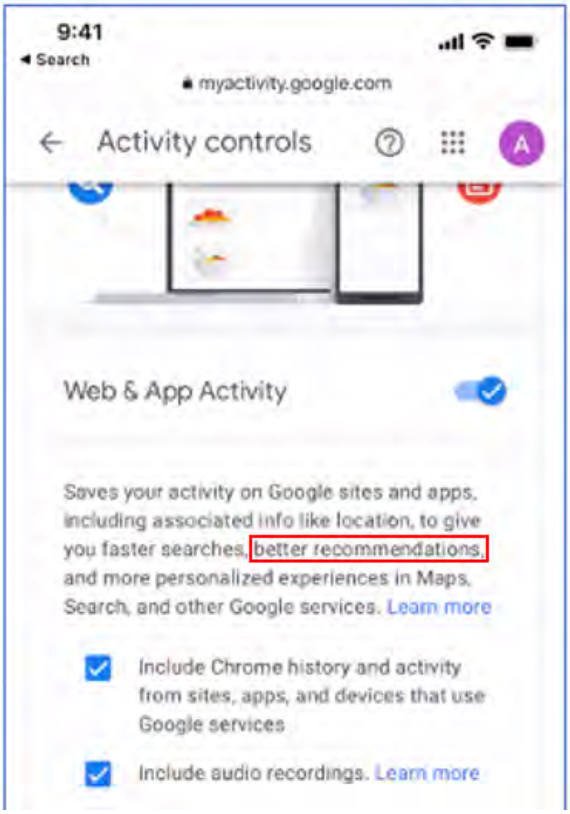
Source: https://support.google.com/websearch/answer/9083858

179. Google Search servers identify at least one of the venues or events as being of interest to the user based at least in part on the inferred one or more entertainment preferences and the current locations. As discussed above, Google Search servers use the location of the user to identify the recommended venue or event. Additionally, Google Search servers use the inferred entertainment preferences of the user to identify a venue or event as being of interest to the user.

How recommendations work

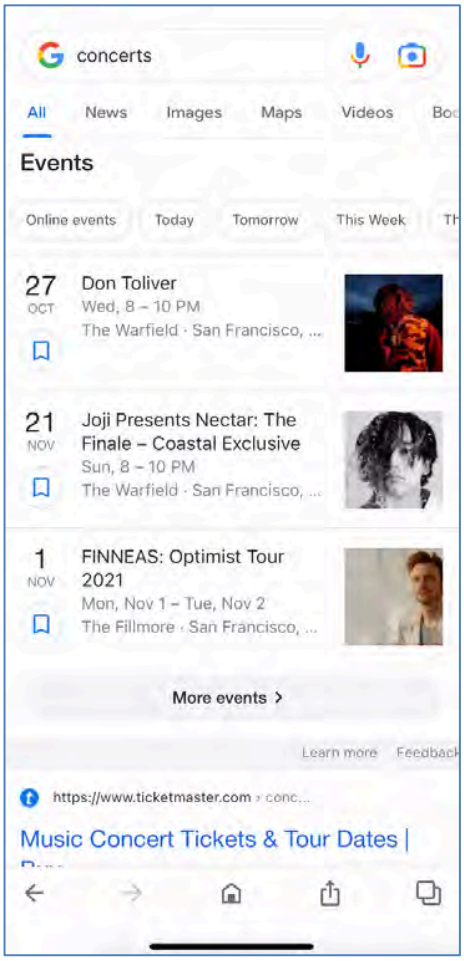
Event recommendations are based on what's popular or trending on Google and similarities with popular events in the past. If you're signed in to your Google Account and have **Personal results** turned on, Google's recommendations are also based on your activity in Google products. These are events Google thinks you may be interested in, but it's up to you to decide what events are right for you. You can turn off **Personal results** in Your Data in Search.

180. **Source:** https://support.google.com/websearch/answer/9083858



Source: https://myactivity.google.com

181. Google Search servers generate a recommendation message indicating the identified venue or event. This message is received by the mobile device and displayed in the Google App or the web browser.



Source: Screenshot of Google app.

182. Google Search servers include network interface circuitry communicatively coupled to the processor circuitry, the network interface circuitry arranged to receive the information about the media, and send the recommendation message to the mobile device. For example, Google Search servers have network interface circuitry that is connected to the Internet that receives searches for venues and events and transmit search results to the mobile device.

Data Centers

Google operates data centers in the Americas, Europe and Asia that we use for computation and backend storage.

Our data centers are the heart of Google content and services.

Google has built a large, specialized data network to link all of its data centers together so that content can be replicated across multiple sites for resilience, and services can be delivered closest to the end user.

Source: https://peering.google.com/#/infrastructure

183. **Claim 10:** Defendants have directly and/or indirectly infringed and continue to directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, by or through making, using, offering for sale, selling within the United States and/or importing Google Pixel smartphones with access to Google Search through a web browser and/or the Google App and the YouTube app.

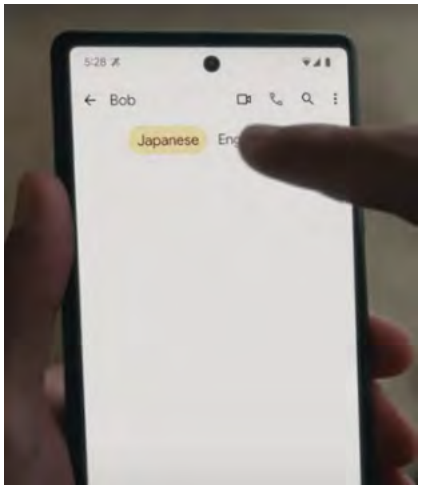
184. Google Pixel smartphones include user interface circuitry. For example, the Google Pixel 6 is a mobile phone that includes a touchscreen user interface and related circuitry. The screen is a 6.4 inch FHD+ (1080 x 2400) OLED display.

Display

Full-screen 6.4-inch (163 mm)[1] display	High brightness mode
20:9 aspect ratio	>1,000,000:1 contrast ratio
FHD+ (1080 x 2400) OLED at 411 ppi	HDR support
Smooth Display (up to 90 Hz)[2]	Full 24-bit depth for 16 million colors
Corning® Gorilla® Glass Victus™ cover glass	
Always-on display with At a Glance and Now Playing	

Source: https://store.google.com/us/product/pixel_6_specs

185. The Google Pixel 6's touchscreen allows users to control the functions of the '040 Patent Accused Products.



Source: https://store.google.com/product/pixel_6 (video at 0:15)

186. The Google Pixel mobile devices include transceiver circuitry. For example, the Google Pixel 6 includes cellular and Wi-Fi transceiver circuitry.

Network[14]

[5G Sub 6GHz][15] Model GB7N6

GSM/EDGE: Quad-band (850, 900, 1800, 1900 MHz)

UMTS/HSPA+/HSDPA: Bands 1,2,4,5,6,8,19

LTE: Bands

B1/2/3/4/5/7/8/12/13/14/17/18/19/20/25/26/28/29/30/32/38/39/40/41/42/46/48/66/71

5G Sub-6[15]: Bands

n1/2/3/5/7/8/12/14/20/25/28/30/38/40/41/48/66/71/77/78

eSIM

[5G mmWave + Sub 6GHz][15]

Model G9S9B[16]

GSM/EDGE: Quad-band (850, 900, 1800, 1900 MHz)

UMTS/HSPA+/HSDPA: Bands 1,2,4,5,6,8,19

LTE: Bands

B1/2/3/4/5/7/8/12/13/14/17/18/19/20/25/26/28/29/30/32/38/39/40/41/42/46/48/66/71

5G Sub-6[15]: Bands
n1/2/3/5/7/8/12/14/20/25/28/30/38/40/41/48/66/71/77/78

5G mmWave[15]: Bands n257/n258/n260/n261

eSIM

Source: https://store.google.com/product/pixel_6_specs

Connectivity & Location

Wi-Fi 6E (802.11ax) with 2.4G+5GHz+6GHz, HE160, MIMO

Bluetooth® v5.2 with dual antennas for enhanced quality and connection

NFC

Google Cast

Dual Band GNSS

GPS, GLONASS, Galileo, QZSS

Source: https://store.google.com/product/pixel_6_specs

187. The Google Pixel mobile devices include processor circuitry communicatively coupled to the user interface circuitry and the transceiver circuitry. For example, the Google Pixel 6 includes a Google Tensor processor which is connected to the cellular and Wi-Fi communications circuitry and the touchscreen interface via a circuit board.

