

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WSOU INVESTMENTS, LLC d/b/a
BRAZOS LICENSING AND
DEVELOPMENT,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

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CIVIL ACTION NO. 6:20-cv-573

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development (“Brazos” or “Plaintiff”), by and through its attorneys, files this Complaint for Patent Infringement against Google LLC (“Google”) and alleges:

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, *et seq.*, including §§ 271, 281, 284, and 285.

THE PARTIES

2. Brazos is a limited liability corporation organized and existing under the laws of Delaware, with its principal place of business at 605 Austin Avenue, Suite 6, Waco, Texas 76701.

3. On information and belief, Google is a Delaware corporation with a physical address at 500 West 2nd Street, Austin, Texas 78701.

JURISDICTION AND VENUE

4. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§ 271, 281, 284, and 285.

5. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has specific and general personal jurisdiction over the defendant pursuant to due process and/or the Texas Long Arm Statute, because the defendant has committed acts giving rise to this action within Texas and within this judicial district. The Court's exercise of jurisdiction over the defendant would not offend traditional notions of fair play and substantial justice because the defendant has established minimum contacts with the forum. For example, on information and belief, the defendant has committed acts of infringement in this judicial district, by among other things, selling and offering for sale products that infringe the asserted patent, directly or through intermediaries, as alleged herein.

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400(b). Google is registered to do business in Texas. Google has offices in this District, has transacted business in this District, and has committed acts of direct and indirect infringement in this District. Google also has a regular and established place of business in this District, as set forth below.

8. Since 2007, Google has employed "hundreds" of employees in this District in Austin, Texas.¹ As of August 2018, Google had more than 800 employees in Austin.² By June of 2019, Google had more than 1,100 employees in Austin.³ In January 2019, it was reported that Google "signed a lease for an entire 35-story tower that has started construction just east of the Central Library in downtown Austin."⁴ Google's 35-story tower in Austin "will have 790,000 square feet of space, enough to potentially house about 5,000 people."⁵

¹ According to Gerardo Interiano, Google's public affairs and government relations manager, in a statement. See <http://www.statesman.com/business/google-lease-200-000-square-feet-new-downtown-austin-tower/SANZSa3du8QQ4k8ytOC2rJ/>

² See <https://www.statesman.com/news/20190131/source-google-to-occupy-35-story-office-tower-in-downtown-austin>

³ See <https://www.bizjournals.com/austin/news/2019/06/14/google-confirms-austin-expansion-will-begin-moving.html>

⁴ *Id.*

⁵ *Id.*



Source: <https://www.statesman.com/news/20190131/source-google-to-occupy-35-story-office-tower-in-downtown-austin>

9. Articles report that Google’s office in Austin would “would certainly be one of its most expansive offices in North America.”⁶

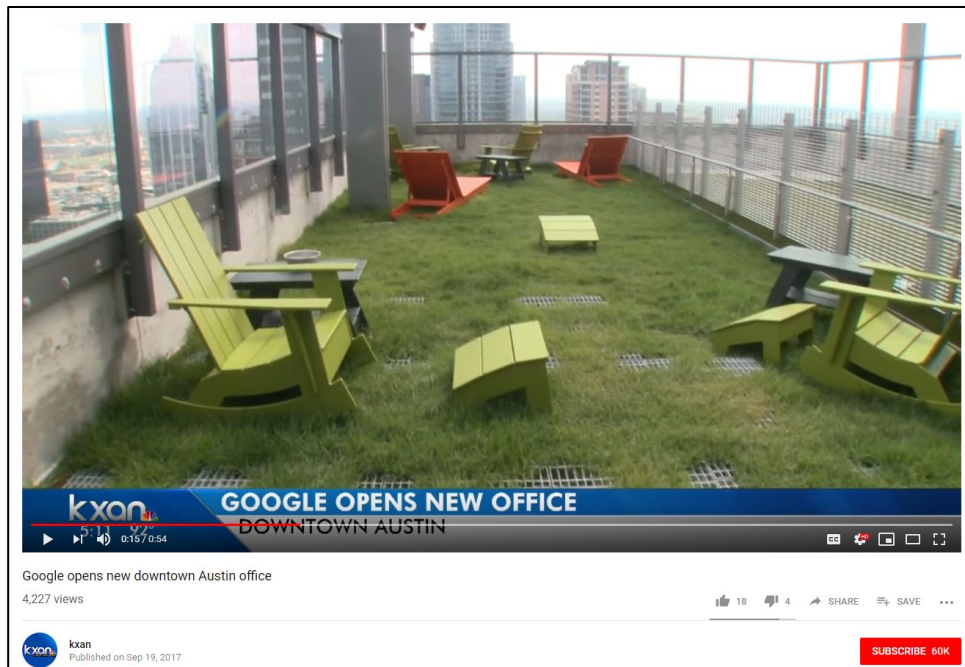
10. Google has 300,000 square feet of office space in Austin, Texas, at 500 West 2nd Street.⁷ Google also has offices on North MoPac Expressway,⁸ University Park, and Austin’s Children Museum.⁹

