



Colorado



New York



Alaska



Guam



Kansas



Minnesota



New Mexico



Oregon



South Dakota



West Virginia



Nebraska



North Carolina



Connecticut



Hawai'i



Maine



Nevada



North Dakota



Pennsylvania



Vermont



Wyoming



Arizona



Tennessee



Delaware



Idaho



Maryland



New Hampshire



Ohio



Puerto Rico



Virginia



Iowa



Utah



D.C.



Illinois



Massachusetts



New Jersey



Oklahoma



Rhode Island



Washington

# *State of Colorado, et al.* *v.* *Google LLC*

May 30, 2025

Colorado Plaintiffs' Remedies Closing Argument  
*Afternoon Session*

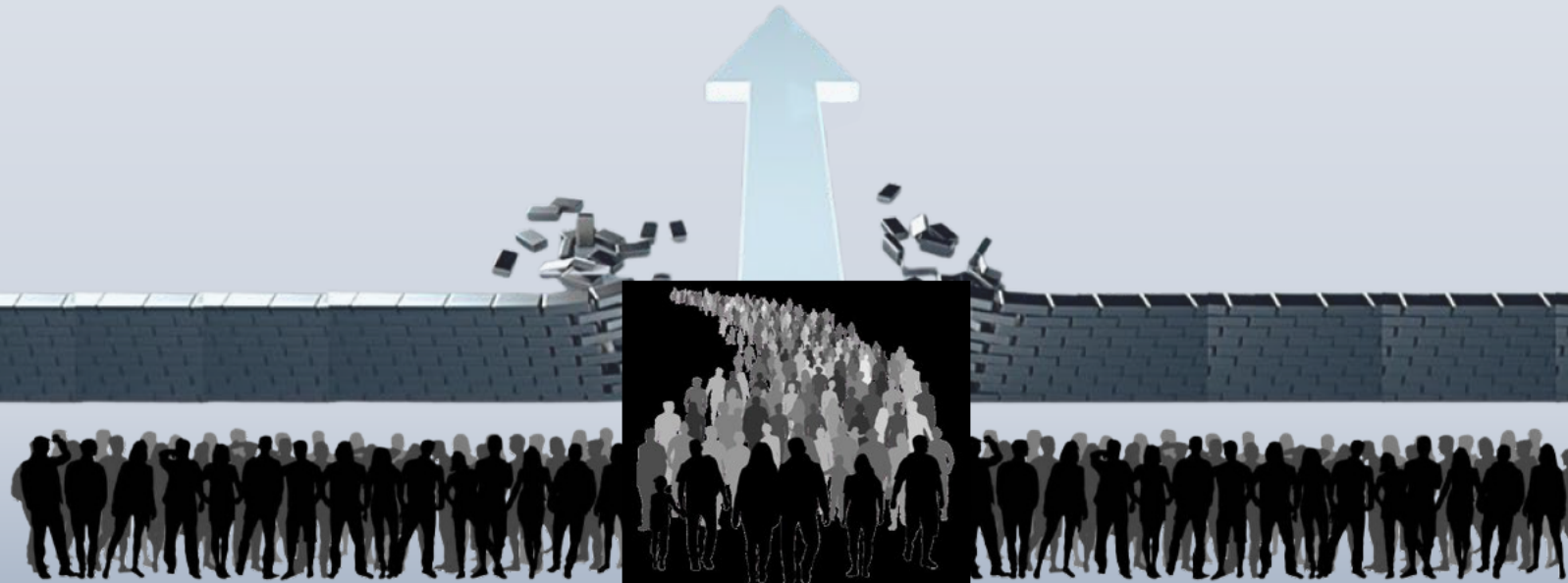
# Chrome Divestiture

**RPFJ § V.A**

# Chrome Divestiture

**Opening A Pathway for New Competition**

**Remedies package will be stronger with  
a Chrome divestiture**



# “Only two notable market entrants in the last 15 years”



**Google says: Chrome is a “key distribution channel for Search and assistive technologies, including the Gemini app.”**

**40%** of U.S. web traffic on mobile

**35%** of Google’s U.S. queries

**20%** of U.S. traffic through downloaded Chrome



# Chrome in New Hands: Differentiation

## Different User Experiences

### Google recognizes:

- ✓ Edge Features like Vertical Tabs
- ✓ Privacy (e.g. Brave, Firefox, Opera)
- ✓ Novel Approach (Arc)

PXR0211 at 199, 202, 205, 209

Q: “So differentiating for the future to take advantage of new opportunities, like AI opportunities, a new owner of Chrome would be incentivized to do that; isn't that right?”