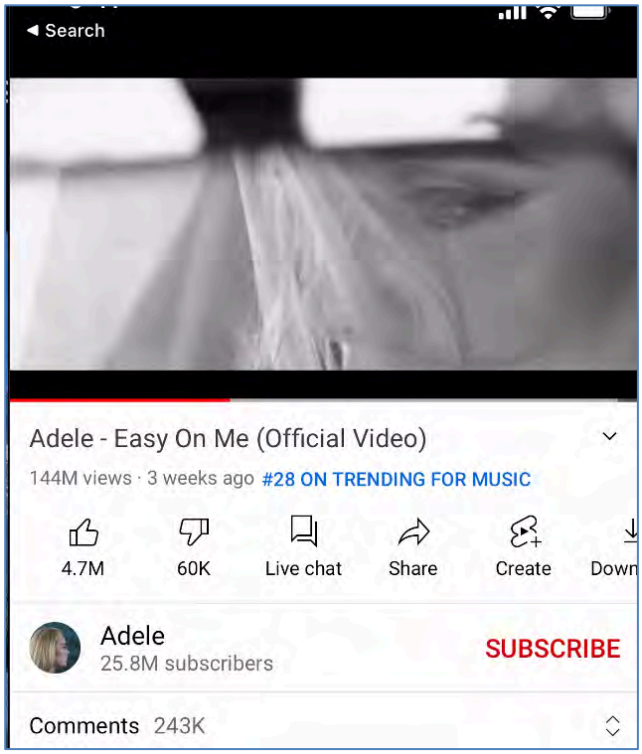
Processors

Google Tensor

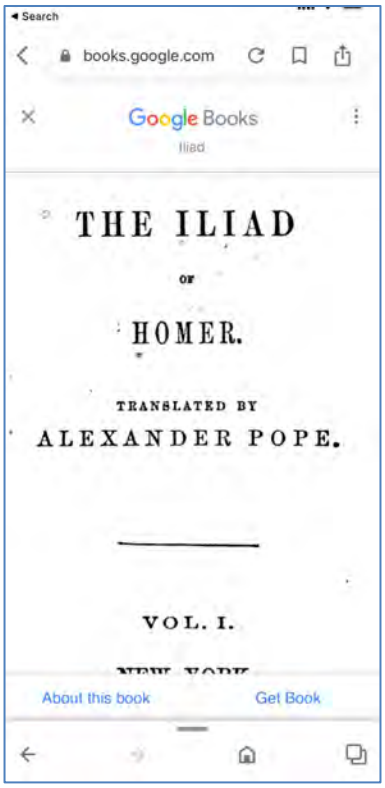
Titan M2™ security coprocessor

Source: https://store.google.com/product/pixel_6_specs

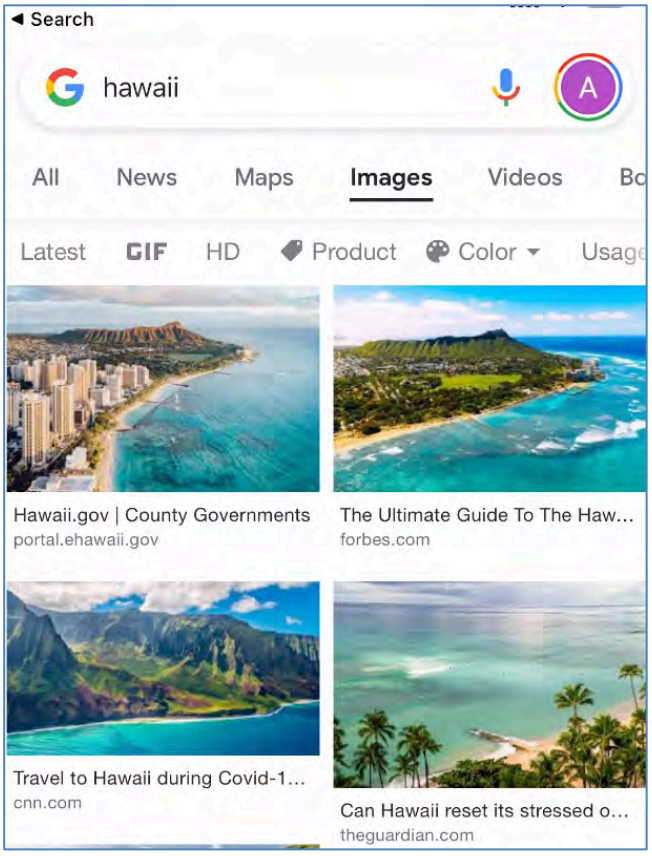
188. The Google Pixel mobile devices operate a media player application to access media, and output the accessed media via the user interface circuitry. For example, the Google Pixel 6 can access and display media, including text and image media through the Google App or web browser and video and audio media through the YouTube app or web browser.



Source: Screenshot of video playing on the YouTube app.

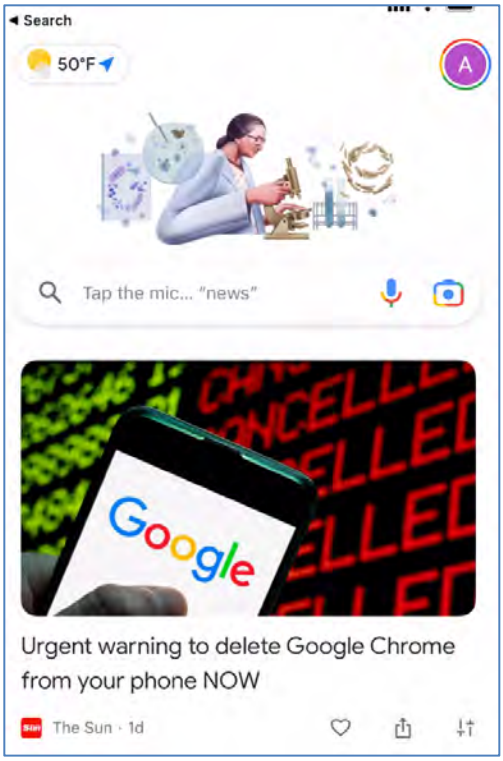


Source: Screenshot of the Google app.



Source: Screenshot of Google app.

189. The Google Pixel mobile devices establish a network connection with a server via the transceiver circuitry. For example, the '040 Patent Accused Products can connect to the Google Search servers via the Internet.



Source: Home screen of Google app.

190. The '040 Patent Accused Products connect to the Internet through cellular or Wi-Fi network connections. For example, the Google Pixel 6 includes cellular and Wi-Fi network transceiver circuitry.

Network[14]

[5G Sub 6GHz][15] Model GB7N6

GSM/EDGE: Quad-band (850, 900, 1800, 1900 MHz)

UMTS/HSPA+/HSDPA: Bands 1,2,4,5,6,8,19

LTE: Bands

B1/2/3/4/5/7/8/12/13/14/17/18/19/20/25/26/28/29/30/32/38/39/40/41/42/46/48/66/71

5G Sub-6[15]: Bands

n1/2/3/5/7/8/12/14/20/25/28/30/38/40/41/48/66/71/77/78

eSIM

[5G mmWave + Sub 6GHz][15]

Model G9S9B[16]

GSM/EDGE: Quad-band (850, 900, 1800, 1900 MHz)

UMTS/HSPA+/HSDPA: Bands 1,2,4,5,6,8,19

LTE: Bands

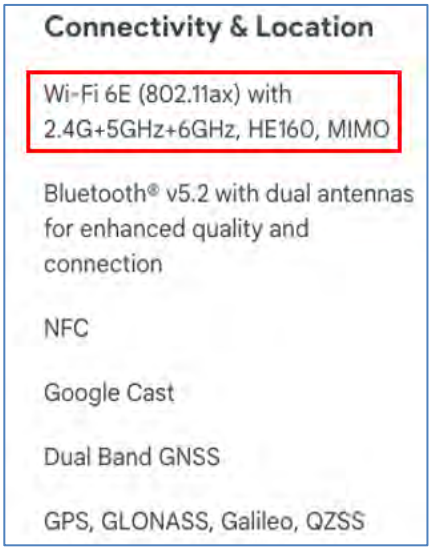
B1/2/3/4/5/7/8/12/13/14/17/18/19/20/25/26/28/29/30/32/38/39/40/41/42/46/48/66/71

5G Sub-6[15]: Bands n1/2/3/5/7/8/12/14/20/25/28/30/38/40/41/48/66/71/77/78

5G mmWave[15]: Bands n257/n258/n260/n261

eSIM

Source: https://store.google.com/product/pixel_6_specs



Connectivity & Location

Wi-Fi 6E (802.11ax) with 2.4G+5GHz+6GHz, HE160, MIMO

Bluetooth® v5.2 with dual antennas for enhanced quality and connection

NFC

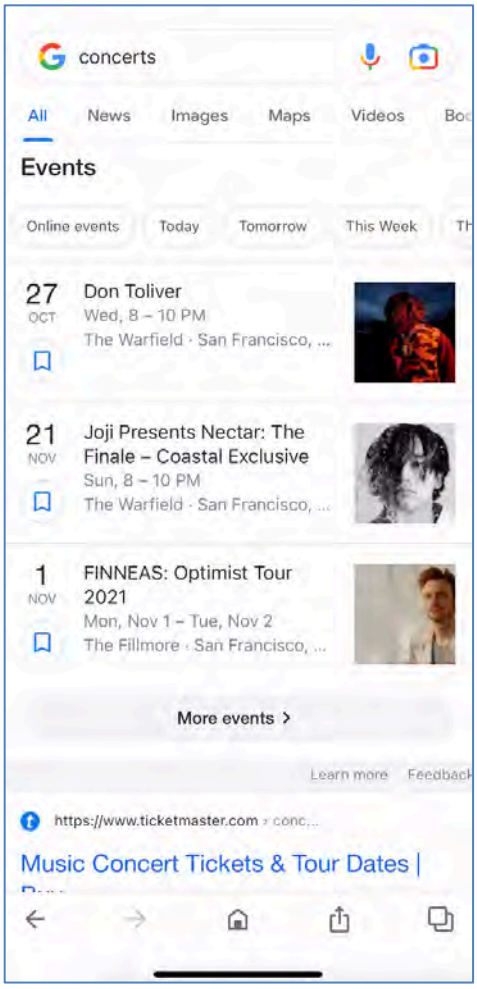
Google Cast

Dual Band GNSS

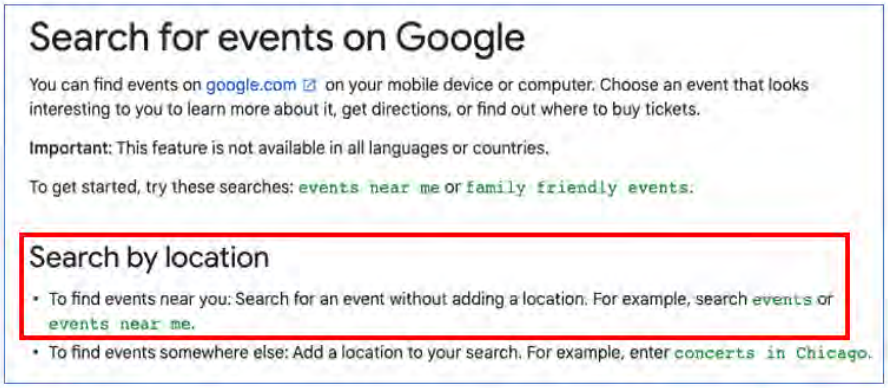
GPS, GLONASS, Galileo, QZSS

Source: https://store.google.com/product/pixel_6_specs

191. The Google Pixel mobile devices' transceiver circuitry receives a recommendation message from the server, the recommendation message indicating an event or venue of interest that is proximate to an inferred current location of a user. For example, when a user searches for "concerts" using the Google App, the Google Pixel transceiver circuitry receives search results from Google Search servers, including event and venue information, near the location of the user (in this example, in San Francisco).