⁶ See <https://9to5google.com/2019/01/31/google-signs-lease-austin-campus/>

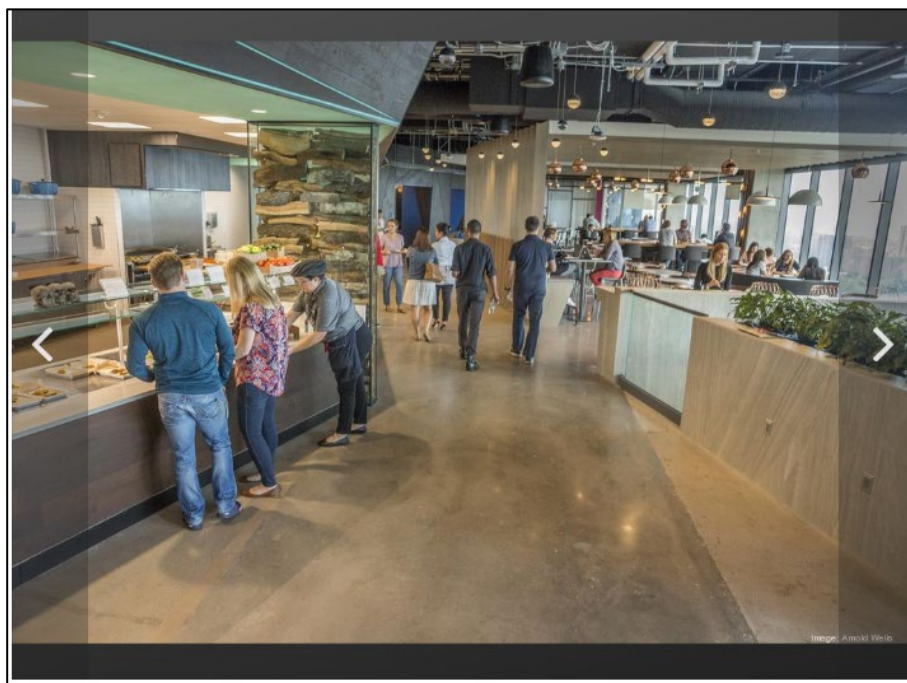
⁷ See <https://www.bizjournals.com/austin/news/2020/02/27/google-to-invest-10b-in-offices-and-data-centers.html>

⁸ See <https://www.google.com/intl/en/about/locations/?region=north-america>

⁹ See <http://www.statesman.com/business/google-lease-200-000-square-feet-new-downtown-austin-tower/SANZSa3du8QQ4k8ytOC2rJ/>



Source: <https://www.youtube.com/watch?v=RKA1RJYGOYQ>



Source: <https://www.bizjournals.com/austin/news/2019/10/28/inside-austins-coolest-offices.html#g/419929/15>

11. Google has, as of June 2020, fifty (50) job postings for Austin, TX.¹⁰

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<https://careers.google.com/jobs/results/?company=Google&company=YouTube&hl=en&jlo=en-US&location=Austin,%20TX,%20USA>

12. Google's taxed appraised property values in Travis County (Austin) are approximately \$1 billion.¹¹ Google's taxed appraised property values in in McLennan County (Waco) are approximately \$75,000.¹² Google's taxed appraised property values in Bexar County (San Antonio) are approximately \$50 million.¹³ Google's taxed appraised property values in in El Paso are approximately \$258,000.¹⁴

13. Operationally, Google is a multinational technology company that collects, stores, organizes, and distributes data. In addition to its service model for distribution of data (e.g., movies, search results, maps, music, etc.), Google has an expansive regime that gathers data on residents of this District through the hardware devices it sells (e.g., phones, tablets, and home audio devices) and, also, through the operating systems and apps it provides. As an example, Google gathers data when a resident runs its operating systems and apps (e.g., location services).¹⁵ As another example, Google gathers data when a resident interacts with Google's plethora of services such as search, email, and music and movie streaming. *See* <https://safety.google/privacy/data/> (indicating that Google gathers data from "things you search for," "Videos you watch," "Ads you view or click," "Your location," "Websites you visit," and "Apps, browsers, and devices you use to access Google services"). As yet another example, Google gathers data by listening and recording everything a resident says within proximity of one of its products, such as Google Home.¹⁶ Others have reported that Google gathers "where you've been," "everything you've ever searched – and deleted," "all the apps you use," "all of your YouTube history," "which events you attended, and when," "information you deleted [on your computer]," "your workout routine," "years' worth of photos," and "every email you ever sent."¹⁷

¹¹ *See* <http://propaccess.traviscad.org>

¹² *See* https://propaccess.trueautomation.com/clientdb/Property.aspx?cid=20&prop_id=378970

¹³ *See* https://bexar.acttax.com/act_webdev/bexar/showdetail2.jsp?can=000001265355,

¹⁴ See <http://www.epcad.org/Search?Keywords=GOOGLE+INC&Year=2019>

¹⁵ See e.g., “AP Exclusive: Google tracks your movements, like it or not,” <https://apnews.com/828aefab64d4411bac257a07c1af0ecb/AP-Exclusive:-Google-tracks-your-movements,-like-it-or-not>

¹⁶ See <https://www.unilad.co.uk/technology/google-is-listening-to-everything-we-say-and-you-can-hear-it-back/> (“Tech giant and the font of all pub quiz knowledge, Google, can quietly record many of the conversations that people have in close proximity to its products.”).

¹⁷ See <https://www.theguardian.com/commentisfree/2018/mar/28/all-the-data-facebook-google-has-on-you-privacy>.

14. Google takes these massive amounts of gathered data on residents of this District and monetizes them, for example, through targeted advertising. Some have reported that “creepy” advertisements for items never searched for, but only spoken out loud, appeared. *See e.g.*, <https://www.youtube.com/watch?v=zBnDWSvaQII> (conducting test on the term “dog toys” spoken out loud, but never searched; tester claims targeted “dog toy” advertisements only appeared after speaking the phrase out loud).

