

ORIGINAL

MARK ANDREW BILTZ
52 WAIAPO STREET
KIHEI, HAWAII 96753
(808) 276-1151
MarkBiltz@brianevans.com

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

FEB 14 2018

at 2 o'clock and 25 min. P.M.
SUE BEITIA, CLERK

PRO SE

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

MARK ANDREW BILTZ
52 WAIAPO STREET
KIHEI, HAWAII 96753
Plaintiff, Pro Se

CV18 00059 DKW (KJM)

vs.

GOOGLE, INC.,
1600 Amphitheatre Parkway
Mountain View, CA 94043,
GOOGLE ADWORDS
1600 Amphitheatre Parkway
Mountain View, CA 94043,
SUNDAR PICHAI, Individually and in his Official Capacity at CEO of GOOGLE, INC.,
1600 Amphitheatre Parkway
Mountain View, CA 94043,
ALPHABET, INC,
1600 Amphitheatre Parkway

Mountain View, CA 94043,
DOES 1-50, Defendants

CIVIL NO. _____

**COMPLAINT FOR FRAUD, BREACH OF CONTRACT, INTENTIONAL INFLECTION
OF EMOTIONAL DISTRESS**

JURY TRIAL DEMANDED

Plaintiff, MARK ANDREW BILTZ, in PRO SE, herein files this Complaint for Fraud, Breach of Contract, and Intentional Infliction of Emotional Distress. Plaintiff requests this Honorable Court grant him the latitude of a Pro Se litigant until Counsel enters an appearance.

STATEMENT OF CLAIM

COUNT ONE

BREACH OF CONTRACT

Defendants entered a verbal Agreement with Plaintiff to allow for exclusive distribution via it's YouTube platform for the broadcasting of the music video, "At Fenway," in 2012 (for which Plaintiff was producer). The Agreement was that Evans would receive \$1 per view for two full years. The video has received more than 11 million views to date on the service, which includes the actor William Shatner as a co-star.

COUNT TWO

FRAUD

Defendants, who for whatever reason decided not to honor what the original Agreement was, instead turned the exclusive agreement to exclusively broadcast a music video into an “ad campaign,” through its Google “AdWords” platform, and valued that campaign at over \$3.5 million, and fraudulently marked the invoices as “PAID,” despite the Plaintiff never paying a single dime for the campaign, nor seeking an advertising campaign, applying for credit, or signing any agreement whatsoever with Google Adwords. In late 2017, Defendants manipulated the invoices as displayed in the attached exhibits. Not only did this defraud the Plaintiff and the IRS, but also sent the message to Defendants shareholders, most likely, that they profited in advertising valued at over \$3.5 million in their report to shareholders, which was never paid nor ever owed by Plaintiff. Additionally, by claiming the invoices were “PAID,” it put our former Company, MCS, INC, and potentially the Plaintiff in his individual capacity (at that time MCS, INC was operating, yet authorization was never give to the Defendants to use our company name) on the hook for state and federal taxes for invoices that were never supposed to exist, never were paid, and never were requested by the Plaintiff. **EXHIBIT A** are invoices submitted to Plaintiff for this fictional ad campaign, with \$0 taxes paid by Defendant (“due in July 2013, addressed to Plaintiff’s Hawaii address), and **EXHIBIT B** are statements by Defendants marking the invoices as “PAID” when they never were. **EXHIBIT C** is an email from a Google AdWords employee (to artist Brian Evans of the music video) requesting to see a signed Agreement, when this Google employee knew the Agreement was verbal and binding, consummated by the broadcasting of the music video on its YouTube platform and making no claim that there was an existing ad campaign. **EXHIBIT D** are actual Credit Memo’s totaling \$2,482,504.28 and \$1,031,589.80, none of which has been paid to Plaintiff towards the amount owed. In these Credit Memo’s, they specifically state “Do Not Pay. This is a credit for your account.” And yet,

no payment of this credit has been made towards the balance due per the original Agreement.

These credits are dated five months later, and sent to a Massachusetts address, doctored by Defendants, after the original invoices as stated in Exhibit A. Plaintiff did not live at the Hawaii address listed in Exhibit A until September 2017, and is an address the Defendants could not have possibly known, as even the Plaintiff did not know he would live at that address five years earlier (the invoice claims to have been issued in 2013, only the address changed as they altered the invoices in 2017, making no notation of the document being newly created in 2017).

EXHIBIT E is a published story where the Defendants have done something similar in another case against them. When a Demand for Payment was made, Defendants then, again, manipulated the invoices to claim the amounts were due, even invoicing Plaintiff for an amount that he never received (**EXHIBIT F**). **EXHIBIT G** is an invoice for an amount never paid to the Plaintiff, and on this particular invoice, taxes are noted as due (but not on any other previous invoices, in retaliation for reporting this matter to the SEC and IRS, which are currently investigating what we have provided).