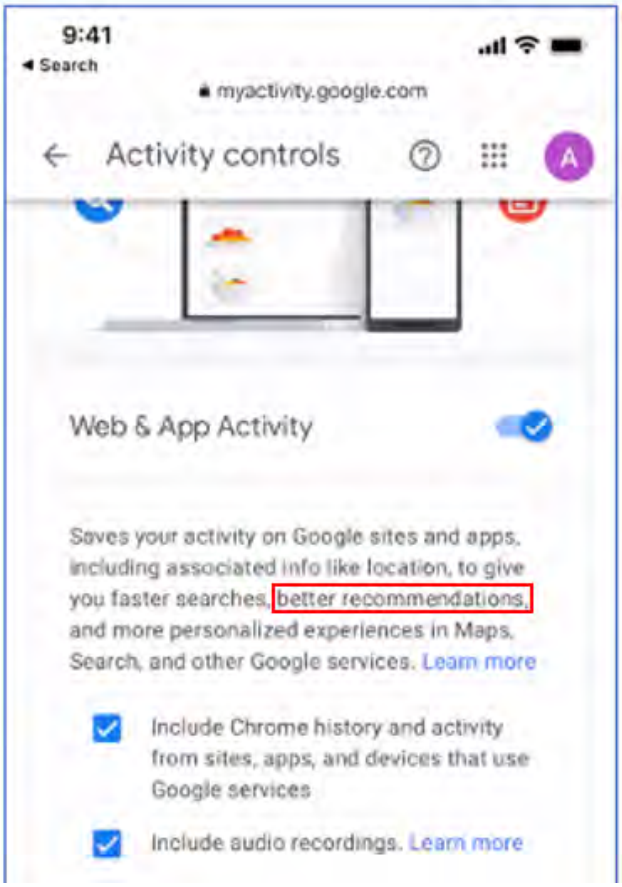
Source: Screenshot of Google app.



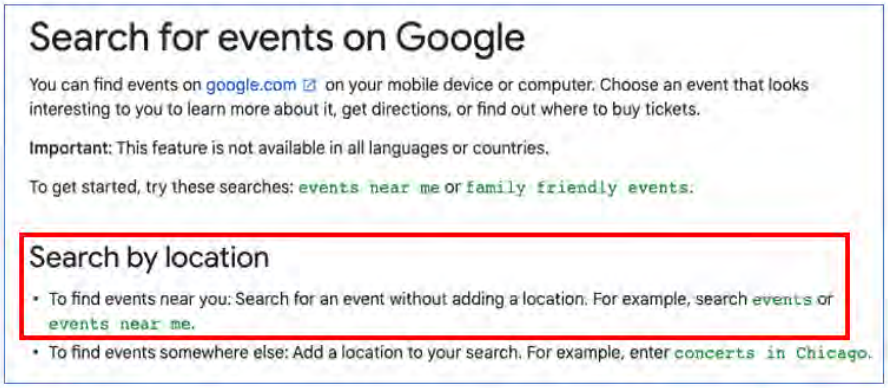
Source: https://support.google.com/websearch/answer/9083858

192. The event or venue of interest is based on one or more inferred preferences of the user and the inferred current location. For example, Google Search servers track users' activities on Google apps, sites, and services and use this information to infer the user's preferences and

provide better recommendations. Additionally, Google Search servers use the location of the user in identifying events or venues of interest near the user's location.



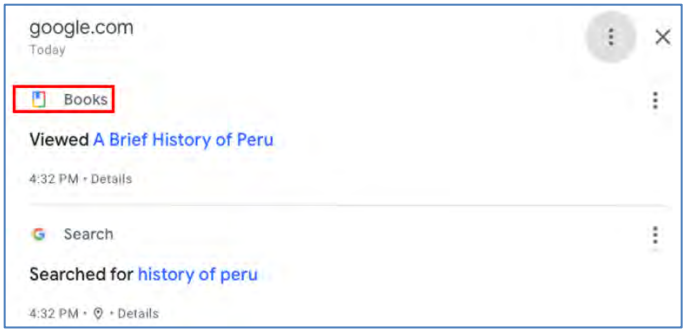
Source: https://myactivity.google.com

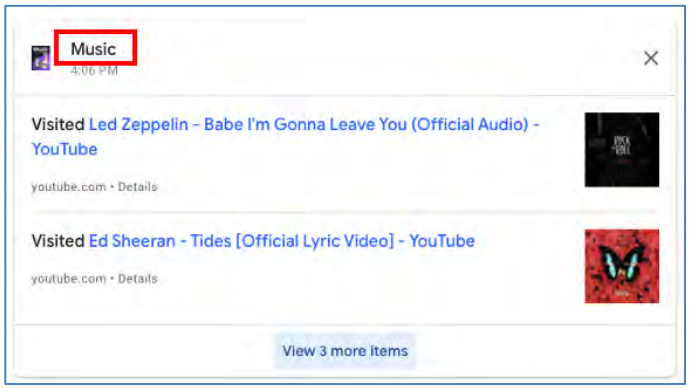


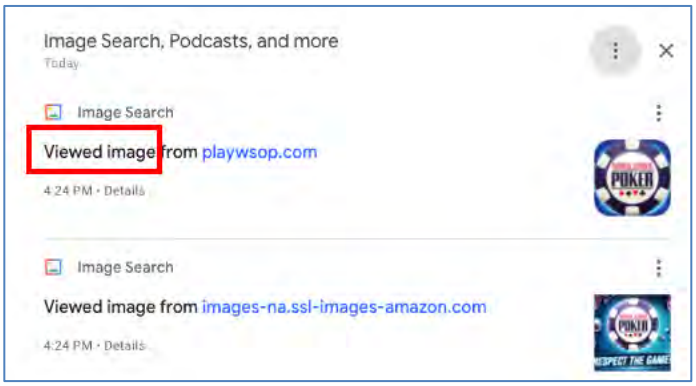
Source: https://support.google.com/websearch/answer/9083858

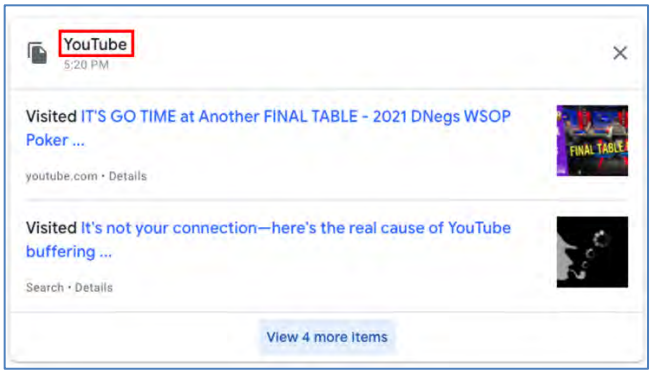
193. The inferred preferences are based at least in part on information about the accessed media from among a plurality of media content types, the plurality of media content

types including textual media, image media, audio media, and video media. When searching for events, Google's servers determine the user's entertainment preferences by analyzing the user's previous online activity. Google's My Activity website shows the user information that Google tracks and that Google Search servers use, including whether the media accessed was textual (e.g., books and websites with textual content), image (e.g., pictures), audio (e.g., music and podcasts), or video (e.g., videos on YouTube) media.



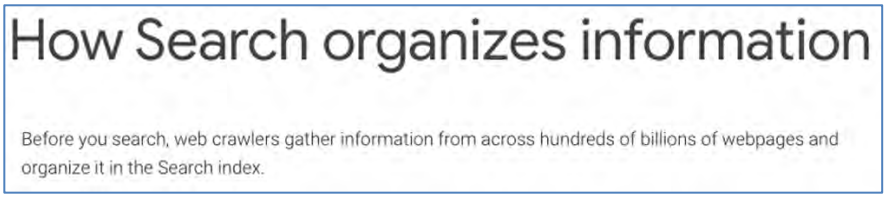




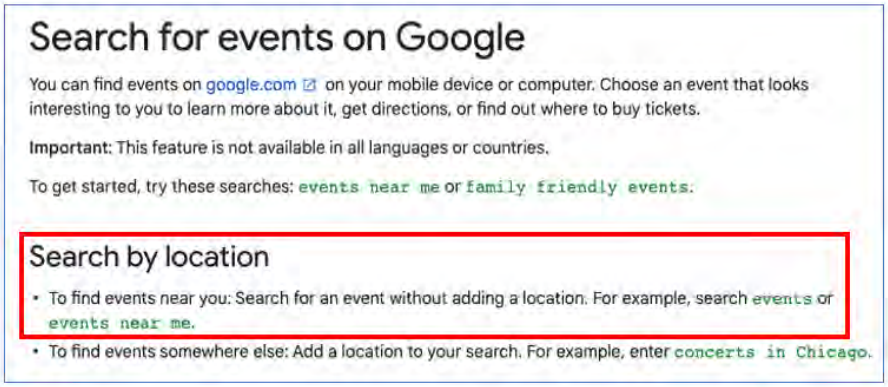


Source: https://myactivity.google.com

194. The event or venue of interest is selected from one or more sources of information about a plurality of venues or events proximate to the inferred current location of the user. For example, Google Search servers will access one or more sources of information about venues or events (e.g., Google's Search Index), as well as the user's current location, to provide search results.



Source: https://www.google.com/search/howsearchworks/crawling-indexing/



Source: https://support.google.com/websearch/answer/9083858

195. **Inducement:** Defendants have indirectly infringed and continue to indirectly infringe the '040 patent by inducing direct infringement of the '040 patent by their clients,

customers, and users who directly infringe in the manner described above. Defendants were made aware of the ’040 patent and their infringement of the ’040 patent at least as early as November 30, 2021 when Wildseed Mobile provided notice of infringement of the ’040 patent to Sundar Pichai of Google and Susan Wojcicki of YouTube. From at least the time that Defendants received notice, Defendants have been actively inducing their clients, customers, and users to directly infringe at least claim 10 of the ’040 patent as described above.

196. Defendants have taken affirmative steps to induce infringement of the ’040 patent by their clients, customers, and users by, for example, advertising and distributing the ’040 Patent Accused Products and providing instruction materials, training, and services instructing clients, customers, and users to act in a manner that infringes the ’040 patent. For example, Google sells Google Pixel phones to consumers on its website. See https://store.google.com/category/phones. Additionally, Google provides instruction to clients, customers, and users on how to use Google to search for venues and events on its website in a manner that infringes the ’040 patent. See e.g., https://support.google.com/websearch/answer/9083858. Google makes the Google app available for download onto portable media player devices through the Google Play Store and Apple App Store. See https://play.google.com/store/apps/details?id=com.google.android.googlequicksearchbox, https://apps.apple.com/us/app/google/id284815942. YouTube makes the YouTube app available for download onto mobile devices through the Google Play Store and Apple App Store. See https://play.google.com/store/search?q=youtube, https://play.google.com/store/apps/details?id=com.google.android.youtube, https://apps.apple.com/us/app/youtube-watch-listen-stream/id544007664.

197. Defendants have specifically intended, and still intend, that their clients, customers, and users infringe the ’040 patent. Defendants have been, and still are, aware that the acts of their

clients, customers, and users described above constitute infringement of the ’040 patent. Defendants have known and intended that its continued actions would actively induce the infringement of at least claim 10 of the ’040 patent by their clients, customers, and users. With knowledge of both the ’040 patent and its infringement of the ’040 patent, Defendants acted with specific intent or willful blindness to actively aid and abet their clients, customers, and users in infringing at least claim 10 of the ’040 patent. Defendants are thus liable for infringement of the ’040 patent under 35 U.S.C. § 271(b).