15. In addition to extensive data gathering of information on residents of this District, Google has a substantial presence in the District directly through the products and services Google provides residents of this District (some of which also gather data).¹⁸ One of Google’s main businesses in this District is delivering information, including digital content such as movies, music, apps, and advertising.

16. Google describes itself as an “information company.”¹⁹ Its vision is “to provide access to the world’s information in one click,” and its mission is “to organize the world’s information and make it universally accessible and useful.”²⁰ Making information available to people wherever they are and as quickly as possible is critical to Google’s business.

Google Global Cache (GGC)

17. As Google’s CEO, Sundar Pichai, explains, “We want to make sure that no matter who you are or where you are or how advanced the device you are using—Google works for you.”²¹ To meet this goal, Google developed a content delivery network that it calls the Edge Network.

¹⁸ Non-limiting examples include Google Search, Maps, Translate, Chrome Browser, YouTube, YouTube TV, Google Play Music, Chromecast, Google Play Movies and TV, Android Phones, Android Wear, Chromebooks, Android Auto, Gmail, Google Allo, Google Duo, Google+, Google Photos, Google Contacts, Google Calendar, Google Keep, Google Docs, Google Sheets, Google Slides, Google Drive, Google Voice, Google Assistant, Android operating system, Project Fi

Wireless phone systems, Google Pixel, Google Home, Google Wifi, Daydream View, Chromecast Ultra.

¹⁹ See “This Year’s Founder’s Letter” by Alphabet CEO, Sundar Pichai, <https://blog.google/inside-google/alphabet/this-years-founders-letter/>.

²⁰ See <http://panmore.com/google-vision-statement-mission-statement>.

²¹ See e.g., <http://time.com/4311233/google-ceo-sundar-pichai-letter/>.

18. One non-limiting example of physical presence in this District is Google's Edge Network. Google provides web-based services, such as YouTube, YouTube TV, and Google Play, to users throughout the world. These services are in high demand. Google reports that Google Play reaches more than 1 billion Android users and that YouTube serves over 1.8 billion users per month.²² Studies show that YouTube alone is responsible for approximately 20% of all internet traffic.²³ YouTube TV, which has been described as an "add-on to YouTube" allows Google to essentially become the local TV provider for residents of this District. For example, residents in this District obtain local Waco-Temple-Bryan area channels such as KXXV, ABC (Channel 25); KBTX, CBS (Channel 3) or KWTX, CBS (Channel 10); KCEN NBC (Channel 5); and KCEN, Fox (Channel 6).²⁴ To verify a resident should receive such local channels, Google verifies a location of such resident.

19. Google's Edge Network, itself, has three elements: Core Data Centers, Edge Points of Presence, and Edge Nodes. The Core Data Centers (there are eight in the United States) are used for computation and backend storage. Edge Points of Presence are the middle tier of the Edge Network and connect the Data Centers to the internet. Edge Nodes are the layer of the network closest to users. Popular content, including YouTube TV, YouTube, video advertising, music, mobile apps, and other digital content from the Google Play store, is cached on the Edge Nodes, which Google refers to as Google Global Cache or "GGC."

²² See <https://www.theverge.com/2018/5/3/17317274/youtube-1-8-billion-logged-in-monthly-users-brandcast-2018>

²³ See <https://www.sandvine.com/hubfs/downloads/archive/2016-global-internet-phenomena-report-latin-america-and-north-america.pdf> and <http://testinternetspeed.org/blog/half-of-all-internet-traffic-goes-to-netflix-and-youtube/>

²⁴ See, e.g. <https://thestreamable.com/markets/waco-temple-bryan-tx>.

20. Google Global Cache is recognized as “one of Google’s most important pieces of infrastructure,”²⁵ and Google uses it to conduct the business of providing access to the world’s information. GGC servers in the Edge Nodes function as local data warehouses, much like a shoe manufacturer might have warehouses around the country. Instead of requiring people to obtain information from distant Core Data Centers, which would introduce delay, Google stores information in the local GGC servers to provide quick access to the data.

21. Caching and localization are vital for Google’s optimization of network resources. Because hosting all content everywhere is inefficient, it makes sense to cache popular content and serve it locally. Doing so brings delivery costs down for Google, network operators, and internet service providers. Storing content locally also allows it to be delivered more quickly, which improves user experience. Serving content from the edge of the network closer to the user improves performance and user happiness. To achieve these benefits, Google has placed Edge Nodes throughout the United States, including in this District. Google describes these nodes as the workhorses of video delivery.

22. Just like brick-and-mortar stores, Google’s GGC servers independently determine what content to cache based on local requests. The GGC servers in Google’s Edge Nodes include software that Google refers to as “µstreamer.” µstreamer is responsible for serving video content from YouTube and other Google services, along with other large content such as Google Play applications and Chrome downloads. It operates on a content-delivery platform at the edge of Google’s network called “bandaid”; it does not run in the core (except for some internal testing purposes), unlike the majority of the Google services, such as search or gmail.

²⁵ See <http://blog.speedchecker.xyz/2015/11/30/demystifying-google-global-cache/>.

23. Using `µstreamer` and `bandaid`, a GGC server handles requests directly from its clients, predominantly YouTube’s video players. When such a request is received, if the content is stored in the node’s local cache, the node will serve it to the end user, improving the user experience and saving bandwidth. If cache-eligible content is not already stored on the node, and the content is cache-eligible, the node will retrieve it from Google, serve it to the user, and store it for future requests.