Another example, **EXHIBIT H** displays invoices “PAID,” and then manipulated in January 2018, five years after the original invoices, as Defendants attempt to cover up their deception when Plaintiff requested what was owed per the original Agreement. **EXHIBIT I**, printed from their own AdWords account, states that *without a contract or credit application*, Defendants claimed “MCS Marketing, Inc,” was provided a budget of *unlimited spending* plus \$20,118.92, and another column claiming, again, with unlimited spending plus \$1,609.34.

The question is simple: What company permits \$3.5 million in advertising, then credits that amount, lists no taxes, but only does so when Plaintiff requested payment for the original Agreement, without any credit application or agreement? It puts into question any piece of

evidence Defendants could supply to support a defense. The individual whom this Agreement was entered into was conveniently fired in 2017, around the same time Plaintiff demanded payment.

COUNT THREE

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Plaintiff, having the expectation of these monies, has been caused tremendous Emotional Distress. The Defendants went out of their way to not only deprive Plaintiff of his monies due, but then actually created invoices for what appears to be an “ad campaign,” that the Plaintiff never ran, never applied for, was never provided a credit line for, and simply marked the invoices “PAID,” in an effort to conceal their agreement and instead turn it into what appears as an ad campaign.

CONCLUSION

Plaintiff sues Defendants for \$12,000,000 plus interest, and any taxes both state and federal for which the fraudulently created invoices marked “PAID” now have become the responsibility of Plaintiff. Hawaii is where Plaintiff resides, resided during the deal, and has resided during the campaign. No Agreement was ever entered into with Google Adwords that would have held jurisdiction to another venue. The Claims made in this case are within the statutes of limitations per Haw. Rev. Code Ann. § 490:2-725 (2016); Haw. Rev. Code Ann. § 657-1(1) (2016), and Haw. Rev. Code Ann. § 657-1(4) (2016) governing both Breach of Contract and Fraud (and falls within the six year statutes of limitations, even though we only discovered this fraud by Defendants in 2017). No contract exists that binds to any other state other than Hawaii, where the Agreement took place, and Plaintiff “opted out” of arbitration in this matter after receiving an

email displaying these fraudulent manufactured invoices. Any defense to the contrary is as manufactured and recreated as their own invoices. Plaintiff also seeks punitive damages, and all other damages that are proper under the law. Their most recent invoice, which was only sent after we filed various complaints with agencies and sent a Demand for Payment to Google, was then sent to Plaintiff at his Hawaii address, again, confirming their knowledge that Plaintiff resides in Hawaii, and specifically placing our Corporate names on the invoice in an attempt to make certain Plaintiff could not file Pro Se, as an Agreement with a Corporation (or LLC) would have required an attorney to represent any such lawsuit as the one herein being filed. The Defendants have continuously manipulated and doctored their own invoices, failed to pay taxes on invoices that would have made Plaintiff liable for said taxes, and waited over five years to send an invoice to Plaintiff, again, with no taxes no listed as due (that new invoice claims to still state that it was issued in July 2013, and the credits listed in the attached exhibits continue to claim they were issued in December of 2013). Exhibit D conclusively confirms that Defendants had knowledge of the original Agreement, or they would not have issued a credit for the exact same amount they invoiced Plaintiff for.

Plaintiff respectfully requests this Honorable Court grant him the latitude of a Pro Se litigant until such time an attorney is retained and reserves the right to Amend this Complaint.

JURISDICTION

Jurisdiction is proper under 28 U.S.C. 1332 under Diversity Jurisdiction. Under FRCP 11, by signing below, I certify to the best of my knowledge, information, and belief, that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have

evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity to further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11. Plaintiff agrees to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark AB", with a stylized flourish at the end.

MARK ANDREW BILTZ

February 12, 2018

EXHIBIT A



Invoice

Invoice number: 2194838384

Google LLC
1600 Amphitheatre Pkwy
Mountain View, CA 94043
United States
Federal Tax ID: 77-0493581

Bill to

89148 Productions, LLC
MCS Marketing, INC.
52 Waiapo Street
Kihei, HI 96753
United States

Details

Invoice number2194838384
Invoice dateJun 30, 2013
Payment termsNet 30
Billing ID9005-8809-0591
Account ID521-760-3851

Google AdWords

Total amount due in USD **\$2,482,504.28**
Due Jul 30, 2013

Summary for Jun 2, 2013 - Jun 30, 2013

Pay in USD:
Subtotal in USD \$2,482,504.28
Tax (0%) \$0.00
Total amount due in USD \$2,482,504.28

Remittance instructions:

To ensure we correctly match your payment, always reference invoice numbers when making your payment. If paying for multiple invoices, send an email to collections@google.com with your company name and total payment amount in the subject line and list the invoice numbers & respective amounts in the email. Please send your payments only to the bank account listed below on this official Google invoice.

