



February 17, 2012

Chairman John Leibowitz and Commission Members  
Federal Trade Commission  
Washington, DC 20580

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Dear Chairman Leibowitz and Members of the Commission,

As you no doubt know, EPIC recently filed suit to enforce the Consent Order against Google. We brought this suit because Google announced changes in business practices that would violate several provisions of the Consent Order. As the company made clear its plan and set a date certain for the change, the agency has a non-discretionary obligation to enforce the terms of its final order. 15 U.S.C. § 45(l).

If you had any doubt about your authority to act in this matter, we call your attention to this story that appeared today – “Google’s iPhone Tracking: Web Giant, Others Bypassed Apple Browser Settings for Guarding Privacy,” *Wall Street Journal*, Feb. 17, 2012, at A1. The article describes the specific steps that Google *has already taken* to circumvent user privacy settings. Also, EPIC has obtained the screen shots describing the third-party tracking of Safari users before and after Google became aware that its tracking practices would be revealed. You will see that Google removed the key section “Instructions for Safari.”

The original Google statement that users of Safari who have not changed their privacy settings “accomplishes the same thing as setting the opt-out cookie” is a *per se* misrepresentation. Not only did the company know this not to be true, it took elaborate measures to circumvent the Safari privacy safeguards, and it benefited from the misrepresentations by the commercial value it surreptitiously obtained. The fact that Google removed the evidence and made it no longer available by means of a Google search (think about that for a moment) is an admission by the company as to its malfeasance.

Whatever limited agency resources the Commission may have to pursue matters within its purview, we urge you to direct them to the enforcement of your orders and not to the organizations that are seeking to safeguard the rights of Internet users. You should drop your opposition to EPIC’s motion and make a finding regarding Google’s compliance with the Consent Order, pursuant to your authority, and the responsibility of your agency to protect American consumers and to prevent unfair and deceptive trade practices.

Sincerely yours,

Marc Rotenberg  
EPIC Executive Director

Attachments

Cc: Members of Congress



## Advertising Cookie Opt-out Plugin

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[FAQs](#)

Browser instructions

### Opting out permanently: Browser Instructions

See instructions for: [Internet Explorer, Firefox & Google Chrome](#) | [Safari](#) | [Other browsers](#)

#### Internet Explorer, Mozilla Firefox & Google Chrome

You can download the plugin for Internet Explorer, for Firefox and for Google Chrome from the homepage of the [Google advertising opt-out plugin](#).

#### Instructions for Safari

While we don't yet have a Safari version of the Google advertising cookie opt-out plugin, Safari is set by default to block all third-party cookies. If you have not changed those settings, this option effectively accomplishes the same thing as setting the opt-out cookie. To confirm that Safari is set up to block third-party cookies, do the following:

1. From Safari, select "Safari" in the menu bar, and then select "Preferences"
2. In the Preferences Dialog Box, select the "Security" tab
3. Make sure the "Accept cookies:" setting is set to "Only from sites you navigate to". You can also set this option to "Never", but this will prevent many web sites that rely on cookies from working.

#### Instructions for other browsers

**Unfortunately, the plugin is not available for other browsers.** You can always opt out using the [Ads Preferences Manager](#), but without a special browser plugin, your opt-out setting will go away when you delete your browser's cookies (you would need to set it again manually).

If you're using another browser that's not mentioned above, you can look for a common feature, which accomplishes the same as setting the DoubleClick opt-out cookie: Find a setting in your browser's settings that allows you to only accept cookies from sites you visit, or only "first-party cookies". This option may also be described as "blocking third-party cookies."



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