24. `µstreamer` is largely autonomous, in the sense that almost all decisions related to serving a particular request are made locally, without coordinating with other servers. Like a brick-and-mortar store sells directly to customers from inventory and stocks that inventory based on local customer demand, `µstreamer` in each GGC node decides—independently from other nodes in Google’s Edge Network— whether to serve requested content, whether to cache content, and whether to send requests to other servers.

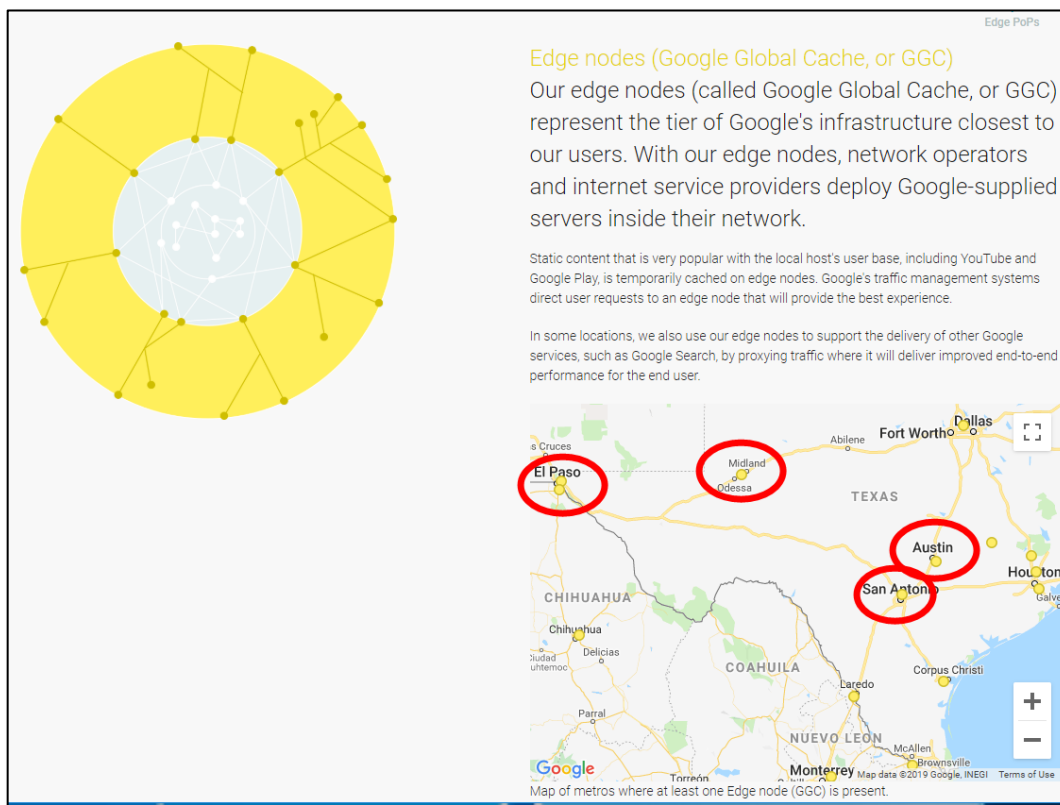
25. Google’s GGC servers are housed in spaces in the District leased by Google. Google’s GGC servers are housed in spaces leased by Google from Internet Service Providers (ISPs) whose networks have substantial traffic to Google and are interested in saving bandwidth. Hosting Google servers allows ISPs to save both bandwidth and costs, as they do not incur the expense of carrying traffic across their peering and/or transit links.

26. When an ISP agrees to host a GGC server, the parties enter into a Global Cache Service Agreement, under which Google provides:

- hardware and software— including GGC servers and software—to be housed in the host’s facilities;
- technical support; service management of the hardware and software; and
- content distribution services, including content caching and video streaming.

In exchange, the host provides, among other things, a physical building, rack space where Google’s computer hardware is mounted, power, and network interfaces. All ownership rights, title, and intellectual property rights in and to the equipment (i.e., the hardware and software provided by Google) remain with Google and/or its licensors.

27. Multiple ISP hosted GGC servers are in this District. Google’s website identifies Midland, El Paso, Austin, and San Antonio as GGC server locations. Each of these cities is located in this District.



Source: <https://peering.google.com/#!/infrastructure>

28. The Office of Telecommunications Services for the University of Texas, for example, is an ISP that hosts two GGC servers in Austin, Texas.²⁶

29. Google caches content on the GGC servers located in this District.

²⁶ See <https://it.utexas.edu/ots-caching-and-peering>

30. Google's GGC servers located in this District cache content that includes, among other things: (i) video advertising; (ii) apps; and (iii) digital content from the Google Play store.

31. Google's GGC servers located in this District deliver cached content for the items in the preceding paragraph to residents in this District.

32. Google generates revenue (i) by delivering video advertising, (ii) from apps, and (iii) from digital content in the Google Play store.

33. Google treats its GGC servers in this District the same as it treats all of its other GGC servers in the United States.

34. The photograph below shows an "illustrative picture" of a Google GGC server.


Google Global Cache

Motivation

- Explosion of broadband access and rich, multimedia content continues to drive demand on Internet backbone networks
- This increases the cost of Internet Service Providers (network upgrades, transit costs, etc..)

Google Global Cache

- Allows Large ISP to serve content from the edge of their own network.
- Eases backbone congestion on the service provider's network well as traffic on peering and transit links
- Saves money and improves users' experience accessing Google services.
- GGC can be also deployed in IXPs, to server content to participants, locally!