To pay by wire transfer, send to:

Account holder name: Google Inc.
Bank: Wells Fargo Bank, Palo Alto, CA 94321-0150
SWIFT BIC: WFBUS6S
ABA #: 121000248
Account #: 4121100648

To pay by check, mail to:

Google Inc.
Dept. 33654
P.O. Box 39000
San Francisco, CA 94139
United States



Invoice number: 2194838384

Summary of costs by account budget

Jun 2, 2013 - Jun 30, 2013

Account ID	Account	Account budget	Purchase order	Amount(\$)
521-760-3851		MCS Marketing, INC.		2,481,967.24
521-760-3851		MCS Marketing, INC.		567.26
521-760-3851		MCS Marketing, INC.		-30.22
Total in USD				\$2,482,504.28



Invoice number: 2194838384

Account ID: 521-760-3851

Account budget: MCS Marketing, INC.

Jun 7, 2013 - Jun 16, 2013

Description	Quantity	Units	Amount(\$)
Campaign #41	7171781	Clicks	777,488.72
Campaign #23	6891178	Clicks	554,517.79
Campaign #35	3039019	Clicks	363,611.86
Campaign #26	909838	Clicks	122,473.85
Campaign #39	1202691	Clicks	102,378.82
Campaign #24	1237977	Clicks	100,407.89
Campaign #47	784717	Clicks	82,248.00
Campaign #27	1133896	Clicks	75,503.97
Campaign #46	16950	Clicks	60,000.00
Campaign #45	15132	Clicks	53,474.57
Campaign #44	593911	Clicks	53,168.43
Campaign #49	262609	Clicks	36,473.73
Campaign #36	339781	Clicks	27,749.13
Campaign #48	263652	Clicks	19,864.23
Campaign #43	143088	Clicks	17,978.98
Campaign #50	173653	Clicks	9,630.46
Campaign #32	47046	Clicks	8,099.65
Campaign #28	24528	Clicks	3,317.42
Campaign #29	23671	Clicks	3,255.47
Campaign #54	30278	Clicks	1,966.18
Campaign #57	9767	Clicks	1,819.74
Campaign #51	12372	Clicks	1,594.70
Campaign #30	17879	Clicks	1,465.44
Campaign #52	16822	Clicks	1,232.98
Campaign #34	4457	Clicks	1,070.04
Campaign #53	5242	Clicks	615.69
Campaign #55	2166	Clicks	328.42
Campaign #40	1556	Clicks	217.18

Google™ Invoice

Invoice number: 2194838384

Account ID: 521-760-3851

Account budget: MCS Marketing, INC.

Jun 7, 2013 - Jun 16, 2013

Description	Quantity	Units	Amount(\$)
Campaign #56	50	Clicks	13.31
Campaign #38	2	Clicks	0.59
		Subtotal in USD	\$2,481,967.24
		Tax (0%)	\$0.00
		Total in USD	\$2,481,967.24



Invoice number: 2194838384

Account ID: 521-760-3851

Account budget: MCS Marketing, INC.

Jun 17, 2013 - Jun 30, 2013

Description	Quantity	Units	Amount(\$)
Campaign #41	8591	Clicks	680.95
Campaign #53	4961	Clicks	501.54
Campaign #55	4949	Clicks	324.38
Campaign #54	4014	Clicks	240.24
Invalid activity			-0.08
Invalid activity			-0.11
Invalid activity			-0.35
Invalid activity			-0.45
Invalid activity			-0.63
Invalid activity			-1.21
Invalid activity			-1.30
Invalid activity			-2.53
Invalid activity			-6.70
Invalid activity			-8.21
Invalid activity			-25.97
Invalid activity			-58.63
Invalid activity			-204.24
Invalid activity			-869.44
		Subtotal in USD	\$567.26
		Tax (0%)	\$0.00
		Total in USD	\$567.26

Google™ Invoice

Invoice number: 2194838384

Account ID: 521-760-3851

Account budget: MCS Marketing, INC.

Jun 2, 2013

Description	Quantity	Units	Amount(\$)
Invalid activity			-30.22
		Subtotal in USD	-\$30.22
		Tax (0%)	\$0.00
		Total in USD	-\$30.22

EXHIBIT B

Refund Request - bevan... Sent Mail - singerbriane... TCR External AdWords Contact Us | T-Mobile

Secure | https://adwords.google.com/aw/billing/invoices?ocid=81134682&billingId=100885482&_c=7245355018&authuser=0&_u=9589485465

Billing & payments

1 / 2 > None of your ads are running - Your campaigns and ad groups are paused or removed. Enable them to begin showing your ads. [LEARN MORE](#)

Summary
Invoices
 Transactions
 Settings
 Account budgets
 Billing transfers

All invoices

Period ending	Due date	Invoice number	Invoice amount (USD)	Amount paid (USD)	Balance (USD)
Oct 19, 2017	Nov 18, 2017	3391120796	\$15,106.99	\$15,106.99	\$0.00
Jun 30, 2013	Jul 30, 2013	2194838384	\$2,482,504.28	\$2,482,504.28	\$0.00
Apr 30, 2013	May 30, 2013	1053319287	\$1,036,988.55	\$1,036,988.55	\$0.00
Totals for this date range			\$3,534,599.82	\$3,534,599.82	\$0.00

1 to 3 of 3 < >

© 2017 Google

← Billing & payments



None of your ads are running. Your campaign and ad groups are paused or disabled. Enable them to begin showing your ads. [EARN MORE](#)

Summary

Summary

Invoices

Transactions

Settings

Account budgets

Billing transfers

Amount due

\$0.00

You cancelled your payments account on Oct 29.