198. **Contributory:** Defendants contribute to infringement of the ’040 patent by offering to commercially distribute and commercially distributing their Google Search service and the Chrome Browser, Google app, and/or YouTube app to clients, customers, and users, which in combination with a mobile device, such as a smartphone or tablet, satisfy each and every limitation of the claims, as described above. First, to the extent a device is not preloaded with the Chrome browser, Google app, and/or YouTube app, Defendants provide them to clients, customers, and users, who then install them on their devices, such as Apple iOS and Android smartphones and tablets. The underlying direct infringement, as described above, occurs, for example, when an end-user installs and runs at least a compatible version of the Chrome Browser, Google app, and/or YouTube app. Individually and in combination, the Google Search service and the Chrome Browser, Google app, and/or YouTube app constitute a material portion of the invention, as is apparent from the infringement allegations described above, which detail infringement by the Chrome browser, Google app, and YouTube app. Since at least the date Defendants received notice of the ’040 patent and their infringement of the ’040 patent, Defendants have known that the Google Search services and the Chrome Browser, Google app, and YouTube app are especially made and adapted for use in infringing the ’040 patent. The Google Search service and the Chrome Browser, Google app, and YouTube app are not a staple

articles or commodities of commerce and have no substantial non-infringing uses. The only purpose of the accused functionality of the accused Chrome Browser, Google app, and YouTube app is to provide event and venue recommendations as described above. Furthermore, the Chrome Browser, Google app, and YouTube app are only operable when installed on a mobile device. As explained above, the Chrome Browser, Google app, and YouTube app are designed and configured to infringe at least claim 10 of the ’040 patent.

199. Second, to the extent Defendants’ devices are manufactured by third-party vendors, Defendants contribute to infringement of the ’040 patent by providing material parts of the invention, including the Chrome Browser, Google app, and/or YouTube app loaded onto the mobile devices. The Chrome browser, Google app, and YouTube app are a material part of the invention, as is apparent from the infringement allegations described above, which detail infringement by the Chrome browser, Google app, and YouTube app. The underlying direct infringement, as described above, occurs when a third-party vendor makes, uses (e.g., tests), offers for sale, sells and/or imports into the United States portable media player devices that use the Chrome Browser or Google app, with the YouTube app installed, to access Google Search services. Since at least the date Defendants received notice of the ’040 patent and their infringement of the ’040 patent, Defendants have known that the Chrome Browser, Google app, and YouTube app to be especially made or especially adapted for use in infringement of the ’040 patent, and not to be a staple article, nor commodity of commerce suitable for substantial noninfringing use. The only purpose of the accused functionality of the accused Chrome Browser, Google app, and YouTube app is to provide event and venue recommendations as described above. Furthermore, the Chrome Browser, Google app, and YouTube app are only operable when installed on a mobile device. As explained above, the Chrome Browser, Google app, and

YouTube app are designed and configured to infringe at least claim 10 of the ’040 patent. In both cases, Defendants are liable for infringement of the ’040 patent under 35 U.S.C. § 271(c).

200. **Willfulness:** Since at least November 30, 2021, when the Defendants received a letter from Wildseed Mobile providing notice of the ’040 patent and of their infringement of the ’040 patent, Defendants’ continuing infringement of the ’040 patent has been willful and intentional. Since at least November 30, 2021, Defendants have been continuing to willfully infringe the ’040 patent by refusing to take a license and continuing to make, use, test, sell, license, and/or offer for sale/license the ’040 Patent Accused Products. Defendants have been aware that they infringe the ’040 patent since at least November 30, 2021; and instead of taking a license, Defendants have opted to make the business decision to “efficiently infringe” the ’040 patent. Defendants thus knew, or should have known, that its conduct amounted to infringement of the ’040 patent since at least November 30, 2021, when the Defendants received a letter from Wildseed Mobile informing them of the ’040 patent and of their infringement of the ’040 patent. Therefore, Defendants are liable for willful infringement of the ’040 patent.

201. Defendants’ infringement has damaged and injured and continues to damage and injure Wildseed Mobile.

COUNT V – INFRINGEMENT OF U.S. PATENT NO. 10,869,169 (GOOGLE PHOTOS)

202. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

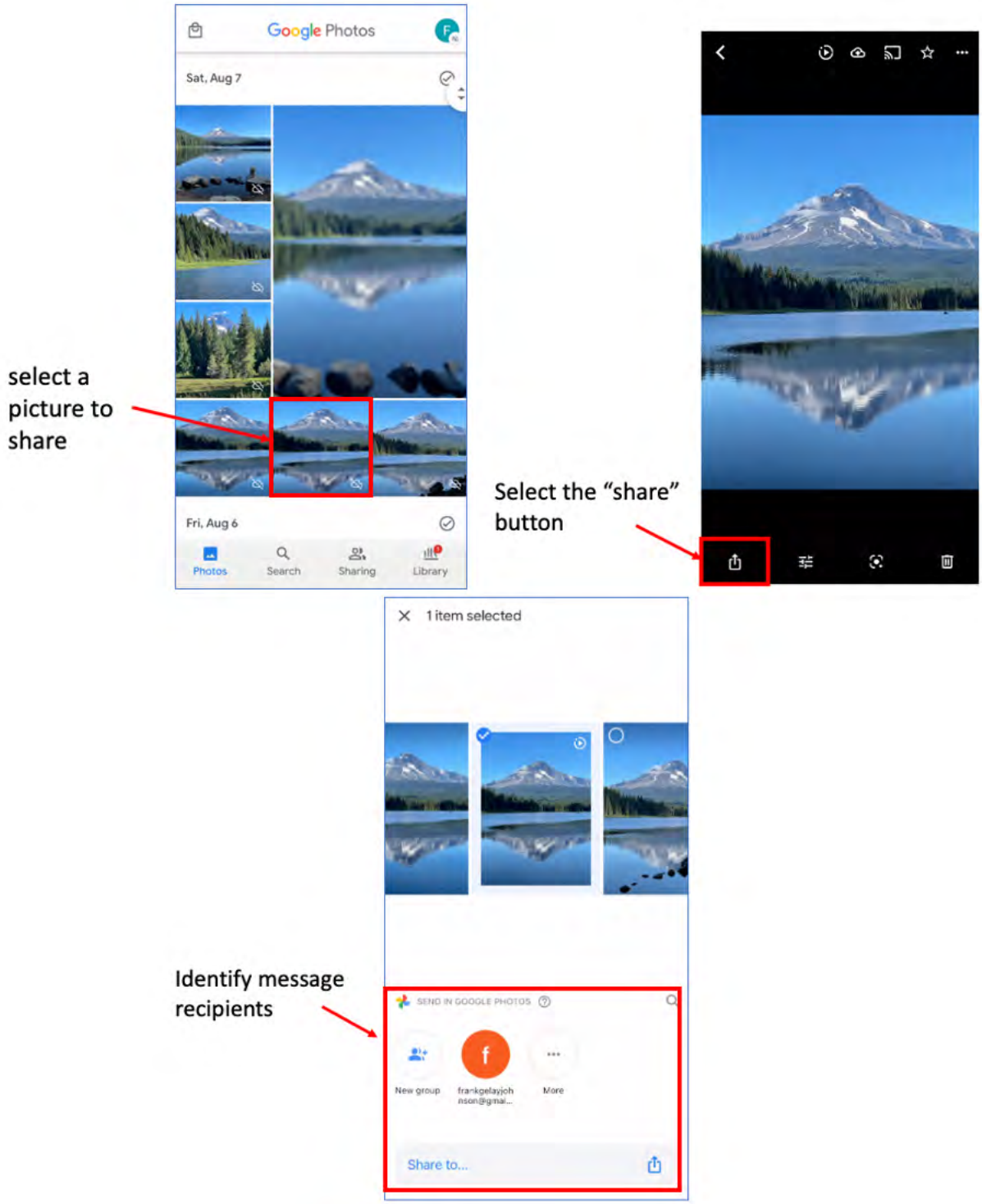
203. Google makes, uses, offers for sale, and/or sells in the United States and/or imports into the United States products and services that provide send and receive hot link messages. Google operates Google Photos servers that generate hot link messages. Additionally, Google, through its online store and retailers, provides smartphones, including the Google Pixel line of smartphones, to consumers, which can access Google Photos through the Google Photos app or

through a web browser, such as the Chrome browser, to receive hot link messages. (collectively, the "'169 Patent Google Photos Accused Products").

204. The '169 Patent Google Photos Accused Products infringe at least claims 10 and 18 of the '169 patent in the exemplary manner described below.

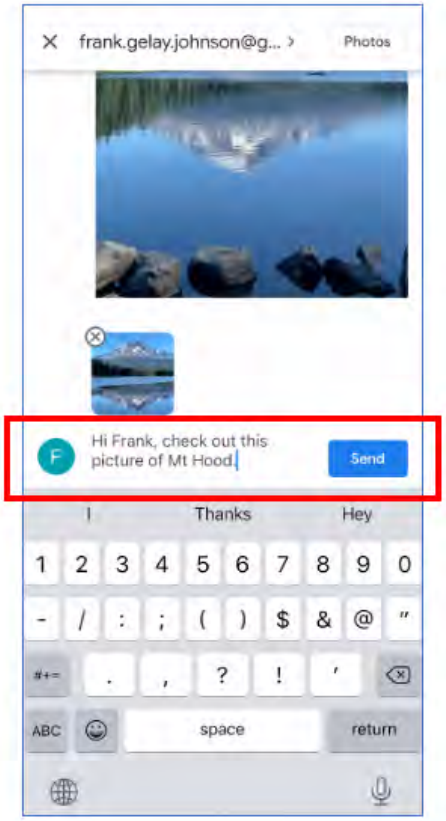
205. **Claim 10:** Google has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, by operating Google Photos servers that include each and every limitation of Claim 10.

206. Google Photos servers are computer systems comprising network interface circuitry to receive, from a first user device, a request to generate a hot link along with information of a set of second user devices to receive the hot link. For example, when someone uploads a picture to Google Photos to share it, Google servers, through their network interface circuitry, receive a request to generate a notification message including a hot link and to send it to the specified recipient. The below images illustrate how a request to generate a hot link is sent to the Google Photos servers.



Source: Screenshots of the Google Photos app.