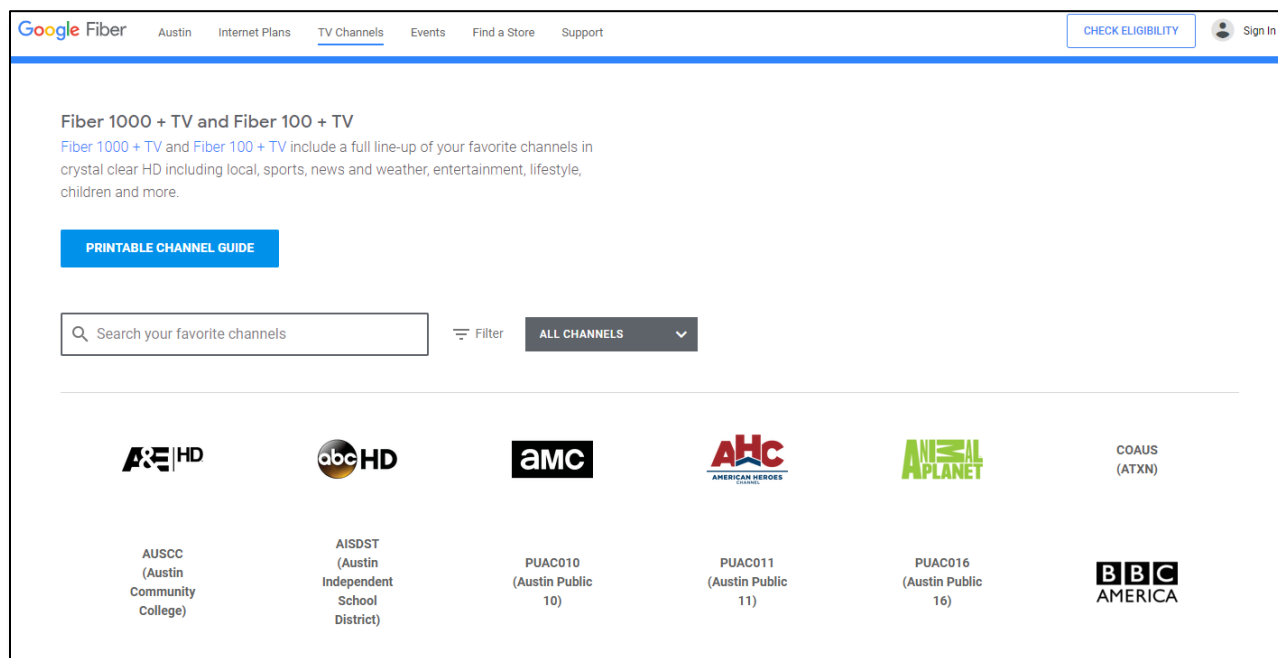
(illustrative picture)

Source: <https://www.wired.com/2010/03/google-traffic/>

35. Google not only exercises exclusive control over the digital aspects of the GGC, Google, but also exercises exclusive control over the physical server and the physical space within which the server is located and maintained.

Google's Communication Services

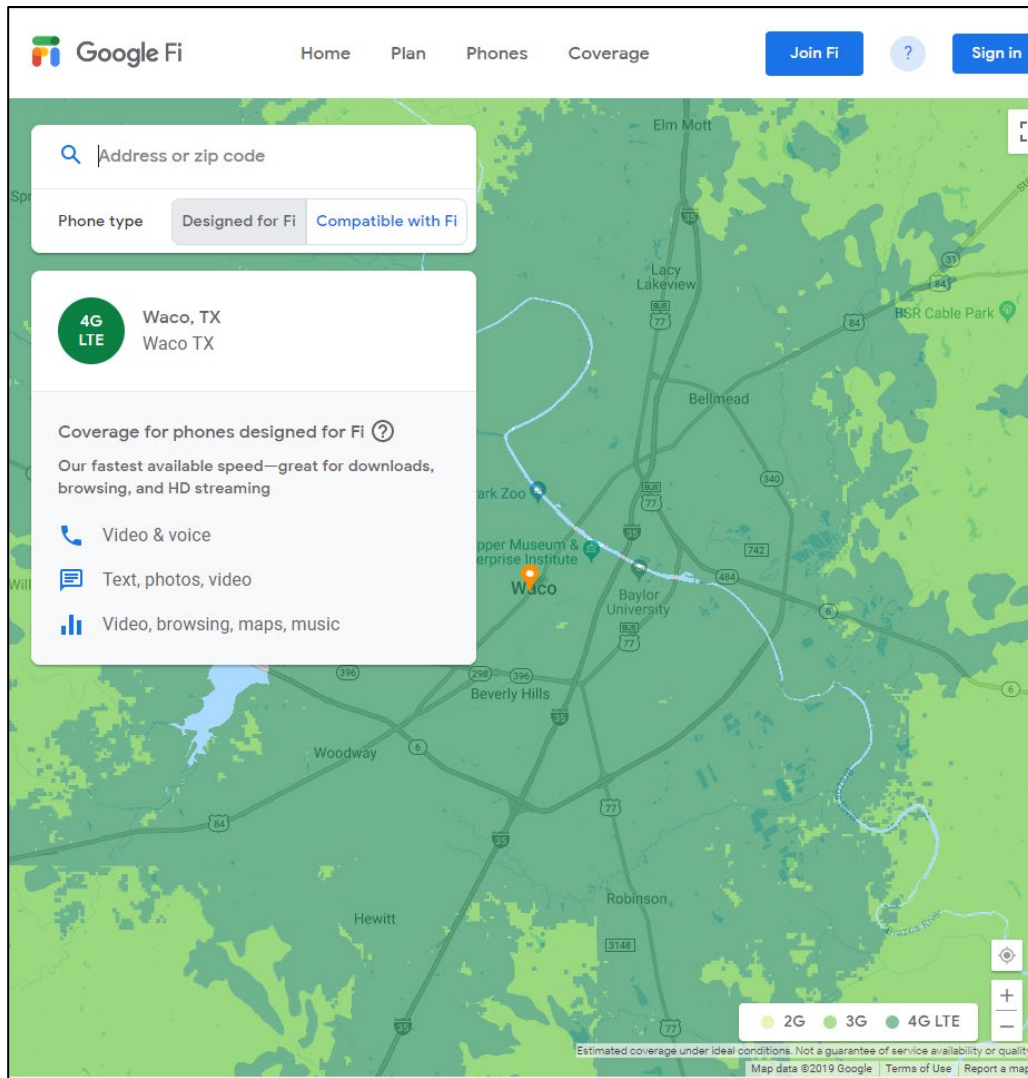
36. Google provides both data and television services to both San Antonio and Austin.²⁷