Invoicing

Transactions

Nov 1 - 15, 2017	\$0.00	
Oct 1 - 31, 2017	\$0.00	↓
Sep 1 - 30, 2017	-\$15,106.99	↓

[VIEW TRANSACTIONS AND DOCUMENTS](#)

Invoices

3391120796	Paid	\$15,106.99
2194838384	Paid	\$2,482,504.28
1053319287	Paid	\$1,036,988.55

[VIEW INVOICES](#)

Settings

AdWords 521-760-3851

MCS Marketing, INC.

1 user

[MANAGE SETTINGS](#)

EXHIBIT C

← Trash

7 Messages
Google AdWords



Hi Brian,

Hope you are doing fine!

Tried reaching you on your phone, however could not establish a contact. I understand you had a contract with Google regarding the video being promoted on YouTube which included you and actor William Shatner.

Could you please help us with any sort of document regarding the legality of the contract.? It would be of great help.

Awaiting your response!

Sincerely,

Ami

Google Inc. | The Google AdWords Team | Google Marketing Solutions | adwords.google.com

We're here to help

Call at 1-800-456-4864

Email adwords@google.com

Chat

Chat

Ask Experts

Help Center



EXHIBIT D



Google Inc.
 1600 Amphitheatre Pkwy
 Mountain View, CA 94043
 USA
 Federal Tax ID: 77-0493581

Bill to
 MCS Marketing, INC.
 Mark A. Biltz
 59 Eden Rd
 Rockport, Massachusetts 01966
 USA

Details
 Credit memo number: 2701722480
 Issue date: Dec 18, 2013
 Payment terms: Net 30
 Billing ID: 9005-8809-0591

Google AdWords
Account ID: 521-760-3851
Order name: MCS Marketing, INC.

Dec 18, 2013

Description	Amount (\$)
Service Adjustment	-2,482,504.28
Subtotal:	-2,482,504.28
Tax (0%):	0.00
Amount in USD:	-2,482,504.28

Bill to: MCS Marketing, INC.
 Billing ID: 9005-8809-0591
 Credit memo number: 2701722480

Amount in USD:	(\$2,482,504.28)
-----------------------	-------------------------

Do not pay. This is a credit for your account.



Google Inc.
 1600 Amphitheatre Pkwy
 Mountain View, CA 94043
 USA
 Federal Tax ID: 77-0493581

Bill to
 MCS Marketing, INC.
 Mark A. Biltz
 59 Eden Rd
 Rockport, Massachusetts 01966
 USA

Details
 Credit memo number: 2701876080
 Issue date: Dec 19, 2013
 Payment terms: Net 30
 Billing ID: 9005-8809-0591

Google AdWords
Account ID: 521-760-3851
Order name: MCS Marketing, INC.

Dec 19, 2013

Description	Amount (\$)
Service Adjustment	-1,031,589.80
Subtotal:	-1,031,589.80
Tax (0%):	0.00
Amount in USD:	-1,031,589.80

Bill to: MCS Marketing, INC.
 Billing ID: 9005-8809-0591
 Credit memo number: 2701876080

Amount in USD:	(\$1,031,589.80)
-----------------------	-------------------------

Do not pay. This is a credit for your account.

belasvegas@yahoo.com - Yahoo x AdWords x +

https://adwords.google.com/aw/billing/summary?ocid=81134682&billingId= Search

Most Visited Getting Started Binarycent Hawai'i Intermediate ...

Billing & payments GO TO [Icons: Print, Settings, Help, Notifications, Profile]

< 2 / 2 > Your account isn't active - Your ads aren't running because you've canceled your account. REACTIVATE CONTACT US

Summary	Summary		
Transactions	Date	Activity	Amount (USD)
Settings	Dec 19, 2013	Credit memo	-\$1,031,589.80
Account budgets	Dec 18, 2013	Credit memo	-\$1,447,082.40
Billing transfers	Oct 31, 2013	Adjustment applied	-\$289.95
	Sep 30, 2013	Adjustment applied	-\$87.88
	Aug 31, 2013	Adjustment applied	-\$1,877.42
	Jul 31, 2013	Adjustment applied	-\$1,576.83
	Jun 30, 2013	Invoice document created Mailed to: None Emailed to: mark.biltz@brianevans.com	\$2,482,504.28

belasvegas@yahoo.com - Yahoo X AdWords X +

https://adwords.google.com/aw/billing/summary?ocid=81134682&billingId= Search

Most Visited Getting Started Binarycent Hawai'i Intermediate ...