207. Additionally, the user can specify an alphanumeric message to be transmitted with the hot link.



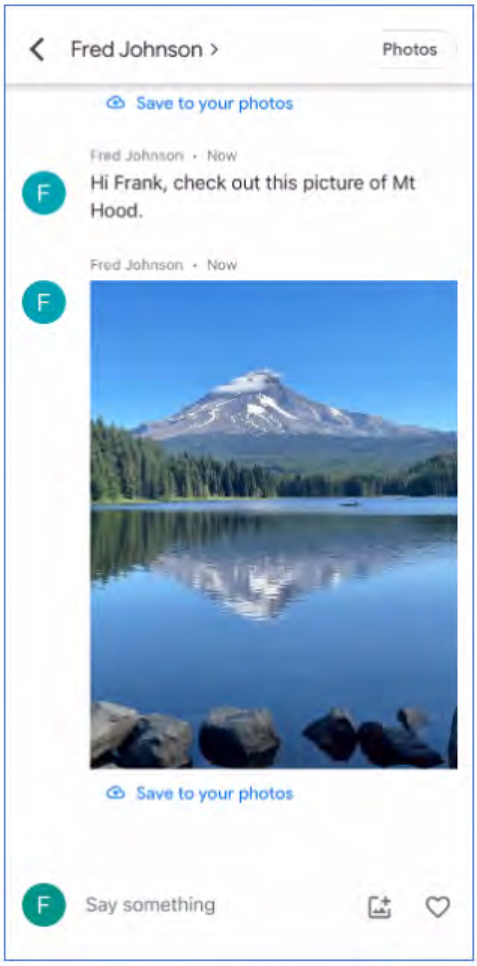
Source: Screenshot of Google Photos app.

208. Google Photos servers transmit a hot link message to the set of second user devices. The hot link appears as a push notification on the recipient's device and in the Google Photos app, which displays the name of the sender and a thumbnail of the picture to be shared.

Source: Screenshot of push notification of Google Photos app.

209. Google Photos servers include processor circuitry communicatively coupled with the network interface circuitry, the processor circuitry communicatively coupled with the network interface circuitry. Google Photos servers are computers with processors and network interface circuitry located in Google datacenters. See, e.g., www.google.com/about/datacenters/locations/.

210. Google Photos servers, in response to detection of a trigger, determine an action to be performed upon activation of the hot link, wherein activation of the hot link by individual second user devices of the set of second user devices is to cause the individual second user devices to execute program code to perform the action. For example, when a channel owner uploads a picture to the Google Photos servers, the Google Photos servers identify this as a trigger to determine the action to be performed upon activation of the hot link, namely, to execute program code to access the video at the URL that is included in the hot link. When the recipient selects the hot link message, program code executes and accesses the uploaded picture and alphanumeric message in the Google Photos app, as shown in the image below.

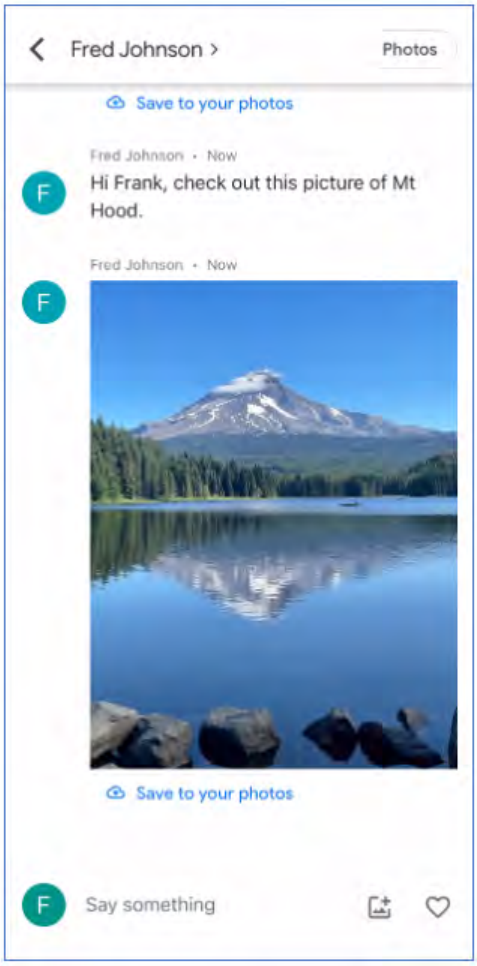


Source: Screenshot of Google Photos app.

211. The Google Photos servers respond to the trigger of the picture upload by determining the action to be performed upon activation of the hot link and transmitting a hot link message to the specified recipient.

Source: Screenshot of push notification of Google Photos app.

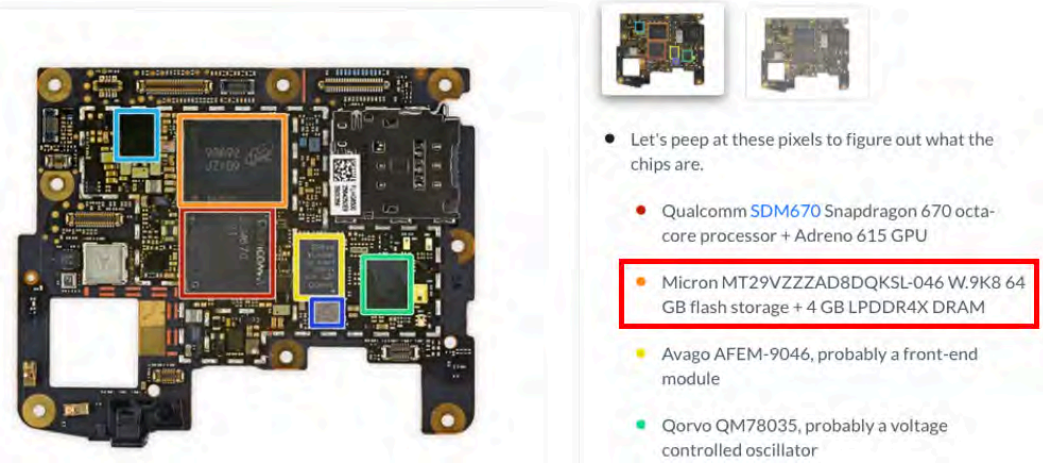
212. Google Photos servers generate the hot link message to include the determined action and instructions for rendering and displaying the hot link at each of the set of user devices. As discussed above, the hot link message includes the determined action, which is to access the uploaded picture and alphanumeric message when the hot link is selected.



Source: Screenshot of Google Photos app.

213. **<u>Claim 18:</u>** Google has directly and/or indirectly infringed and continues to directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, by or through making, using, offering for sale, selling within the United States and/or importing Google Pixel smartphones with web browsers, such as the Chrome browser, that can access the Google Photos website and/or with the Google Photos app, that include each and every limitation of Claim 18.

214. Google Pixel smartphones include one or more non-transitory computer-readable media (NTCRM) including program code. For example, the Pixel 3a includes a 64GB flash storage hard drive that stores program code.



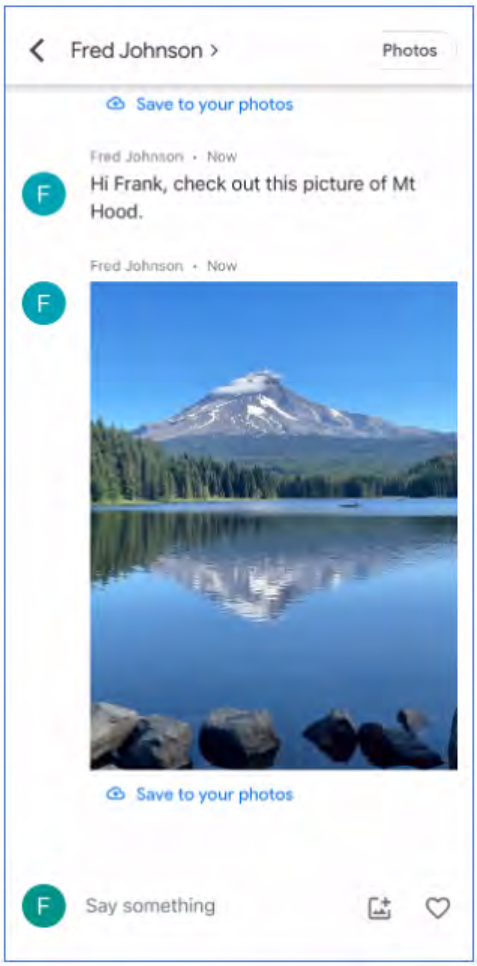
Source: https://www.ifixit.com/Teardown/Google+Pixel+3a+Teardown/123256

215. Google Pixel smartphones executing the Google Photos app control receipt of a hot link message comprising a hot link and assignment information, the assignment information to assign the hot link to a graphical control element (GCE), and the hot link comprising instructions to perform an action and instructions for rendering and displaying the hot link. The hot link message received by the device includes the hot link, which includes instructions to perform an action, namely display the uploaded picture. Additionally, the hot link message includes the sender's name and thumbnail associated with the picture, which operate to assign the hot link to graphical elements on the recipient's device.

Source: Screenshot of push notification of Google Photos app

216. Google Pixel smartphones generate a graphical user interface (GUI) to include the GCE to which the hot link is assigned according to the assignment information. For example, the recipient's smartphone displays the hot link message in accordance with the sending user's name and a thumbnail of the uploaded picture.

217. Google Pixel smartphones, in response to activation of the GCE, execute the instructions of the hot link to perform the action. When the recipient selects the hot link message, the instructions of the hot link are executed, and the uploaded picture is displayed along with the alphanumeric message.



Source: Screenshot of Google Photos app.

218. **<u>Inducement:</u>** Google has indirectly infringed and continues to indirectly infringe the '169 patent by inducing direct infringement of the '169 patent by its clients, customers, and users who directly infringe in the manner described above. Google was made aware of the '169 patent and its infringement of the '169 patent at least as early as November 30, 2021 when Wildseed Mobile provided notice of infringement of the '169 patent to Sundar Pichai of Google.

From at least the time that Google received notice, Google has been actively inducing its clients, customers, and users to directly infringe at least claim 18 of the ’169 patent as described above.

219. Google has taken affirmative steps to induce infringement of the ’169 patent by its clients, customers, and users by, for example, advertising and distributing the ’169 Patent Google Photos Accused Products and providing instruction materials, training, and services instructing clients, customers, and users to act in a manner that infringes the ’169 patent. This includes advertising and distributing the ’169 Patent Google Photos Accused Products and providing instruction materials, training, and services regarding the ’169 Patent Google Photos Accused Products that instructing clients, customers, and users to act in a manner that infringes the ’169 patent. *See* https://support.google.com/photos/answer/6131416?co=GENIE.Platform%3DAndroid&oco=1.