A: “[W]hoever has it is going to want to make [Chrome] as valuable as they can”

Rem. Tr. 4394:14-23 (Murphy)



# Chrome in New Hands: Pathways for Search and GenAI

- **Distribution Agreements**
- **Multiple, Independent GenAI Choices**
- **Potential Ownership**
- **More Traffic = Stronger GSE Rivals**

“[W]e have an opportunity to introduce people into what an **AI first experience** looks like when they type into Chrome.”



Rem. Tr. 478:4-5  
(Turley, OpenAI)

# Chrome In New Hands: Ability



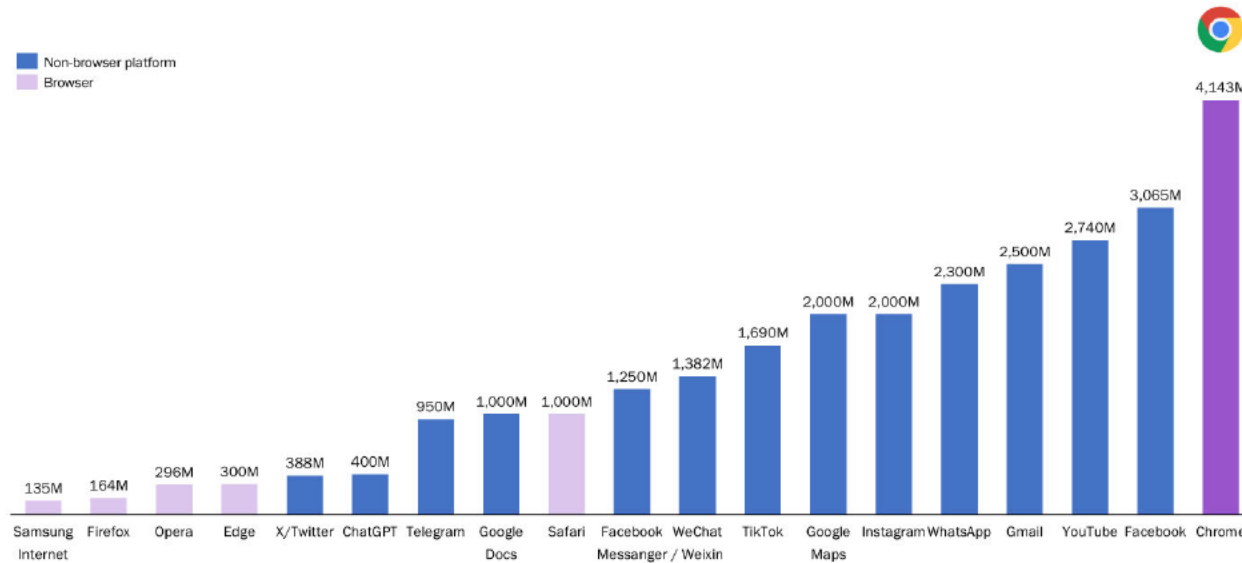
Q: “Now, is Google the only company that’s capable of supporting a web browser?”

A: “No, definitely not.”

Rem. Tr. 2468:4-6 (Pichai)

## Chrome Compared To Popular Internet Products

Worldwide Monthly Active Users (MAU)

