

EXHIBIT B



'Print this' sponsored by



Technology: Searching for Searches

The government is demanding millions of your queries. AOL, Yahoo and Microsoft have coughed up. Google is resisting.

By Steven Levy
Newsweek

Jan. 30, 2006 issue - Civil-liberties advocates reeling from the recent revelations on surveillance had something else to worry about last week: the privacy of the billions of search queries made on sites like Google, AOL, Yahoo and Microsoft. As part of a long-running court case, the government has asked those companies to turn over information on its users' search behavior. All but Google have handed over data, and now the Department of Justice has moved to compel the search giant to turn over the goods.

What makes this case different is that the intended use of the information is not related to national security, but the government's continuing attempt to police Internet porn. In 1998, Congress passed the Child Online Protection Act (COPA), but courts have blocked its implementation due to First Amendment concerns. In its appeal, the DOJ wants to prove how easy it is to inadvertently stumble upon porn. In order to conduct a controlled experiment—to be performed by a UC Berkeley professor of statistics—the DOJ wants to use a large sample of actual search terms from the different search engines. It would then use those terms to do its own searches, employing the different kinds of filters each search engine offers, in an attempt to quantify how often "material that is harmful to minors" might appear. Google contends that since it is not a party to the case, the government has no right to demand its proprietary information to perform its test. "We intend to resist their motion vigorously," said Google attorney Nicole Wong.

DOJ spokesperson Charles Miller says that the government is requesting only the actual search terms, and not anything that would link the queries to those who made them. (The DOJ is also demanding a list of a million Web sites that Google indexes to determine the degree to which objectionable sites are searched.) Originally, the government asked for a treasure trove of all searches made in June and July 2005; the request has been scaled back to one week's worth of search queries.

One oddity about the DOJ's strategy is that the experiment could conceivably sink its own case. If the built-in filters that each search engine provides are effective in blocking porn sites, the government will have wound up proving what the opposition has said all along—you don't need to suppress speech to protect minors on the Net. "We think that our filtering technology does a good job protecting minors from inadvertently seeing adult content," says Ramez Naam, group program manager of MSN Search.

Though the government intends to use these data specifically for its COPA-related test, it's possible that the information could lead to further investigations and, perhaps, subpoenas to find out who was doing the searching. What if certain search terms indicated that people were contemplating terrorist actions or other criminal activities? Says the DOJ's Miller, "I'm assuming that if something raised alarms, we would hand it over to the proper [authorities]." Privacy advocates fear that if the government request is upheld, it will open the door to further government examination of search behavior. One solution would be for Google to stop storing the information, but the company hopes to eventually use the personal information of consenting customers to improve search performance. "Search is a window into people's personalities," says Kurt Opsahl, an Electronic Frontier Foundation attorney. "They should be able to take advantage of the Internet without worrying about Big Brother looking over their shoulders."

© 2006 MSNBC.com

URL: <http://www.msnbc.msn.com/id/10965524/site/newsweek/>