← Billing & payments GO TO [Icons]

< 2 / 2 > Your account isn't active - Your ads aren't running because you've canceled your account. REACTIVATE CONTACT US

Summary Transactions Settings Account budgets Billing transfers

Summary

Invoice activity

Documents (2) ^

CSV Invoice (1)
2194838384 (Created: 7/1/13)

PDF Invoice (1)
2194838384 (Created: 1/25/18)

Date	Activity	Amount (USD)
Dec 19, 2013	Credit memo	-\$1,031,589.80
Dec 18, 2013	Credit memo	-\$1,447,082.40
Oct 31, 2013	Adjustment applied	-\$289.95
Sep 30, 2013	Adjustment applied	-\$87.88

belasvegas@yahoo.com - Yahoo X (2) Brian Evans X AdWords X +

https://adwords.google.com/aw/billing/transactions?ocid=81134682&billingl Search

Most Visited Getting Started Binarycent Hawai'i Intermediate ...

Billing & payments GO TO [icon] [icon] [icon] [icon]

< 1 / 2 > None of your ads are running - Your campaigns and ad groups are paused or removed. Enable them to begin showing your ads. LEARN MORE

Summary **Transactions**

Transactions

Payment methods

Settings

Billing transfers

PDF Invoice (2)
 2701876080 (Created: 12/19/13)
 2701722480 (Created: 12/18/13)

CSV Invoice (2)
 2701722480 (Created: 12/18/13)
 2701876080 (Created: 12/19/13)

Ending balance: \$0.00

Date	Description	Amount (USD)
Dec 19, 2013	Service Adjustment	-\$1,031,589.80
Dec 18, 2013	Service Adjustment	-\$2,482,504.28

Starting balance: \$3,514,094.08

EXHIBIT E

BUSINESS
INSIDER



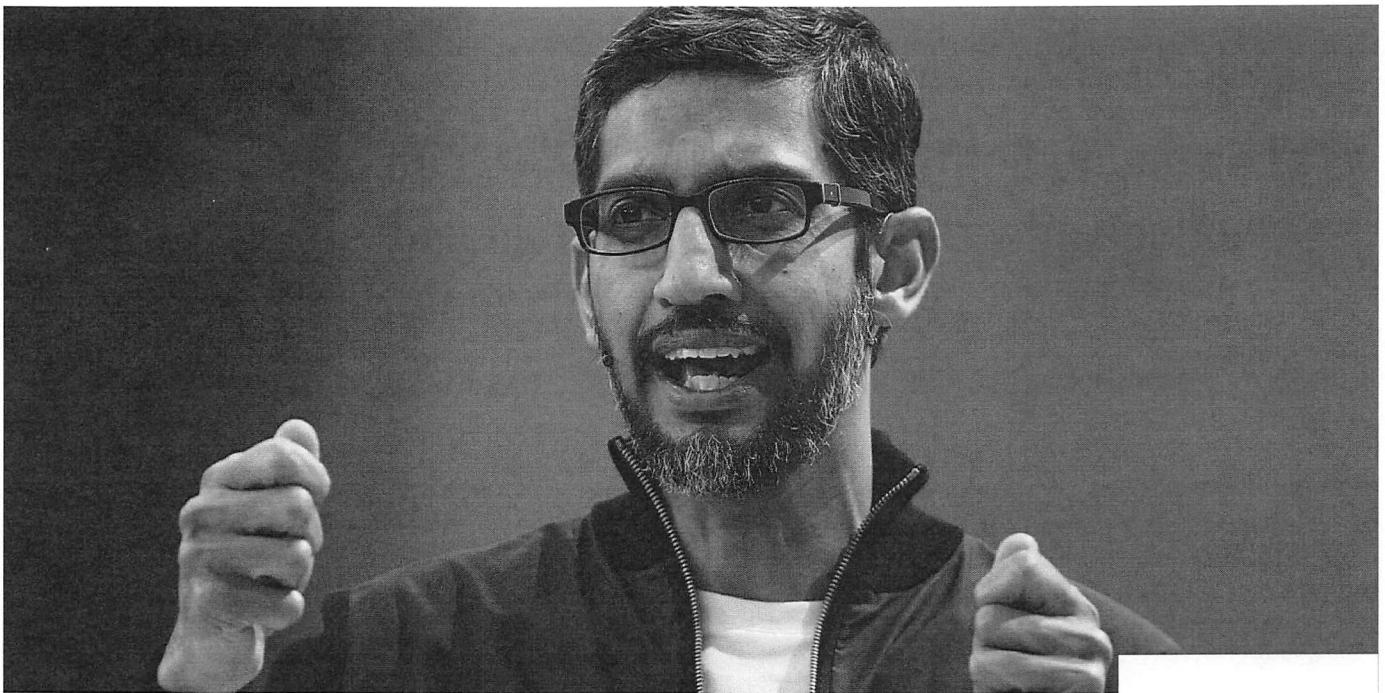
Highly engaged companies
Track what really matters
have 30% higher productivity



TECH INSIDER

Lawsuit based on a surreptitiously recorded phone call claims Google doesn't refund advertisers who spend money on fraudulent clicks

Jim Edwards Dec 13, 2017, 1:28 PM ET



Google CEO Sundar Pichai

- Google is being sued by an ad management company, AdTrader, that claims it does not refund advertisers whose money is spent on invalid or fraudulent clicks.
- The lawsuit is based in part on a surreptitiously taped phone call, in which a Google employee explains why AdTrader is being kicked off its

BUSINESS INSIDER

In the end, the case says Google will refund AdTrader's advertisers for money spent on clicks that were in violation of Google's rules, the suit alleges.

