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The Boston Globe

Google subpoena roils the Web US effort raises privacy issues

By Hiawatha Bray, Globe Staff | January 21, 2006

The US government's demand for millions of Internet search records from Google Inc. and other prominent search firms has raised new questions about the vast amounts of personal information collected by companies.

While federal investigators said they weren't seeking any data that could be traced to individuals, Internet privacy activists and some lawmakers said the action underscored concerns about what the search engines know about computer users and what could become of that information.

"Internet search engines provide an extraordinary service," said Representative Edward Markey, a Malden Democrat, "but the preservation of that service [should] not rely on a bottomless, timeless database that can do great damage despite good intentions."

Markey said yesterday that he will propose legislation as early as next month that would force search companies to destroy records containing personal information after "a reasonable period of time." Markey said that he'd been working on the legislation since last year, modeling it on a law that requires cable television firms to destroy personal data about customers' viewing habits.

Google is vowing to resist efforts by the US Justice Department to obtain information about the searches run by millions of its users, even though investigators are seeking aggregate data about Internet use, not individual users' records. The Justice Department wants the information as part of its effort to defend the Child Online Protection Act, a 1998 federal law that seeks to ban Internet sites from displaying content that the government deems "harmful to minors." The Supreme Court has ruled that the law can't be enforced unless the government shows less intrusive measures such as Internet filtering are inadequate. The government hopes to use search results from Google and other companies to show that Internet pornography is so pervasive that only a federal law can protect children from it.

Yahoo Inc., Microsoft Corp.'s MSN search service, and Time Warner Inc.'s AOL service have all agreed to provide the information, according to a Justice Department spokesman. But Google has refused, saying that releasing the data would compromise its users' privacy and the company's trade secrets. "Google is not a party to this lawsuit and their demand for information overreaches," said Nicole Wong, Google's associate general counsel. "We intend to resist their motion vigorously."

Meanwhile, shares of Google had their biggest decline ever yesterday as the company continued to resist the Justice Department's demand. Google dropped nearly 8.5 percent, to close at \$399.46.

During each visit to Google or any other Internet site, a visitor's computer reveals a numerical address assigned by the user's Internet provider. The site can store that information, along with the date and time of the visit. This information can be used by researchers, marketers, or investigators to trace the visitor's identity.

In papers filed yesterday at a federal court in San Jose, Calif., government attorneys said that they are not seeking information about individuals. They want the search companies to provide a sample of a million websites from the billions they currently index, as well as all the search terms typed into the services during a one-week period. All information that could identify individuals is to be removed before the data is given to the government. The government could use the data to estimate how pervasive pornography is on the Internet and how often pornographic sites come up in random Internet searches.

The federal subpoenas have dismayed Internet privacy activists. "There's something disturbing about the notion that when you search for something the government is going to be looking over your shoulder," said Kurt Opsahl, staff attorney for the Electronic Frontier Foundation, an Internet civil liberties group.

The subpoenas also drew attention to how the major search services have become repositories of their users' personal

data. "They have lots of information," said Danny Sullivan, editor of Search Engine Watch, an industry trade publication. "They know what people are clicking on. They know what people are searching for." By analyzing their vast databases of past searches, the companies can improve their software to help users find data more quickly. The companies can also upgrade the lucrative software that places paid advertisements on the search results pages. Currently, Google retains information about Web users' online activity for as long as it deems the data useful, according to a company spokesman.

Some privacy activists have long feared that companies like Google could abuse the data, by providing it to government officials or by using it themselves to track individual Internet usage. One public interest group, Public Information Research Inc. of San Antonio, runs scroogle.org, an Internet service that disguises the Internet address of searchers who want to run Google and Yahoo searches anonymously.

Opsahl suggested that Internet users concerned about privacy should do their Internet searches through Scroogle or other Internet "proxies" that hide the address of the searcher. But he also urged Google and other search companies to regularly erase their database of saved searches. "Perhaps they should consider whether it's worthwhile to keep all this information indefinitely," he said.

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