Google's Cell Phone Service (aka Google Fi)

37. Google also provides phone, messaging, and data services in this District from its wireless phone services called Google Fi. Via the Google Fi service, Google provides its customers voice and high-speed data coverage (4G LTE) for cities such as Waco.

²⁷ <https://fiber.google.com/ourcities/>

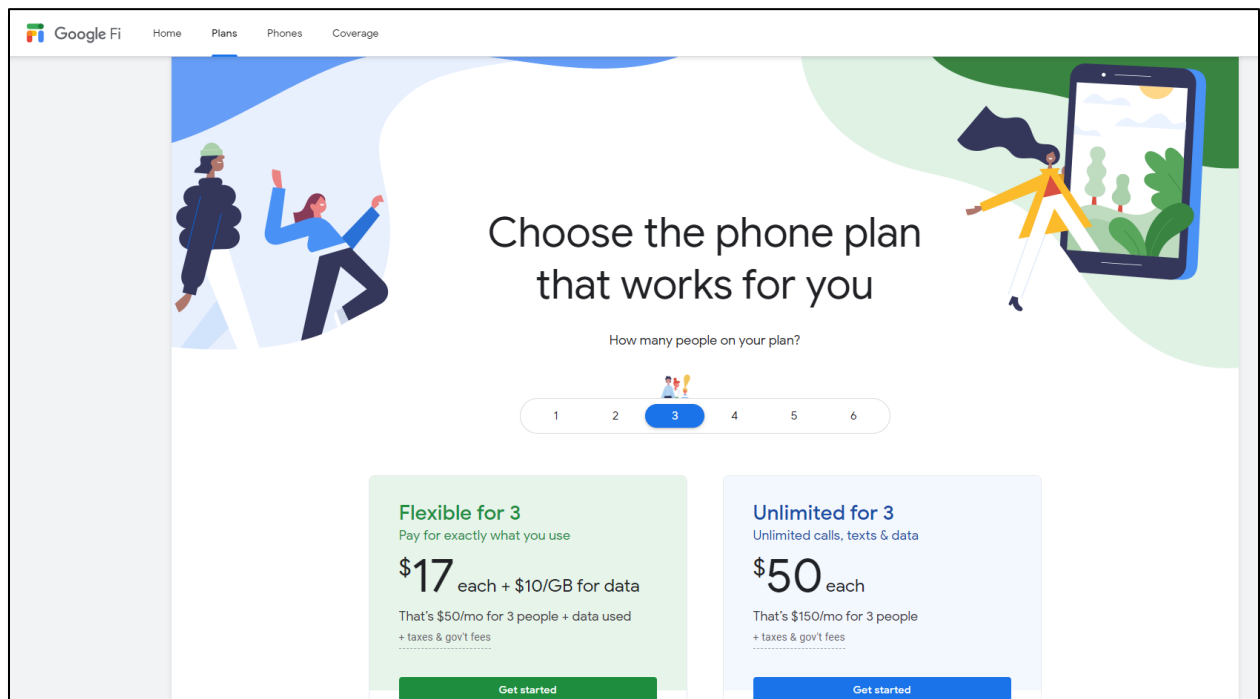


Source: <https://fi.google.com/coverage?q=Waco,%20tx>

38. The cell towers used for Google’s services are fixed geographical locations. They are “regular” and “established” because they operate in a “steady, uniform, orderly, and methodical manner” and are sufficiently permanent. They are “of the defendant” because Google has contractual and/or property rights to use the cell towers to operate its business. Google also ratifies the service locations through its coverage lookup service.

39. With this coverage lookup service, Google advertises its ability to provide cell coverage in this District and its selected cell towers in and near this District to provide the advertised coverage (e.g., 2G, 3G, or 4GLTE) depending on the location in the District. See <https://fi.google.com/coverage?>. Google is not indifferent to the location of its cell towers. It “established” and “ratified” their geographic placement to achieve specific business purposes.

40. Residents of this District also directly contract with and are billed by Google for these services as their telecommunications provider.



Source: <https://fi.google.com/about/plan>

41. Google also determines which cell tower a particular Google Fi customer will use while within the District.

✓ What determines when Project Fi moves me between cellular networks?

When multiple carriers are available, Project Fi will move you to the network that our analysis shows will be fastest in your current location, whether that is 4G LTE, 3G, or 2G. We're constantly learning and improving, to account for factors such as newly-built towers or newly-available radio frequencies. And if your current network is providing weak or no coverage, we'll adjust in real time to find you a stronger connection.

