

Aldo Badini Discusses Google Antitrust Ruling with Law360

AUGUST 8, 2024

Winston & Strawn partner and co-chair of the Technology Antitrust group spoke with Law360 to discuss how U.S. District Judge Amit P. Mehta handled the chat deletion and “communication with care” policies in the recent Google antitrust decision, and how this compares with the handling of Google spoliation issues by other courts. In Judge Mehta’s recent decision, he agreed with the U.S. Department of Justice that Google illegally monopolized online search by paying Apple, Mozilla, Samsung and others to be the default search engine on their browsers and devices but rejected the DOJ’s request to sanction Google for its policies and practices of permitting internal chats to delete automatically after 24 hours.

Aldo noted that Google had been sanctioned for its chat deletions by Judge Donato in another antitrust case against Google, but that Google then made that sanction an issue in its since-rejected bid for a new trial or judgment in its favor. In that case, Google had also complained that Epic improperly asked witnesses about document markings identifying them as privileged, only for the judge to excoriate Google for “a frankly astonishing abuse of the attorney-client privilege designation to suppress discovery.”

Judge Mehta’s handling of the spoliation issue, Aldo said, wasn’t a matter of being kind to Google. Instead, the Judge was being “rational,” he said, “to protect the case from appeal.”

Another key difference between their handling of the spoliation issue, Aldo said, was in the relief sought and under what law. The DOJ’s rejected sanctions bid, he said, was brought in search of a finding that the missing evidence could have shown Google’s intent to maintain its monopoly. But intent isn’t an element in civil monopolization cases, he said.

He stated that intent was, however, an important part of the Epic sanctions bid, in which the video game company sought an inference not that Google intentionally monopolized, but that it intentionally deprived litigants of evidence. “That’s completely different from an intent to monopolize,” he said. In the end, Aldo noted that one important lesson for lawyers is that they should not rely entirely on their clients to preserve discovery but should take steps of their own to make sure that appropriate material is preserved.

[Read the full article.](#)

2 Min Read

Related Topics

Technology Antitrust

Related Capabilities

Technology Antitrust

Antitrust/Competition

Related Professionals



Aldo A. Badini