- **AdTrader claims its clients received nothing.**
- **Google denies the claims.**

A web advertising company named AdTrader, whose staff surreptitiously recorded a phone conversation with a Google executive, claims in a class-action lawsuit that Google does not refund money to advertisers when it discovers that those advertisers have spent money on fraudulent or invalid clicks.

If the suit is successful it could put Alphabet, Google's parent company, under pressure to repay tens or hundreds of millions of dollars to advertisers whose money was spent on websites that Google later deemed broke its rules. The suit, citing a 2014 report, claims AdX generates \$1 million per hour for its publishers.

A Google spokesperson said, "We look forward to reviewing the specific complaint. From what we have read in the press, these allegations are without merit. We have a longstanding policy of refunding advertisers for invalid traffic. As we recently announced, this is currently being expanded to include ads purchased via DoubleClick Bid Manager." That announcement was made in September.

Google is likely to fight the case. The company has an incentive to remove bad actors from its systems in order to make its sure its ad inventory is of high quality, to keep advertisers coming back for more.

The search giant has suffered for years from unfounded rumours that it retains money spent through its ad placement systems on websites that break its rules. The company often has difficulty explaining publicly why it kicks publishers off its platforms because to do so would offer clues to nefarious operators on how to avoid Google's scam detection efforts. Google is also plagued by low-quality websites and advertisers who try to game its systems to their own advantage, and the company is known to be aggressive about removing them.

**BUSINESS
INSIDER**

Ad

- Download the lawsuit here.

Nearly \$500,000 - gone

About \$80 billion of Google's \$90 billion in annual revenue comes from advertising sales. Put very simply, Google provides a massive set of platforms through which advertisers pay to place their ads on thousands of available websites. Advertisers simply pick what type of people they want to target - by gender or location, for instance - and Google automatically places those ads on websites that fit the bill. Similarly, Google allows website publishers to offer their empty ad space for sale on those systems. That business is so lucrative, and so complicated, that ad management companies have sprung up to assist advertisers and publishers to get the best deals.

New Jersey-based AdTrader is one of those companies. Its staff came to believe there was a financial discrepancy in their payments from Google, the US federal lawsuit claims, when they taped a phone call with Google's Dublin-based director of online partnerships, Anthony Nakache. In the call, Nakache allegedly says that \$476,622 paid by advertisers that ran on sites that fell afoul of Google's rules would be refunded to AdTraders' advertising clients, according to the suit. What Nakache did not know, AdTrader claims, is that AdTrader was acting as both a buyer and a seller of ad space for its clients and was thus able to check whether that \$476,622 actually arrived in its clients' accounts.

The money was never received from Google by the clients, the suit claims, and AdTrader ended up reimbursing its clients for the sum. "Advertisers have long been

BUSINESS INSIDER

and this lawsuit is intended to force Google to pay back its advertisers what they are owed," said Randolph Gaw of the law firm Gaw Poe in San Francisco, the attorneys representing AdTrader in the case.

The secretly recorded call

On May 19, 2017, Google informed AdTrader in an email that its DoubleClick Ad Exchange (AdX) account was suspended, and \$476,622 in ad sales accrued in it would be withheld. The company was also kicked off the AdX platform. Google's email was not specific as to why AdTrader was banned, but it mentioned that placing ads on sites with "misguided navigation" issues, such as "Linking to content that does not exist," as an example of the violations AdTrader could have committed.

Over the next five days, AdTrader scrambled to find out why Google was withholding its cash. On May 24, 2017, someone on AdTrader's staff began recording a phone call with Google's Nakache. The Google employee was in Ireland and the AdTrader employee was out of the US at the time, so US privacy law did not apply to the call, the lawsuit states. According to a transcript prepared for the lawsuit, the conversation went like this:

AdTrader: All of the money is going to be refunded to advertisers?

Nakache: Yes.

AdTrader: Does that mean that every single impression and every single click for all of our publishers has been...

Nakache: Exactly. Everything in the account, the account is in violation of our policy, advertisers have been impacted, and as a result we have made the decision to refund all the advertisers and all the revshare from Google. ***

AdTrader: So, every single advertisers who has bought a single impression for the past two months from any of our publishers will get their money back? Is that correct?

Nakache: Yes. ***

BUSINESS INSIDER

Nakache: No, the money is going to be paid back to the advertisers.

AdTrader: So, whether the appeal is successful or not, we will still not receive the payment, is that correct?

Nakache: Yes.

- Listen to the phone call here.