220. Google has specifically intended, and still intends, that its clients, customers, and users infringe the ’169 patent. Google has been, and still is, aware that the acts of its clients, customers, and users described above constitute infringement of the ’169 patent. Defendants have known and intended that its continued actions would actively induce the infringement of at least claim 18 of the ’169 patent by its clients, customers, and users. With knowledge of both the ’169 patent and its infringement of the ’169 patent, Defendants acted with specific intent or willful blindness to actively aid and abet its clients, customers, and users in infringing at least claim 18 of the ’169 patent. Google is thus liable for infringement of the ’169 patent under 35 U.S.C. § 271(b).

221. **Contributory:** Google contributes to infringement of the ’169 patent by offering to commercially distribute and commercially distributing its Google Photos app to users, which in combination with a user device, such as a smartphone or tablet, satisfy each and every limitation of the claims, as described above. First, to the extent a device is not preloaded with the Google

Photos app, Google provides the app to users, who then install it on their devices, such as Apple iOS and Android smartphones and tablets. The underlying direct infringement, as described above, occurs, for example, when an end-user installs and runs a compatible version of the Google Photos app on their device. The Google Photos app constitutes a material portion of the invention, as is apparent from the infringement allegations described above, which detail infringement by the Google Photos app. Since at least the date Defendants received notice of the '169 patent and their infringement of the '169 patent, Defendants have known that the Google Photos app is especially made and adapted for use in infringing the '169 patent. The Google Photos app provides the user with access to Google Photos services. The Google Photos app is not a staple article or commodity of commerce and has no substantial non-infringing uses. The only purpose of the accused functionality of the accused Google Photos app is to provide event and venue recommendations as described above. Furthermore, Google Photos app is only operable when installed on a user device. As explained above, the Google Photos app is designed and configured to infringe at least claim 18 of the '169 patent.

222. Second, to the extent Google's devices are manufactured by third-party vendors, Google contributes to infringement of the '169 patent by providing material parts of the invention, including the Google Photos app loaded onto the mobile devices. The Google Photos app is a material part of the invention, as is apparent from the infringement allegations described above, which detail infringement by the Google Photos app. The underlying direct infringement, as described above, occurs when a third-party vendor makes, uses (e.g., tests), offers for sale, sells and/or imports into the United States user devices that use the Google Photos app to utilize Google's Google Photos links and notifications. The Google Photos app provides the user with access to Google Photos services. Since at least the date Defendants received notice of the '169 patent and their infringement of the '169 patent, Google knows the Google Photos app to be

especially made or especially adapted for use in infringement of the ’169 patent, and not a staple article, nor commodity of commerce suitable for substantial non-infringing use. The only purpose of the accused functionality of the accused Google Photos app is to provide event and venue recommendations as described above. Furthermore, Google Photos app is only operable when installed on a user device. As explained above, the Google Photos app is designed and configured to infringe at least claim 18 of the ’169 patent In both cases, Google is liable for infringement of the ’169 patent under 35 U.S.C. § 271(c).

223. **Willfulness:** Since at least November 30, 2021, when the Defendants received a letter from Wildseed Mobile providing notice of the ’169 patent and of their infringement of the ’169 patent, Google’s continuing infringement of the ’169 patent has been willful and intentional. Since at least November 30, 2021, Google has been continuing to willfully infringe the ’169 patent by refusing to take a license and continuing to make, use, test, sell, license, and/or offer for sale/license the ’169 Patent Google Photos Accused Products. Google has been aware that it infringes the ’169 patent since at least November 30, 2021; and instead of taking a license, Google has opted to make the business decision to “efficiently infringe” the ’169 patent. Defendants thus knew, or should have known, that its conduct amounted to infringement of the ’169 patent since at least November 30, 2021, when the Defendants received a letter from Wildseed Mobile informing them of the ’169 patent and of their infringement of the ’169 patent. Therefore, Defendants are liable for willful infringement of the ’169 patent.

224. Google’s infringement has damaged and injured and continues to damage and injure Wildseed Mobile.

COUNT VI – INFRINGEMENT OF U.S. PATENT NO. 10,869,169 (YOUTUBE NOTIFICATIONS)

225. Plaintiff incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if fully set forth herein.

226. Defendants make, use, offer for sale, and/or sell in the United States and/or import into the United States products and services that provide send and receive hot link messages. YouTube operates YouTube servers that generate hot link messages. Additionally, Google, through its online store and retailers, provides smartphones, including the Google Pixel line of smartphones, to consumers, which can access YouTube through the YouTube app or through a web browser, such as the Chrome browser, to receive hot link messages. (collectively, the "'169 Patent YouTube Notifications Accused Products").

227. The '169 Patent YouTube Notifications Accused Products infringe at least claims 10 and 18 of the '169 patent in the exemplary manner described below.

228. **Claim 10:** YouTube has directly infringed and continues to directly infringe, literally and/or under the doctrine of equivalents, by operating YouTube servers that include each and every limitation of Claim 10

229. YouTube servers are computer systems comprising network interface circuitry to receive, from a first user device, a request to generate a hot link along with information of a set of second user devices to receive the hot link. For example, when a YouTube channel owner uploads a video to YouTube, YouTube servers, through their network interface circuitry, receive a request to generate a notification message including a hot link and to send it to each of the channel owner's subscribers.

Difference between Notifications and Subscriptions Feed

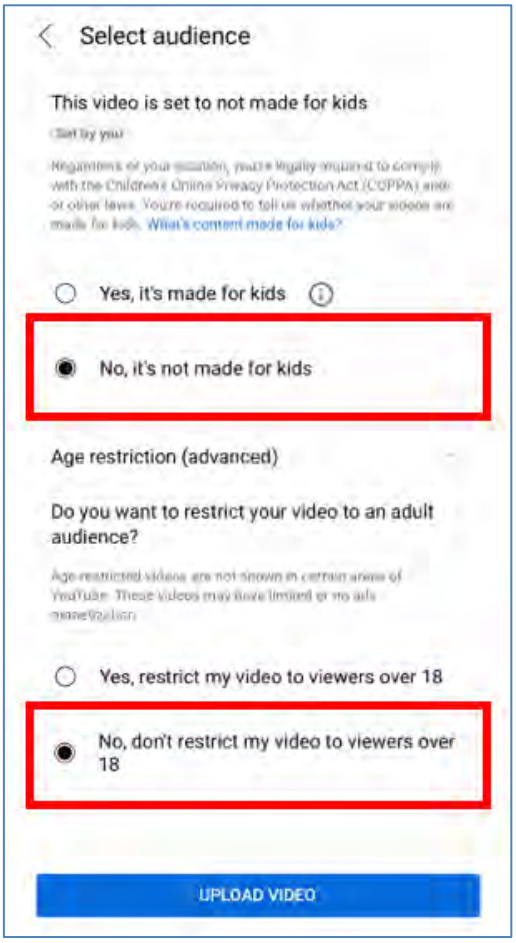
Subscriptions feed, available on both mobile and a computer, will show all recently uploaded videos from your subscriptions.

Notifications tell you when there are new videos and updates from your subscriptions. We'll send emails, notifications on mobile, or inbox notifications on your computer. When you subscribe to a channel, you'll automatically get personalized notifications with highlights of activity.

To get all notifications from a subscribed channel, tap the Notification bell . The bell will then change to a ringing bell to indicate that you've selected all notifications.

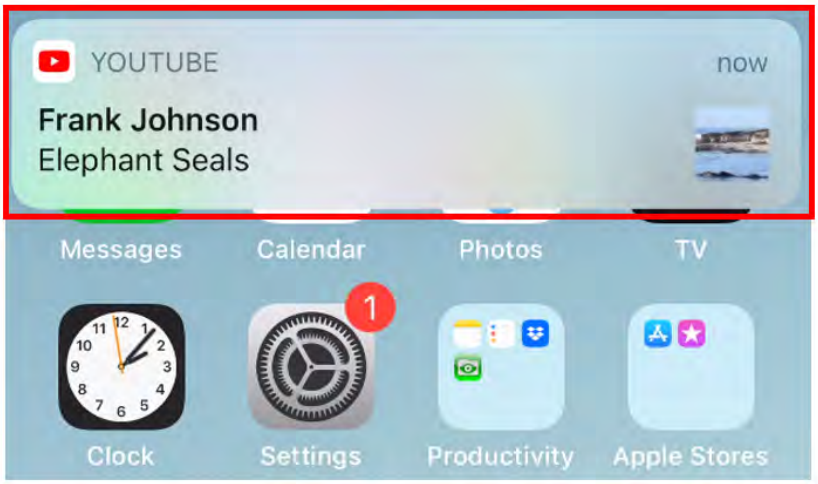
Source:
https://support.google.com/youtube/answer/3382248?co=GENIE.Platform%3DAndroid&oco=1#zippy=

230. Additionally, when a YouTube channel owner uploads a video, the channel owner specifies whether all subscribers will receive the hot link message or whether only a subset of subscribers, such as viewers over age 18, will receive the hot link message. This allows the channel owner to specify a set of second user devices to receive the hot link.

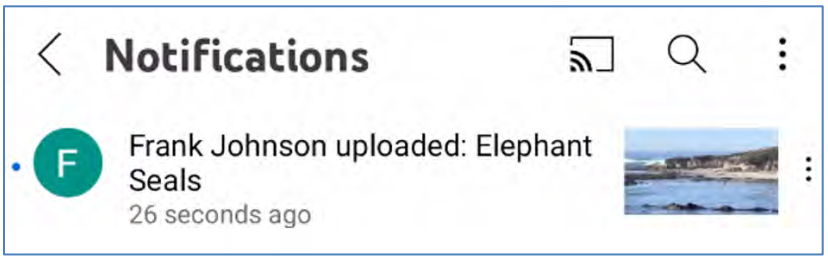


Source: Screenshot of the YouTube app.

231. YouTube servers transmit a hot link message to the set of second user devices. The hot link appears as a push notification on the recipient's device and in the "Notifications" screen of the YouTube app.



Source: Screenshot of push notification from YouTube app

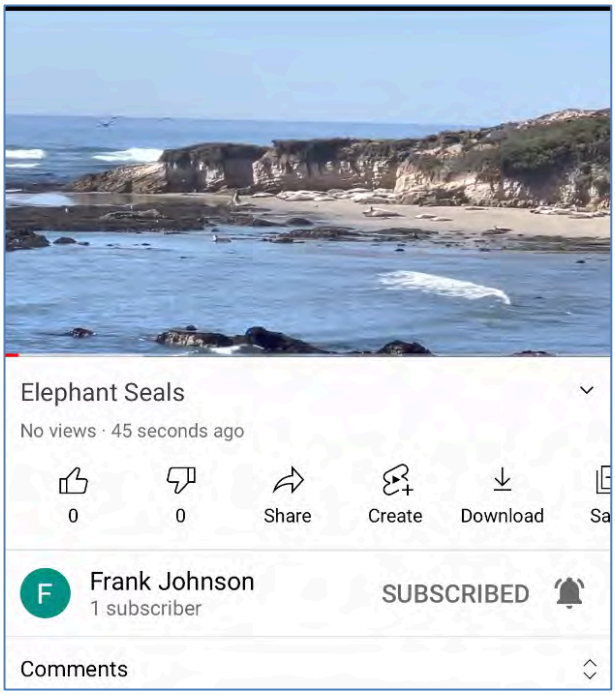


Source: Screenshot of YouTube app.