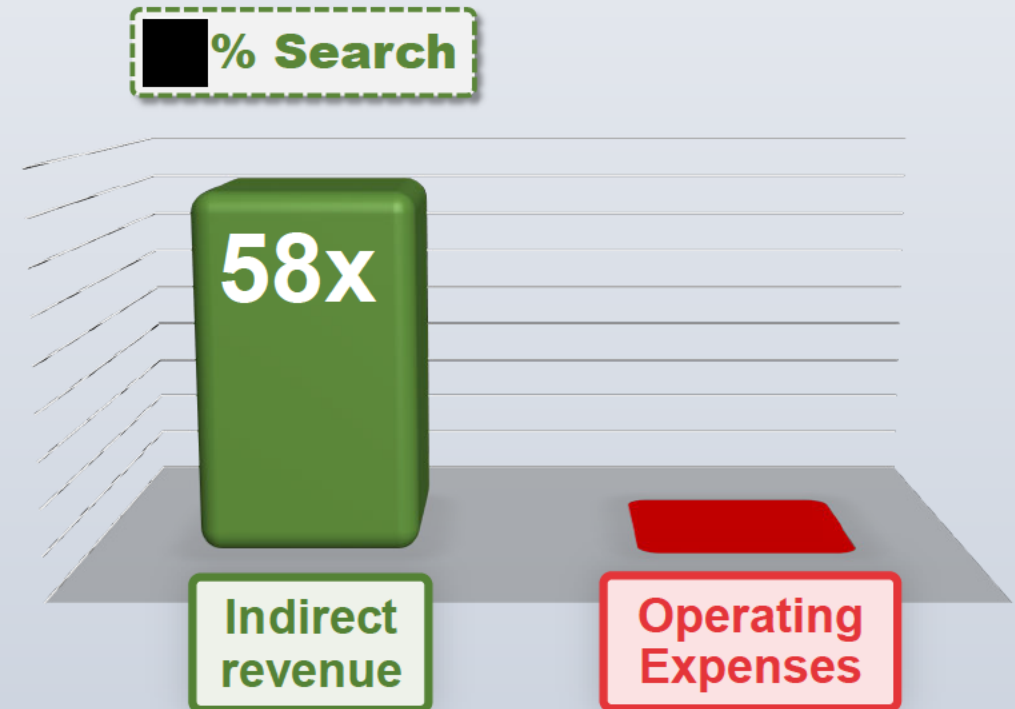


# Chrome in New Hands: Revenue Streams

## Potential Revenue Streams

- 1 Search ads
- 2 Display ads
- 3 AI services
- 4 Existing revenue streams

Indirect Revenue Vastly Exceeds Costs



# Open-Source Chromium in New Hands

- **Chrome team is responsible for Google's code contributions to Chromium.**

Pls. PFOF ¶ 518

- **“[M]ost of the talent . . . actually contributing to Chromium is in the Chrome team.”**

Pls. Resp. PFOF ¶ 1087 (Tabriz)

- **Within the Chrome team, at least 1,000 engineers are working directly on Chromium.**

Def. PFOF ¶ 222

- **Technical infrastructure from outside Chrome accounts for only █% of Chrome's operating expenses.**

Pls. PFOF ¶ 519



# Open-Source Chromium in New Hands

- **New owner incentivized to invest heavily in Chromium**
  - Plaintiffs' evaluation includes "the potential buyer's proposed business and investment plans (including those for open-source project Chromium)." Pls. RPFJ § V.C.
- **Google's continued incentives to contribute to Chromium**
- **Contributions by other browsers based on Chromium**

**"[T]here could still be an even better scenario [than the status quo] where Chrome is not owned by Google and Chromium gets even more support."**



Rem. Tr. 789:7-9  
Shevelenko (Perplexity)

# Divesting Chrome Can Be Accomplished

**Google did not identify a single attempted divestiture whose execution failed**

✓	<b>Individual product group – distinct product from general search</b>	<b>Pls. PFOF ¶ 517</b>
✓	<b>Distinct team with leadership and employee headcount</b>	<b>Pls. PFOF ¶ 518</b>
✓	<b>Specific responsibilities</b>	<b>Pls. PFOF ¶ 518</b>

# The Divestiture Process: Step 1

**“Google must promptly and fully divest Chrome, along with any assets or services necessary to successfully complete the divestiture, to a buyer approved by the Plaintiffs in their sole discretion, subject to terms that the Court and Plaintiffs approve.” Pls. RPFJ § V.A**

**“[T]he principles set forth in the decree are specific enough for the Court to make its decision.”**

*United States v. AT&T*, 552 F. Supp. 131, 214 (D.D.C. 1982) (Tunney Act Proc.)

# The Divestiture Process: Step 2

Once the Court orders divestiture, the Plaintiffs will submit a detailed proposed order setting forth the process by which divestiture can be efficiently accomplished, including through the appointment of a Divestiture Trustee. Such a two-step process has been used in the past.

*See Steves and Sons, Inc. v. JELD-WEN, Inc.*, 988 F.3d 690, 722 (4th Cir. 2021)

The U.S. Supreme Court approved this two-step process in *Brown Shoe*.

*Brown Shoe Co. v. United States*, 370 U.S. 294, 305, 309 (1962)

“Such an order requires careful, and often extended, negotiation and formulation. This process does not take place in a vacuum, but, rather, in a changing market place, in which buyers and bankers must be found to accomplish the order of forced sale.”