Puzzled, AdTrader asked its other clients if they had ever received a refund from Google. None of them had received any money, the suit alleges.

Ad

The plaintiffs do not say how much money they believe Google withholds from publishers each year. Google doesn't break out how much revenue runs through its various online ad products, which include DoubleClick Ad Exchange, DoubleClick Bid Manager, AdWords, AdSense, and others. So it is difficult to estimate how much money is at stake if Google loses or settles the case.

What's at stake

Google has hundreds of different apps and platforms that generate its sales, but it breaks down those revenues into only five large segments. Some products, such as AdX and Bid Manager, can be used to buy Google ads in more than one segment.

BUSINESS INSIDER

It is not clear what percentage is spent through AdX, or what percentage is taken by Google in disputed circumstances. Brian Wieser, a senior research analyst at the Pivotal Research Group who has covered Google for years, believes \$14 billion might run through the system that AdTrader was using. But he calls that a "crude guess" because "it's difficult to know with much precision."

Separately, Google said in August that it would refund 7-10% of total purchases back to advertisers after it had discovered invalid clicks on ads bought in Q2 2017 through DoubleClick Bid Manager.

Another suit has been granted class-action status

The AdTrader allegations bear a resemblance to a similar set of allegations that surfaced in 2014, when Google was accused by at least seven web publishers of wrongly taking millions in ad fees their sites had earned using Google's AdSense program. The sites all claim they were following Google's strict advertising rules, and some say they were encouraged by Google's sales employees to continue what they were doing. But then their AdSense accounts were suddenly cancelled, and all the money in their accounts removed. Google denied their appeals and gave little detail on what prompted the cancellations.

Ad

Three companies sued. One of them, Free Range Content Inc., persuaded a federal judge in Northern California to grant its lawsuit class-action status in July of this year.

BUSINESS INSIDER

customers. The case is ongoing. Google denies the allegations.

Why would Google kick publishers and ad managers off its system, when it needs those companies to generate the ad inventory Google's own revenues are dependent on? AdTrader claims in the suit that it has discovered an answer.

Balint Torok, a strategic partner manager based at Google in Dublin, told AdTrader that some companies appear on Google's radar when they reach a certain revenue run-rate, for instance \$4-5 million, the suit claims. AdTrader's own employees believed that at that level, its clients might be creating enough revenue that Google would want to cut out the middleman and work directly with them, the suit alleges.

A few days after Google terminated AdTrader on May 19, it contacted one of AdTrader's most important clients, a video game highlights company called DingIt, to begin a direct relationship, the suit claims.

SEE ALSO: This company says it lost \$1 million because it didn't follow Google's rules

AND: Google sued over conspiracy theory that it defrauded thousands of publishers of ad money

NEXT UP: This man is furious at Google for taking hundreds of thousands of dollars from his AdSense account

NOW WATCH: How airplanes fly those giant banner ads - it's more dangerous than you think

**BUSINESS
INSIDER**

Ad

Share This Post

**BUSINESS
INSIDER**

**BUSINESS
INSIDER**

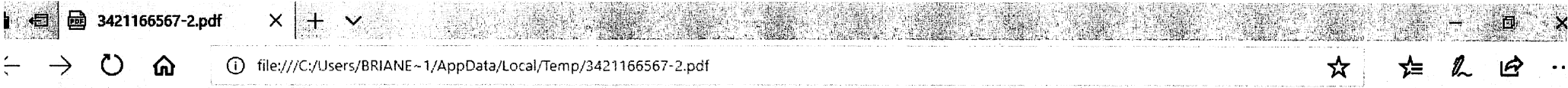


* Copyright © 2017 Business Insider Inc. All rights reserved. Registration on or use of this site constitutes acceptance of our [Terms of Service](#) and [Privacy Policy](#).

[Sitemap](#) | [Disclaimer](#) | [Commerce Policy](#) | [Made in NYC](#) | Stock quotes by [finanzen.net](#)

International Editions: | [UK](#) | [DE](#) | [AUS](#) | [IN](#) | [MY](#) | [SG](#) | [PL](#) | [SE](#) | [NL](#) | [FR](#) | [IT](#) | [JP](#)

EXHIBIT F



Google™ Debit Memo

Debit memo number: 3421166567

Google LLC
1600 Amphitheatre Pkwy
Mountain View, CA 94043
United States
Federal Tax ID: 77-0493581

Bill to
MCS, Inc.
MCS Marketing, INC.
3146 Waiea Place
Kihel, HI 96753
United States

Details
Debit memo number3421166567
Invoice dateJan 4, 2018
Payment termsNet 30
Billing ID9005-8809-0591
Account ID521-760-3851

Google AdWords
Total amount due in USD **\$628.45**
Due Feb 3, 2018

Summary for Jan 4, 2018
Pay in USD:
Subtotal in USD \$603.35
State sales tax (4.16%) \$25.10
Total amount due in USD \$628.45

Remittance instructions:
To ensure we correctly match your payment, always reference invoice numbers when making your payment. If paying for multiple invoices, send an email to collections@google.com with your company name and total payment amount in the subject line and list the invoice numbers & respective amounts in the email. Please send your payments only to the bank account listed below on this official Google invoice.