232. YouTube servers include processor circuitry communicatively coupled with the network interface circuitry; the processor circuitry communicatively coupled with the network interface circuitry. YouTube servers are computers with processors and network interface circuitry located in Google datacenters. See, e.g., www.google.com/about/datacenters/locations/.

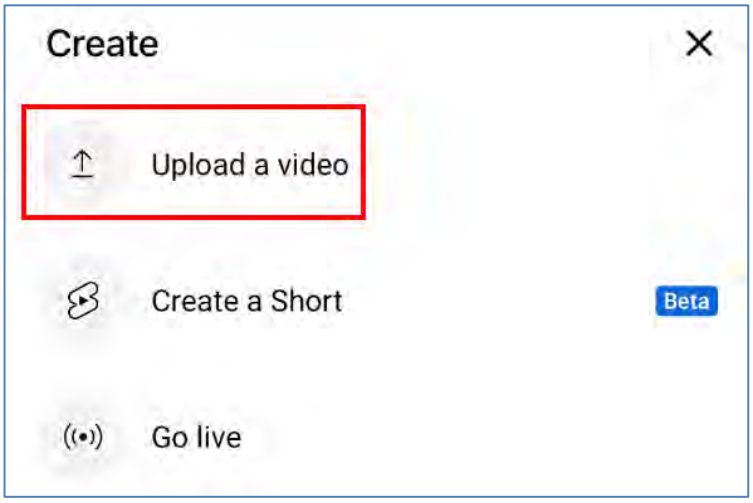
233. YouTube servers, in response to detection of a trigger, determine an action to be performed upon activation of the hot link, wherein activation of the hot link by individual second user devices of the set of second user devices is to cause the individual second user devices to execute program code to perform the action. For example, when a channel owner uploads a video, to the YouTube servers, the YouTube servers identify this as a trigger to determine the action to be performed upon activation of the hot link, namely, to execute program code to access the video at the URL that is included in the hot link. When the recipient selects the hot link message,

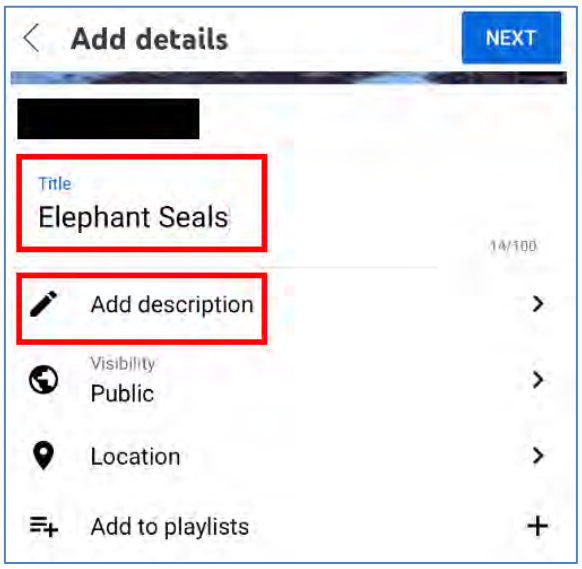
program code executes and accesses the uploaded video in the YouTube app, as shown in the image below.



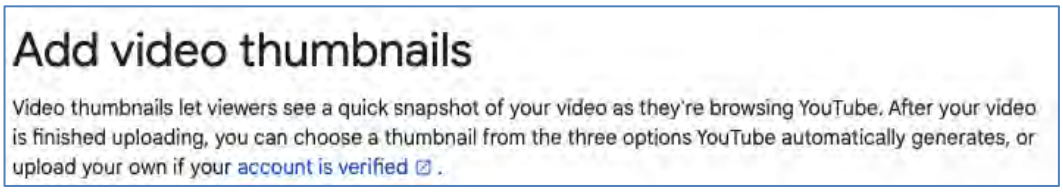
Source: Screenshot of YouTube app.

234. YouTube servers generate the hot link message to include the determined action and instructions for rendering and displaying the hot link at each of the set of user devices. As discussed above, the hot link message includes the determined action, which is to access the uploaded video when the hot link is selected. Additionally, when uploading the video, the channel owner can specify the title for the video and thumbnail that are rendered and appear in the hot link message, as illustrated in the figures below.





Source: Screenshots of the YouTube app.

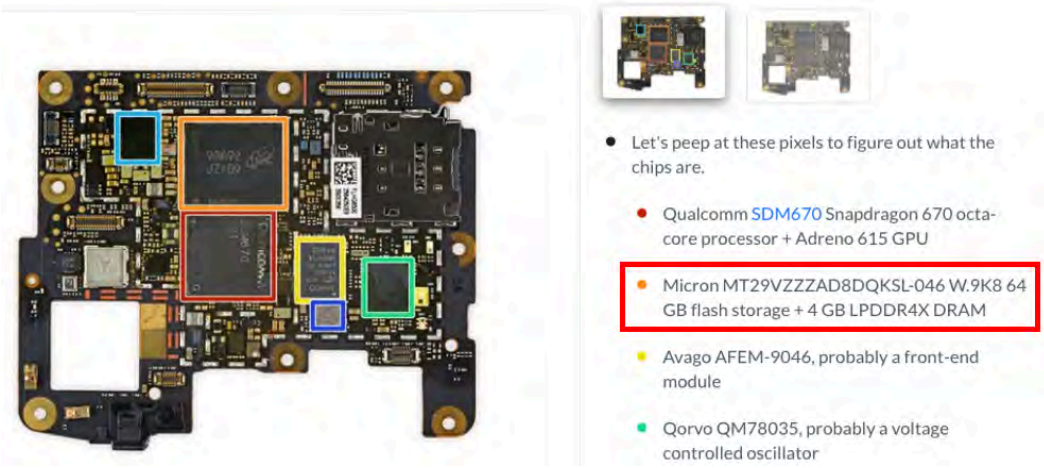


Source: https://support.google.com/youtube/answer/72431

235. **<u>Claim 18:</u>** Defendants have directly and/or indirectly infringed and continue to directly and/or indirectly infringe, literally and/or under the doctrine of equivalents, by or through making, using, offering for sale, selling within the United States and/or importing Google Pixel

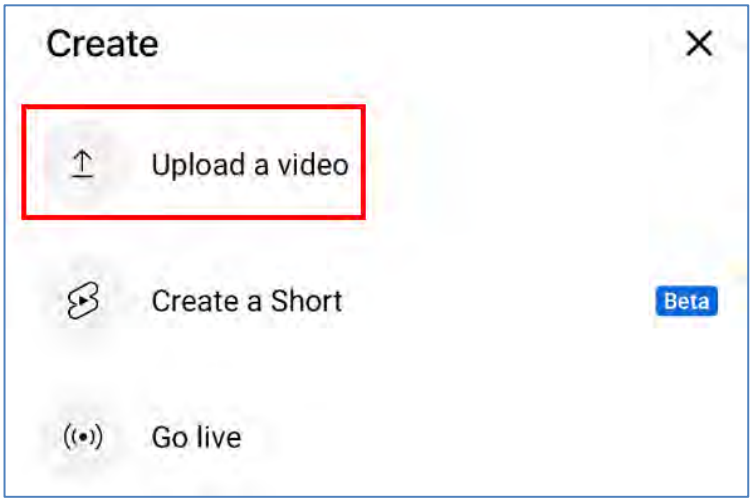
smartphones with web browsers, such as the Chrome browser, that can access the YouTube website and/or with the YouTube app, that include each and every limitation of Claim 18.

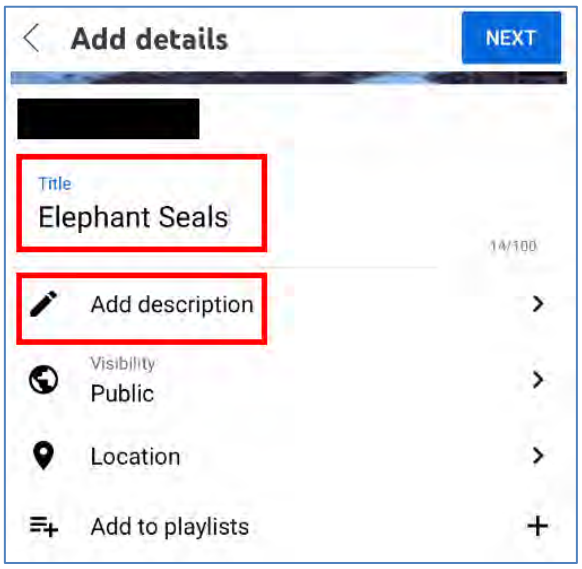
236. Google Pixel smartphones include one or more non-transitory computer-readable media (NTCRM) including program code. For example, the Pixel 3a includes a 64GB flash storage hard drive that stores program code.



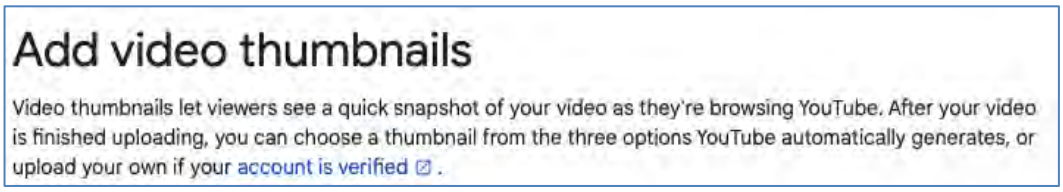
Source: https://www.ifixit.com/Teardown/Google+Pixel+3a+Teardown/123256

237. Google Pixel smartphones executing the YouTube app control receipt of a hot link message comprising a hot link and assignment information, the assignment information to assign the hot link to a graphical control element (GCE), and the hot link comprising instructions to perform an action and instructions for rendering and displaying the hot link. The hot link message received by the device includes the hot link, which includes instructions to perform an action, namely play the uploaded video. Additionally, the hot ink message includes the title and thumbnail associated with the video, which operate as instructions on how the recipient's device should display the hot link.