*Brown Shoe*, 370 U.S. at 309

# The Line of Business Restriction

**“Google may not release any other Google Browser during the term of this Final Judgment”**

Pls. RPFJ § V.A

**The line of business restriction is “designed to give the divested [company] an opportunity to establish its competitive position. The divested company needs time so it can obtain a foothold in the industry.”**

*Ford Motor Co. v. United States*, 405 U.S. 562, 575 (1972)



**Makes the divested Chrome business more attractive to potential buyers.**

Pls. PFOF ¶ 482 (Locala)



# Successfully Integrated Tech Divestitures



**“Google has done a number of divestitures and has acquired some businesses that were divested by others.”**

Rem. Tr. 2028:13-25 (Locala)



# Causation vs. Selecting Remedies

## **Causation: Conduct → Dominant Position (Backward-Looking)**

The facts at liability:

- Show “a sufficient causal connection between [Google’s] anticompetitive conduct and its dominant position in the [monopolized] markets”.
- Provided “measure of confidence that there has been an actual loss to competition”.

Not remedy-specific inquiry (but sets a ceiling for “severity”)

*Microsoft, 253 F.3d at 80, 106; New York, 224 F. Supp. 2d at 102*

## **Selection: Remedy → Eliminates Consequences (Forward-Looking)**

The remaining question is selection. Whether each remedy:

- Is grounded in the “theory of liability”.
- Represents “a reasonable method of eliminating the consequences”.
- Denies “defendant the fruits of its statutory violation”.

Remedy-specific inquiry

*Massachusetts, 373 F.3d at 1216, 1228, 1232*

# Contingent Divestiture

**RPFJ § V.C**

# Additional, Contingent Structural Relief

## Mechanics of Contingent Structural Relief — Two Paths

1

- (a) If the remedies imposed “prove insufficient” to restore competition, or
- (b) “if Google attempts to or is successful in circumventing these remedies,”



the Court *may* “impose additional structural relief, including the divestiture of Android.”

2

5 years after remedies are imposed, if Plaintiffs can show that monopolized markets have not experienced “a substantial increase in competition”

Burden then shifts to Google to show



“by a preponderance of the evidence that its ownership or control of Android did not significantly contribute to the lack of a substantial increase in competition.”

If Google cannot meet its burden



Google “shall divest Android”

# Deterrence is Critical for Remedial Success

**“[T]he proper relief is eradicating all the consequences of the act and providing deterrence against repetition; and any plausible doubts should be resolved against the monopoly.”**

*Areeda & Hovenkamp, Antitrust Law: An Analysis of Antitrust Principles & Their Application* ¶ 653f (emphasis added)





**Courts may create forward-looking remedial provisions that both deter and, if necessary, require additional remedies**

**“If the decree has not, after 10 years, achieved its ‘principal objects,’ namely, to ‘extirpate practices that have caused or may hereafter cause monopolization, and to restore workable competition in the market’– the time has come to prescribe other, and if necessary more definitive, means to achieve the result.”**

*U.S. v. United Shoe Mach. Corp.*, 391 U.S. 244, 251-52 (1968)

*See also U.S. v. United Shoe Mach. Corp.*, Trade Cas. (CCH) ¶ 72,688 (D. Mass. Feb. 20, 1969) (divestiture decree)

# ***United States v. Paramount***

**The Supreme Court approved a remedial decree that (i) contemplated future adjudication based on the competitive effects of future conduct, (ii) specified a contingent process to be used, and (iii) placed the burden on the defendant.**

**“To place on the distributor the burden of showing their reasonableness is to place it on the one party in the best position to evaluate their competitive effects.”**

*U.S. v. Paramount*, 334 U.S. 131, 148 (1948)

**“[T]hose who have shown such a marked proclivity for unlawful conduct are in no position to complain that they carry the burden of showing that their future [conduct] come[s] within the law.”**

*New York v. Microsoft*,  
224 F.Supp.2d 76, 108 (D.D.C. 2002)  
(quoting *Paramount*)

# Why Focus On Android

**Google used Android to harm competition.**

Mem. Op. at 123, 135, 213

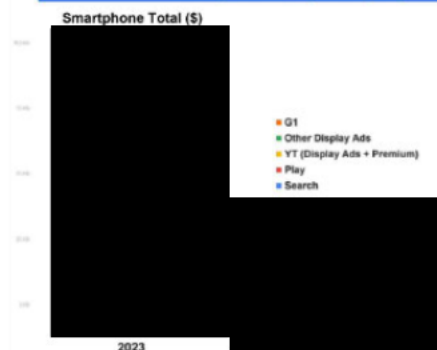
**Google has the ability and incentive to use Android to protect Search.**

