



## TECHNOLOGY

# Google's Detractors Take Their Fight to the States

By NICK WINGFIELD and ERIC LIPTON DEC. 16, 2014

They have lobbied state attorneys general. They have hired former state attorneys general. They have even helped draft a menacing letter for one state attorney general.

And they have given the target — Google — a code name: Goliath.

Google's detractors complain about the search giant to everyone they can, from raising concerns about the company's dominance with regulators in Brussels to antitrust officials in Washington. Now, they are taking the fight into states, often to push Google to censor illegal content and sites from search results.

The inner workings of those efforts are outlined in emails obtained by The New York Times through open records requests. Other details are contained in messages stolen from Sony Pictures Entertainment by hackers and obtained by The Times through an industry executive. Some of the emails from Sony have been reported by The Verge, a website.

Together, the emails show the extent of the efforts with state attorneys general. The messages detail how the Motion Picture Association of America — the Hollywood industry group — and an organization backed by Microsoft, Expedia and Oracle, among others, have aggressively lobbied attorneys general to build cases against Google in recent years, sometimes in complementary ways.

The movie association and its member companies, the messages show, have assigned a team of lawyers to prepare draft subpoenas and legal briefs for the attorneys general. And the groups have delivered campaign contributions — with several movie studios sending checks — to Jon Bruning, the Republican attorney general of Nebraska, who was helping push their cause, and who made an unsuccessful bid for governor this year.

State attorneys general have broad authority to investigate companies involved in practices that cause consumers harm. A year ago, Google paid a \$17 million fine — a

tiny amount for the giant company — spread among more than 30 states after an investigation related to an accusation that it had violated the privacy of certain Internet users.

Mr. Bruning and Jim Hood, Mississippi's attorney general, who has become one of the most active officials against Google, say they are simply trying to enforce the laws in their states. They say Google, one of the most powerful companies of the Internet era, is dragging its feet on complying with their requests to filter illegal Internet pharmacies and other illicit content from its search results.

“These guys have profited from illegal activity that they promoted in their search engines for years,” Mr. Bruning said on Tuesday. “There is a culture at Google of sell anything to anyone. By no means do they wear the white hat in this debate.”

But as far as Google is concerned, the attorneys general, the film group and Microsoft have a similar interest: to interfere in Google's business. Movie studios have long complained that Google does not do enough to get rid of links to pirated film and television shows online. Illegal copies of their content on YouTube, a Google property, are another complaint.

By pushing the attorneys general to block illegal sales of pharmaceuticals on Google, the movie industry has concluded, they could use the same powers to curb the distribution of pirated goods. For Microsoft, any limits imposed on Google might help it improve the fortunes of its struggling search engine, Bing.

“As a trade association, our primary objective is to protect our members and their creative works — employing voluntary initiatives, policy solutions and legal actions,” said Kate Bedingfield, an M.P.A.A. spokeswoman. “When wrongdoing is taking place online, we work with and support appropriate law enforcement officials, including the attorneys general, as do many other industries.”

Google insists that it has cooperated by removing some objectionable content. In a February letter that Kent Walker, general counsel of the company, sent to attorneys general, he said that it had spent over \$250 million during the last three years on policy enforcement and systems that help it remove illegal content from its search index. But Google has said it does not believe it is appropriate for it to completely remove from its search results many of the sites to which the prosecutors object.

“It is our firm belief that Google should not be the arbiter of what is and is not legal on the web — that is for courts and government to decide,” he said in the email, which was obtained from open records requests.

Google's foes have found a particularly receptive official in Mr. Hood, a folksy Democrat who grew up in northern Mississippi. In late October, Mr. Hood issued a 79-page subpoena to Google, asking for records related to its advertisements and search results for controlled substances, fake IDs and stolen credit card numbers.

For months before that, a steady flow of letters from Mr. Hood to Google indicated his distaste for the company. One letter came with digital fingerprints suggesting that it had originated at a law firm, Jenner & Block, that represents the M.P.A.A.

"In my 10 years as attorney general, I have dealt with a lot of large corporate wrongdoers," one of his letters from November 2013 read. "I must say that yours is the first I have encountered to have no corporate conscience for the safety of its customers, the viability of its fellow corporates or the negative economic impact on the nation which has allowed your company to flourish."

The movie industry, through a nonprofit group it funded called Digital Citizens Alliance, picked the perfect lobbyist to squeeze Mr. Hood: Mike Moore. Mr. Moore was Mr. Hood's predecessor as Mississippi attorney general and helped start Mr. Hood's political career. He remains a close friend of the attorney general and travels with him frequently; he has even played a role in helping Mr. Hood get elected as the president of the National Association of Attorneys General, emails obtained by The Times show.

Mr. Moore, in an interview, said he was working pro bono to advise Mr. Hood on how to combat the illegal sale of drugs online. He was then hired, for a fee he would not disclose, by the Digital Citizens Alliance in a similar post. Mr. Moore then became a critical source for the movie industry, according to one email, telling them how Mr. Hood's inquiry was progressing and even alerting industry executives that Google had been sent a subpoena — before it said it had been told.

Peggy Lautenschlager, who served as attorney general in Wisconsin, said that the role that the movie industry had played in pushing Mr. Hood, through Mr. Moore and others, was inappropriate. "A private interest is influencing some attorneys general's offices," she said. "Tragically, that is how the world operates nowadays."

Mr. Hood and Mr. Moore said their actions were motivated by wrongdoing by Google, not by any pressure from the movie industry or Microsoft. The Digital Citizens Alliance said it had been public about pushing Google to clean up its search results. Microsoft, which among other efforts has supported FairSearch, a group pushing attorneys general, declined to comment.

"I don't think there is any secret that there is a group of interested industry people

who have a problem and they are concerned about how Google is doing their business,” Mr. Moore said in an interview. “But frankly, Attorney General Hood, and seven or eight others, are concerned about drugs, about child pornography and illegal steroids.”

The groups have also done more than write letters to attorneys general. Executives from the M.P.A.A., for example, urged the group’s members to donate \$1,000 each to Mr. Bruning’s campaign for governor in Nebraska.

The plea coincided with a fund-raising event for Mr. Bruning in March at Microsoft’s offices in Washington. Campaign finance records show that donations came in from Paramount Pictures, Sony, 21st Century Fox, as well as other movie industry players, each for exactly \$1,000.

Mr. Bruning said that he did not solicit the donations, and that they did not influence him.

Mr. Hood’s office did not respond to specific questions about his use of a letter apparently prepared by a movie industry executive as a draft for a warning he sent to Google, or about the role Mr. Moore had played in lobbying his office. But Mr. Hood said in a statement that his office accepted help from outside companies as it investigated wrongdoing.

“If they have expertise to help us catch the bad guys, we gladly accept their help,” his office said. “Google has put their profits ahead of the safety of children and families and this office will continue to fight them with all the expertise at our disposal in an effort to protect the people of Mississippi.”

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