Source: <https://fi.google.com/about/faq/#network-and-coverage-4>

COUNT ONE - INFRINGEMENT OF U.S. PATENT NO. 7,620,967

42. Brazos re-alleges and incorporates by reference the preceding paragraphs of this Complaint.

43. On November 17, 2009, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,620,967 (“the ‘967 Patent”), entitled “Method for transmitting multimedia information elements, receiver of multimedia information elements distributed by said method and user interface for consulting said information elements.” A true and correct copy of the ‘967 Patent is attached as Exhibit A to this Complaint.

44. Brazos is the owner of all rights, title, and interest in and to the ‘967 Patent, including the right to assert all causes of action arising under the ‘967 Patent and the right to any remedies for the infringement of the ‘967 Patent.


45. Google makes, uses, sells, offers for sale, imports, and/or distributes in the United States, including within this judicial district, products such as, but not limited to, its Google Play Store (collectively, the “Accused Products”).

46. Through the Google Play Store, Google provides apps, games, and digital content (or multimedia items) for various devices. The Google Play Store is pre-installed in Android devices.

Find the Google Play Store app

You can get apps, games, and digital content for your device using the Google Play Store app. The Play Store app comes pre-installed on Android devices that support Google Play, and [can be downloaded on some Chromebooks](#).

Open the Play Store app

1. On your device, go to the Apps section.
2. Tap Google Play Store .
3. The app will open and you can search and browse for content to download.

Source: <https://support.google.com/googleplay/answer/190860?hl=en>

Supported devices

See if your device works with Google Play by checking the list below. Devices are ordered alphabetically (A-Z) by manufacturer name.

Full list of supported devices

- [List of supported Android devices \(download the CSV file\)](#) . If you can't open the CSV on your device, [learn how to open it in Google Drive](#).



Source: <https://support.google.com/googleplay/answer/1727131?hl=en>

47. The Google Play Store broadcasts notification messages to user devices when application updates are available (i.e. broadcasting multimedia information items). The notification message is pushed from the Google server (i.e. transmitter) to the user's device.

A notification is a message that pops up on the user's device. Notifications can be triggered locally by an open application, or they can be "pushed" from the server to the user even when the app is not running. They allow your users to opt-in to timely updates and allow you to effectively re-engage users with customized content.

Source: <https://developers.google.com/web/ilt/pwa/introduction-to-push-notifications>

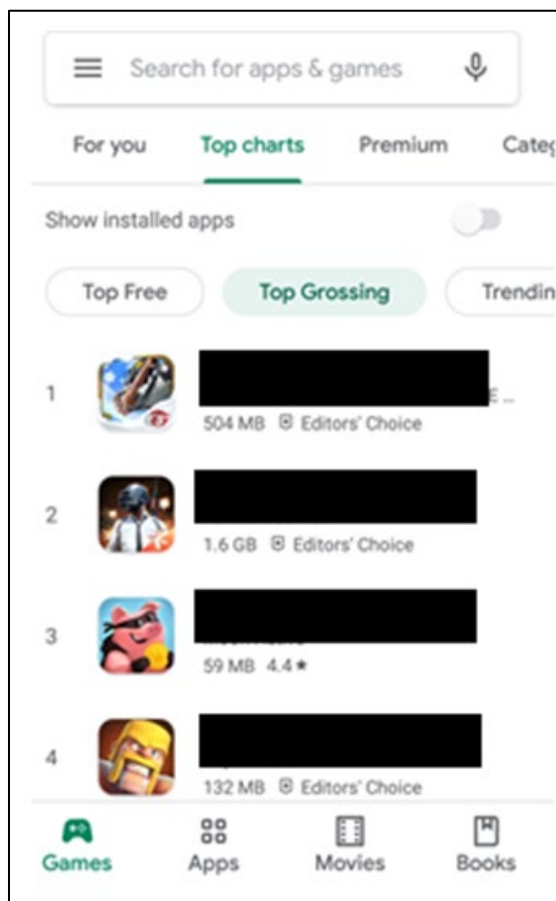
48. The notification message indicates if there is a pending update of an application (i.e. multimedia information). The Google server sends out the application data (i.e. information) to the device to update applications. The mobile device updates the applications through a data connection (i.e. mobile internet) or WiFi.

Update your Android apps

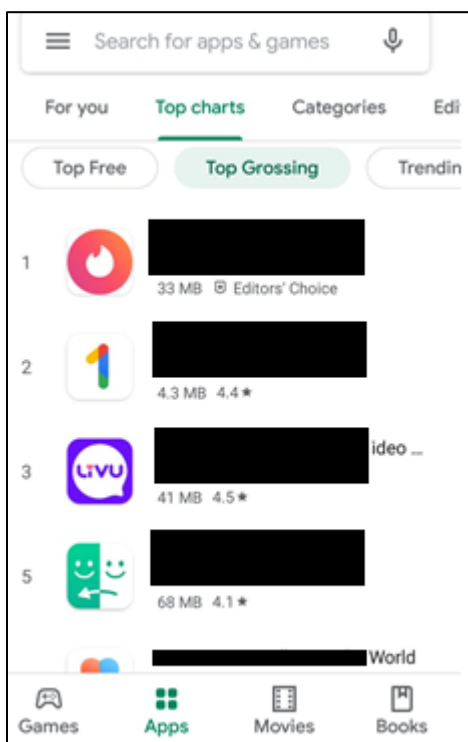
You can either update the apps downloaded and installed on your Android device individually or automatically. Updating your apps gives you access to the latest features and improves app security and stability.