Mem. Op. at 211; Pls. PFOF ¶ 574

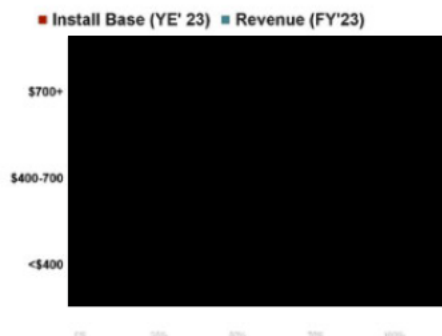
**Google makes billions/year through Android.**

**Android Channeled Revenue by Category:** ██████B in indirect revenue channeled through Android smartphones in 2023 with a disproportionate value coming from Search and \$700+ devices

2023 Indirect Revenue channeled through Android Smartphones by category



Android Smartphone Install Base ("Actives") and Indirect Search Revenue by price tier



\* "Channeled" or "indirect" revenue is a measure of revenue that flows through Android devices via the monetization of Google services. It is not incremental value to Google, and is not a representation of Android revenue or value. The categories are not a complete representation of value and/or profitability. In that they do not include the complete set of resources / investments required to build and maintain the products. They are also built to guide specific decisions and are not appropriate for guiding investments outside of those specific scenarios (e.g., Google level investments, decisions for another product area).

21

PXR0162 at -875  
(Pls. PFOF ¶ 1101)

# Deterrence, Not “Chill”

## Google Will Be Incentivized To Support Android

1. Google has literally billions of reasons to invest in Android.

Pls. PFOF ¶ 1101  
(citing Rem. Tr. 4387:15-4388:4 (Murphy))

2. Google will not abandon the Mobile Operating Systems to Apple.

See Mem. Op. at 254-55

3. Google gains revenue through non-Search apps on Android like YouTube.

Pls. PFOF ¶ 1044

4. Distributors want Android to compete more against Apple iOS.

Boulben (Verizon) Dep. Tr. 81:14-16



# Section V.C Contingent Divestiture

- ✓ Incentivizes Google's compliance with all other remedies.
- ✓ Strengthens remedies if “decree ha[s] not achieved the adequate relief to which the Government is entitled.”

*United States v. United Shoe Mach. Corp.*,  
391 U.S. 244, 251 (1968)

- ✓ Does not require the Court to engage in fact-finding, *at this time*, regarding how Android operates 5 or more years in the future.



# Public Education Fund

**RPFJ § IX.E**

# Habit, Inertia, and Brand Recognition Barriers

- Many users are “habituated” to using Google Search. Inertia and habit drive “the vast majority of individual searches.”
- “Many users do not know that there is a default search engine, what it is, or that it can be changed.”
- Google’s superior brand recognition is a “significant barrier[] that protect[s] Google’s market dominance in general search.”

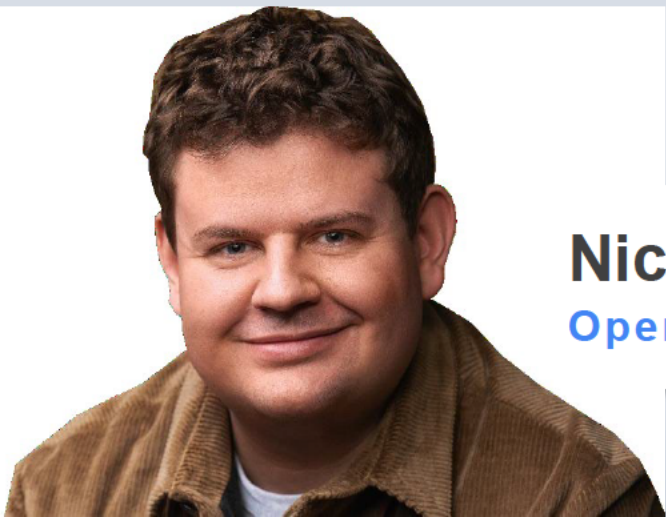
# Habit, Inertia, and Brand Recognition Barriers

“[I]f you just simply type into your Chrome bar without thinking, you go to Google.com. ...  
If you follow your own muscle memory, you will go to Google.com.”

Rem. Tr. 472:6-10

“[B]rand awareness is key to being selected. You will not choose something that you never heard of.”