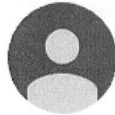
EXHIBIT G

Brian Evans | TuneCore × Feature.fm × Payoneer: International Money × AdWords × +

https://adwords.google.com/aw/billing/transactions?ocid=81134682&billingId=100

Billing & payments GO TO [Icons]

1 / 2 > None of your ads are running - Your campaigns and ad groups are paused or removed. Enable them to begin showing your ads.



Brian Evans - The Book
 brian1000@brianevans.com
 My Account - Privacy

AdWords accounts +

AdWords account 812-182-2174

AdWords account 521-760-3851

ADD GOOGLE ACCOUNT SIGN OUT

Ending balance: \$0.00

	PDF Invoice (2)	
	3420901042 (Created: 1/2/18)	
	3421166567 (Created: 1/4/18)	
	CSV Invoice (2)	
	3420901042 (Created: 1/2/18)	
	3421166567 (Created: 1/4/18)	
Ending balance: \$0.00		
Date	Description	Amount (USD)
Jan 4, 2018	State sales tax (on \$603.35)	\$25.10
Jan 4, 2018	YouTube invalid activity credits - Reverse Invalid Clicks credit on Sept 18	\$603.35
Jan 2, 2018	State sales tax (on \$603.35)	-\$25.10
Jan 2, 2018	Service Adjustment - Correct debit memo Oct 19 for Invalid Click credit on Sept 18	-\$603.35

EXHIBIT H

belasvegas@yahoo.com - Yahoo X AdWords X +

https://adwords.google.com/aw/billing/summary?ocid=81134682&billingId= Search

Most Visited Getting Started Binarycent Hawai'i Intermediate ...

← Billing & payments GO TO [Bar Chart] [Wrench] [Help] [Bell] [Profile]

< 2 / 2 > Your account isn't active - Your ads aren't running because you've canceled your account. REACTIVATE CONTACT US

Summary Transactions Settings Account budgets Billing transfers

Summary

Amount due \$0.00
You cancelled your payments account on Oct 29, 2017.

Invoicing

Transactions		Invoices	
Feb 1 - 10, 2018	\$0.00	3421166567 Paid	\$628.45
Jan 1 - 31, 2018	\$0.00	3391120796 Paid	\$15,106.99
Dec 1 - 31, 2017	\$0.00	2194838384 Paid	\$2,482,504.28

[VIEW TRANSACTIONS AND DOCUMENTS](#) [VIEW INVOICES](#)

AdWords | Inbox - bevans.maui@g... | Brian Evans | Twitter / Notifications

https://adwords.google.com/aw/billing/invoices?ocid=81134682&billingId=100885482&__c=7245355018&authuser=0&__u=9589485465

← Billing & payments

< 2 / 2 > Your account isn't active - Your ads aren't running because you've canceled your account. REACTIVATE CONTACT US

Summary

Invoices

Transactions

Settings

Account budgets

Billing transfers

All invoices

Period ending	Due date	Invoice number	Invoice amount (USD)	Amount paid (USD)	Balance (USD)
Oct 19, 2017	Nov 18, 2017	3391120796 ↓	\$15,106.99	\$15,106.99	\$0.00
Jun 30, 2013	Jul 30, 2013	2194838384 ↓	\$2,482,504.28	\$2,482,504.28	\$0.00
Apr 30, 2013	May 30, 2013	1053319287 ↓	\$1,036,988.55	\$1,036,988.55	\$0.00
Totals for this date range			\$3,534,599.82	\$3,534,599.82	\$0.00

1 to 3 of 3 < >

EXHIBIT I

Browser tabs: Inbox - bevans.ma x Sign Up x AdWords x Navigation Applica x Petition to Annul x Snap Ad Manager x ocala fl zip code - x


Address bar: https://adwords.google.com/aw/billing/budgets?ocid=81134682&billingId=100885482&_c=7245355018&_u=9589485465&authuser=0&mode=real&type=desktop

← Billing & payments

1 / 2 > None of your ads are running - Your campaigns and ad groups are paused or removed. Enable them to begin showing your ads. [LEARN MORE](#)

- Summary
- Invoices
- Transactions
- Settings
- Account budgets**
- Billing transfers

Account budgets



Budget name	Start date	End date	Budget amount	Spend	Purchase order	Status	Action
MCS Marketing, INC. 0001-0088-5482	Jun 16, 2013	No end date	Unlimited spending +\$20,118.92	\$1,747.11		Active	EDIT END
MCS Marketing, INC. 0001-0024-6602	Jun 7, 2013	Jun 16, 2013	Unlimited spending	\$2,481,967.24		Ended	EDIT
MCS Marketing, INC. 0000-8576-8242	Mar 19, 2013	Apr 22, 2013	Unlimited spending +\$1,609.34	\$1,037,001.00		Ended	EDIT