



Written by [Raven Clabough](#) on June 19, 2013

## Google Fights for Right to Report on Surveillance Data Requests

Google is [challenging](#) the federal government over gag orders on data requests, asserting that it has a constitutional right to speak about information it has been compelled to hand over to the government. On Tuesday, Google issued a legal filing wherein it invoked the First Amendment's free speech protection against the longstanding gag orders over the data requests in an effort to revamp its reputation in the aftermath of news about the National Security Agency's Internet surveillance.



Google is seeking permission to publish information about the government data requests and how many user accounts are affected by the requests. While Google has made public information regarding other government data requests, it has been forced to refrain from sharing information on data requests that come from the surveillance court.

In the "[Motion for Declaratory Judgment of Google Inc.'s First Amendment Right to Publish Aggregate Information about FISA Orders](#)," Google asserts, "Transparency is a core value at Google and the company is committed to informing its users and the public about requests it receives from government agencies around the world for the production of users' information and/or communications."

Google's motion requests that the company be allowed to disclose "limited, aggregate statistics" regarding its receipt of orders issued by the surveillance court without being in violation of the Foreign Intelligence Surveillance Act (FISA).

The motion states that Google will not publish statistics as to which FISA authorities were invoked in the data requests, but simply the total number of requests received, as well as the total number of users/accounts at issue, both of which would be reported as a range, rather than an actual number.

The motion follows a request made by Google on June 11 to the Department of Justice and the Federal Bureau of Investigation (FBI), wherein Google sought permission to publish aggregate numbers regarding national security requests. Both departments asserted that such publication would be unlawful.

The *Washington Post* contextualizes Google's legal filing, reporting, "Revelations about the [NSA's surveillance] program, called [PRISM](#), have opened fissures between U.S. officials and the involved companies, which have scrambled to reassure their users without violating strict rules against disclosing information that the government has classified as top secret."

Google is hopeful that staging a showdown with the federal government could help it salvage its increasingly poor reputation amongst users who feel Google has violated privacy protections.

Its motion makes this intent clear as it directly alludes to the recent NSA controversy:



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On June 6, 2013, *The Guardian* newspaper published a story mischaracterizing the scope and nature of Google's receipt of and compliance with foreign intelligence requests.... The *Washington Post* also published a misleading story that day, alleging that the U.S. government is "tapping directly into" Google's central servers in order to surreptitiously obtain user records and communications.

According to the motion, Google has been unable to fully defend itself against these allegations as a result of the "constraints imposed by the government's position that even general information regarding Google's receipt of and response to foreign intelligence surveillance orders, if any, cannot be disclosed."

Google's order contends that its reputation has been "harmed by the false or misleading reports in the media" and has raised significant concerns among Google users, and that Google should be permitted to address those concerns.

While other major companies such as Facebook, Microsoft, and Yahoo have sought government permission to include requests from the court as part of its general report on data requests from all federal, state, and local officials, Google is pursuing what it believes to be a more precise publication of statistics in order to help users understand the scope of cooperation with surveillance.

In a statement also issued Tuesday, the company said, "Lumping national security requests together with criminal requests — as some companies have been permitted to do — would be a backward step for our users."

The *Washington Post* observes that all the technology companies involved have found themselves in the difficult position of attempting to defend their compliance with NSA surveillance while remaining within FISA limitations.

"The initial round of company statements used similar phrases, with Google chief executive [Larry Page](#) and Facebook chief executive [Mark Zuckerberg](#) vigorously denying that they had given the government 'direct access' to their servers," the *Post* writes.

Days later, the major companies began to ask for greater freedom to disclose information about NSA data requests, and ultimately settled on permission to report surveillance requests in conjunction with other government orders, an agreement that Google criticized.

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