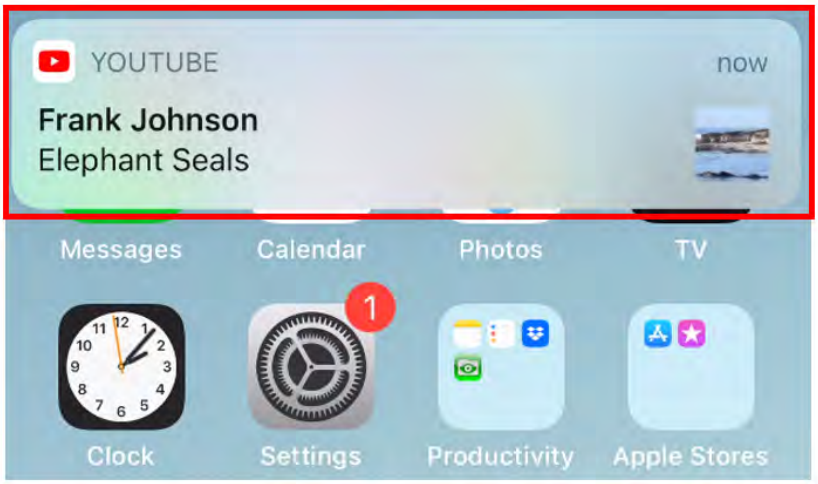


Source: Screenshots of the YouTube app.

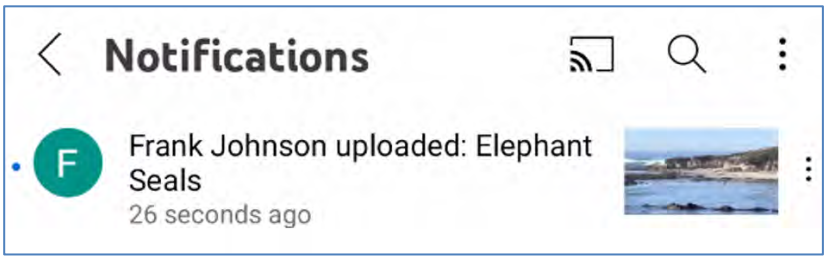


Source: https://support.google.com/youtube/answer/72431

238. Google Pixel smartphones generate a graphical user interface (GUI) to include the GCE to which the hot link is assigned according to the assignment information. For example, the recipient's smartphone displays the hot link message in accordance with the title and thumbnail specified by the channel owner.

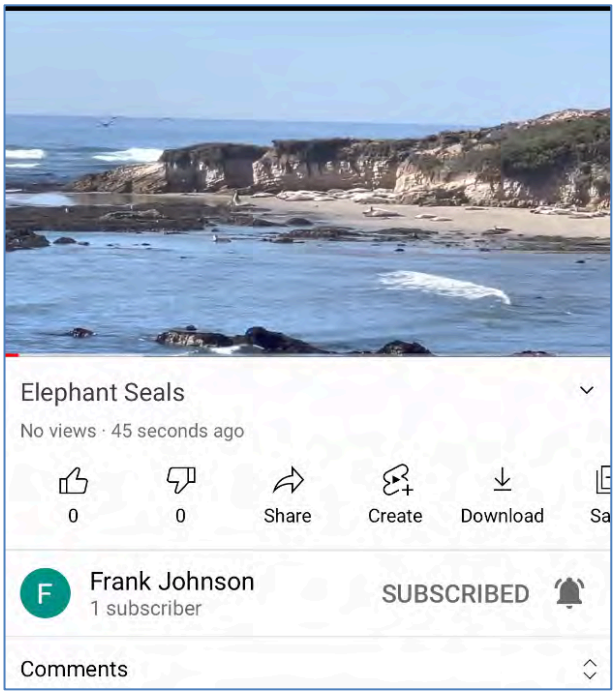


Source: Screenshot of push notification from YouTube app.



Source: Screenshot of YouTube app.

239. Google Pixel smartphones, in response to activation of the GCE, execute the instructions of the hot link to perform the action. When the recipient selects the hot link message, the instructions of the hot link are executed, and the uploaded video is played.



Source: Screenshot of YouTube app.

240. **<u>Inducement:</u>** Defendants have indirectly infringed and continue to indirectly infringe the '169 patent by inducing direct infringement of the '169 patent by their clients, customers, and users who directly infringe in the manner described above. Defendants were made aware of the '169 patent and their infringement of the '169 patent at least as early as November 30, 2021 when Wildseed Mobile provided notice of infringement of the '169 patent to Sundar Pichai of Google and Susan Wojcicki of YouTube. From at least the time that Defendants received notice, Defendants have been actively inducing their clients, customers, and users to directly infringe at least claim 18 of the '169 patent as described above.

241. Defendants have taken affirmative steps to induce infringement of the '169 patent by their clients, customers, and users by, for example, advertising and distributing the '169 Patent YouTube Notifications Accused Products and providing instruction materials, training, and services instructing clients, customers, and users to act in a manner that infringes the '169 patent. This includes advertising and distributing the '169 Patent YouTube Notifications Accused Products and providing instruction materials, training, and services regarding the '169 Patent

YouTube Notifications Accused Products instructing clients, customers, and users to act in a manner that infringes the '169 patent. See, e.g., https://support.google.com/youtube/answer/4489286, https://support.google.com/youtube/answer/3382248.

242. Defendants have specifically intended, and still intends, that their clients, customers, and users infringe the '169 patent. Defendants have been, and still are, aware that the acts of their clients, customers, and users described above constitute infringement of the '169 patent. Defendants have known and intended that their continued actions would actively induce the infringement of at least claim 18 of the '169 patent by their clients, customers, and users. With knowledge of both the '169 patent and its infringement of the '169 patent, Defendants acted with specific intent or willful blindness to actively aid and abet their clients, customers, and users in infringing at least claim 18 of the '169 patent. Defendants are thus liable for infringement of the '169 patent under 35 U.S.C. § 271(b).

243. **Contributory:** Defendants contribute to infringement of the '169 patent by offering to commercially distribute and commercially distributing the YouTube app to clients, customers, and users, which in combination with a mobile device, such as a smartphone or tablet, satisfy each and every limitation of the claims, as described above. First, to the extent a device is not preloaded with the YouTube app, Defendants provide the app to clients, customers, and users, who then install it on their devices, such as Apple iOS and Android smartphones and tablets. The underlying direct infringement, as described above, occurs, for example, when an end-user installs and runs a compatible version of the YouTube app on their device. The YouTube app constitutes a material portion of the invention, as is apparent from the infringement allegations described above, which detail infringement by the YouTube app. Since at least the date Defendants received notice of the '169 patent and their infringement of the '169 patent, Defendants have known that

the YouTube app is especially made and adapted for use in infringing the ’169 patent. The YouTube app only provides the user with access to YouTube services. The YouTube app is not a staple article or commodity of commerce and has no substantial non-infringing uses. The only purpose of the accused functionality of the accused YouTube app is to provide event and venue recommendations as described above. Furthermore, YouTube app is only operable when installed on a user device. As explained above, the YouTube app is designed and configured to infringe at least claim 18 of the ’169 patent

244. Second, to the extent Defendants’ devices are manufactured by third-party vendors, Defendants contribute to infringement of the ’169 patent by providing material parts of the invention, including the YouTube app loaded onto the mobile devices. The YouTube app is a material part of the invention, as is apparent from the infringement allegations described above, which detail infringement by the YouTube app. The underlying direct infringement, as described above, occurs when a third-party vendor makes, uses (e.g., tests), offers for sale, sells and/or imports into the United States mobile devices that use the YouTube app to utilize Defendants’ YouTube links and notifications. The YouTube app only provides the user with access to YouTube services. Since at least the date Defendants received notice of the ’169 patent and their infringement of the ’169 patent, Defendants have known that the YouTube app to be especially made or especially adapted for use in infringement of the ’169 patent, and not a staple article, nor commodity of commerce suitable for substantial non-infringing use. The only purpose of the accused functionality of the accused YouTube app is to provide event and venue recommendations as described above. Furthermore, YouTube app is only operable when installed on a user device. As explained above, the YouTube app is designed and configured to infringe at least claim 18 of the ’169 patent. In both cases, Defendants are liable for infringement of the ’169 patent under 35 U.S.C. § 271(c).

245. **Willfulness:** Since at least November 30, 2021, when the Defendants received a letter from Wildseed Mobile providing notice of the '169 patent and of their infringement of the '169 patent, Defendants' continuing infringement of the '169 patent has been willful and intentional. Since at least November 30, 2021, Defendants have been continuing to willfully infringe the '169 patent by refusing to take a license and continuing to make, use, test, sell, license, and/or offer for sale/license the '169 patent YouTube Notifications Accused Products. Defendants have been aware that they infringe the '169 patent since at least November 30, 2021; and instead of taking a license, Defendants have opted to make the business decision to "efficiently infringe" the '169 patent. Defendants thus knew, or should have known, that its conduct amounted to infringement of the '169 patent since at least November 30, 2021, when the Defendants received a letter from Wildseed Mobile informing them of the '169 patent and of their infringement of the '169 patent. Therefore, Defendants are liable for willful infringement of the '169 patent.

246. Defendants' infringement has damaged and injured and continues to damage and injure Wildseed Mobile.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that the Court enter judgment for Plaintiff and against Defendant as follows:

247. That U.S. Patent No. 7,376,414 be judged valid, enforceable, and infringed by Defendant;

248. That U.S. Patent No. 9,141,960 be judged valid, enforceable, and infringed by Defendant;

249. That U.S. Patent No. 10,251,021 be judged valid, enforceable, and infringed by Defendant;

250. That U.S. Patent No. 10,959,040 be judged valid, enforceable, and infringed by Defendant;

251. That U.S. Patent No. 10,869,169 be judged valid, enforceable, and infringed by Defendant;

252. That Plaintiff be awarded judgment against Defendant for damages together with interests and costs fixed by the Court including an accounting of all infringements and/or damages not presented at trial;

253. That the Court declare this an exceptional case and award Plaintiff its attorneys' fees, as provided by 35 U.S.C. § 285 and that Plaintiff be awarded enhanced damages up to treble damages for willful infringement as provided by 35 U.S.C. § 284; and

254. That Plaintiff be awarded such other and further relief as this Court may deem just and proper.

JURY DEMAND

Plaintiff respectfully requests a jury trial on all issues so triable.

Dated: February 28, 2021

/s/ *Robert F. Kramer*

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Complaint was filed electronically in compliance with Local Rule CV-5(a). Therefore, this document was served on all counsel who are deemed to have consented to electronic service on this 28th day of February 2022.

/s/ *Robert F. Kramer*