Rem. Tr. 863:1-4



**Nick Turley**  
OpenAI, Head of Product



**Gabriel Weinberg**  
DuckDuckGo, CEO



# Public Education Remedy Satisfies *Microsoft*

- Habit, inertia, and brand recognition barriers are the consequences of Google's unlawful agreements.
- The remedy is “a reasonable method of eliminating the consequences of the illegal conduct.”

*Massachusetts v. Microsoft*,  
373 F.3d 1199, 1216 (D.C. Cir. 2004)

# Public Education Campaigns are Common



**Michael Luca**

CO Plaintiffs' Behavioral  
Economics Expert

# Public Information Component

## Increase user awareness of:

- Outcome of the case and the remedies imposed
- Availability of alternate search engines
- How to access and select an alternate search engine



**Michael Luca**

CO Plaintiffs' Behavioral  
Economics Expert

# Public Information Component

“So that actual brand awareness part that you are talking about, is the hardest dollars to spend, ... You have to be putting in this long-term investment. And so most companies don't do it. And so, yeah, I think that would be helpful.”

Rem. Tr. 878:13-18

“I think it's probably something that folks don't think a whole lot about every day. And to understand that they may have some new choices available to them, I think would be helpful ...”

Rem. Tr. 1255:15-18



**Gabriel Weinberg**  
DuckDuckGo, CEO



DuckDuckGo

**Brian Provost**  
Yahoo Search,  
Senior VP and GM





# Short-Term Incentive Payments

- Search engines are experience goods.
- Short-term incentive payments encourage users to gain new information about other search engines.



**Michael Luca**

CO Plaintiffs' Behavioral  
Economics Expert

# Allcott Study on Incentive Payments

A significant share of participants “revised their perception about Bing after the default change.”

“[U]sers exposed to Bing positively update their beliefs about its quality, and in higher payment groups, a larger fraction of users update their beliefs, resulting in higher market shares after the incentive periods end.”



**Michael Luca**

CO Plaintiffs' Behavioral  
Economics Expert

# Public Education is a Force Multiplier

- **Distribution, data, divestiture, and choice screen remedies are improved with consumer awareness of the changed landscape.**
- **Public education campaign encourages private marketing.**

# Implementation

- **Technical committee proposes design and funding after pilot testing.**
  - Public information: Content, channel, salience
  - Incentive payments: Amount, duration, targeting
- **The Court can order the “topics” for informational disclosures and the “precise content of the statements at a future date.”**

*United States v. Philip Morris,*  
566 F.3d 1095, 1138 (D.C. Cir. 2009)



**Michael Luca**

CO Plaintiffs' Behavioral  
Economics Expert

# Acquisition and Investment Notification

**RPFJ § IV.H-I**

# Common Tool in Antitrust Enforcement

- ✓ Allows oversight of Google's future investment in related markets:
  - General search and text ad markets
  - Search access points
  - GenAI
- ✓ Provides HSR-type notification for these transactions to the Plaintiff States and DOJ
- ✓ These types of notice provisions go at least as far back as *Paramount*

66 F. Supp. 323, 332 (S.D.N.Y. 1946)



# GenAI and Search

## GenAI is used in:

- Search Access Points
- Part of the Barrier to Entry
- Critical Inputs

## Consider Grounding:

- GenAI requires real-time information to give accurate and up-to-date answers.
- Google/Vertex provides grounding through Google Search to GenAI companies but turned down OpenAI.
- Google recognizes that providing grounding to GenAI competitors poses a competitive threat.

Google could acquire both **ownership and control** over a company dependent on a key input to discourage emerging competitive AI threats



# Notification Will Not Chill



**GenAI is well capitalized, beyond any investments that Google may offer.**

Pls. PFOF ¶ 1268; See Rem. Tr. 4048:17-4049:20 (Hitt (Def. Expert))



**“[T]here seems to be a lot of money floating around in AI.”**

Pls. PFOF ¶ 444 (Hitt)



# Conclusion: Entry is Forward Looking



- “[N]urture the competitive forces”  
*Ford Motor Co. v. U.S.*,  
405 US 562, 563 (1972)
- “[R]edress[] the harm by restoring conditions in which the competitive process is revived and any number of competitors may flourish (or not) based on the merit of their offerings.”  
*Massachusetts v. Microsoft*,  
373 F.3d 1199, 1233 (D.C. Cir. 2004)
- “The loss of nascent competitors is a clear anticompetitive effect”  
Mem. Op. at 237