Source: <https://support.google.com/googleplay/answer/113412?hl=en>

49. The Google Play Store classifies applications into two sections (or classes) as Applications and Games. The two sections are accessed by tapping their respective tabs on the Google Play Store application interface.

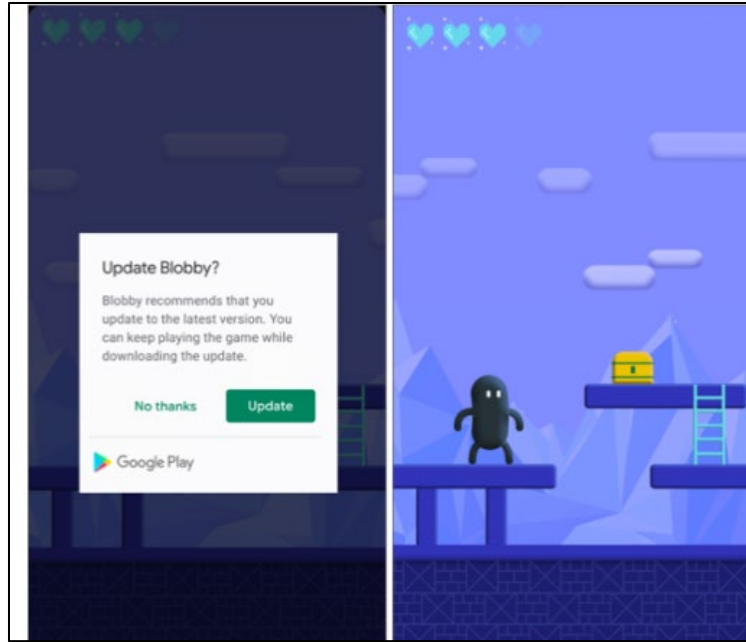


Source: Testing of Google Play Store



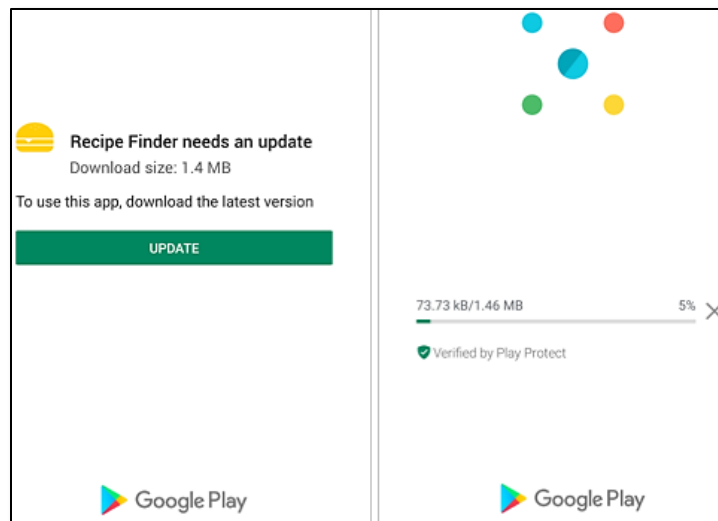
Source: Testing of Google Play Store

50. The Google Play Store provides an information notification for the available update before updating the applications. The update information (i.e. descriptors) includes the total size of the application update and the category (or class) in which the application belongs. The descriptor includes the total memory capacity needed to store the application. As an example, the application named Blobby lies in a class of games.



Source: <https://developer.android.com/guide/playcore/in-app-updates#java>

51. As another example, the size of an update for an application called Recipe Finder is 1.4 MB.



Source: <https://developer.android.com/guide/playcore/in-app-updates#java>

52. In Android devices (i.e. mobile devices), the Google Play Store provides services for installing automatic updates. The Google Play Store on an Android mobile device is associated with a Google account.



Add & use accounts on your device

To start downloading and buying items on the Google Play Store app, you need to add a [Google Account](#) on your device. You can repeat the steps below to add multiple accounts to your device.

Source: <https://support.google.com/googleplay/answer/2521798?hl=en>.

Update Android apps automatically

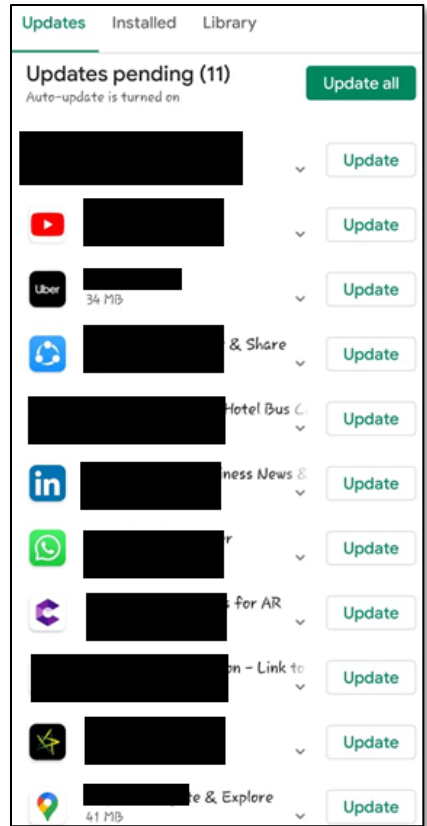
To automatically update apps on your Android device:

1. Open the Google Play Store app .
2. Tap Menu  > **Settings**.
3. Tap **Auto-update apps**.
4. Select an option:
 - **Over any network** to update apps using either Wi-Fi or mobile data.
 - **Over Wi-Fi only** to update apps only when connected to Wi-Fi.

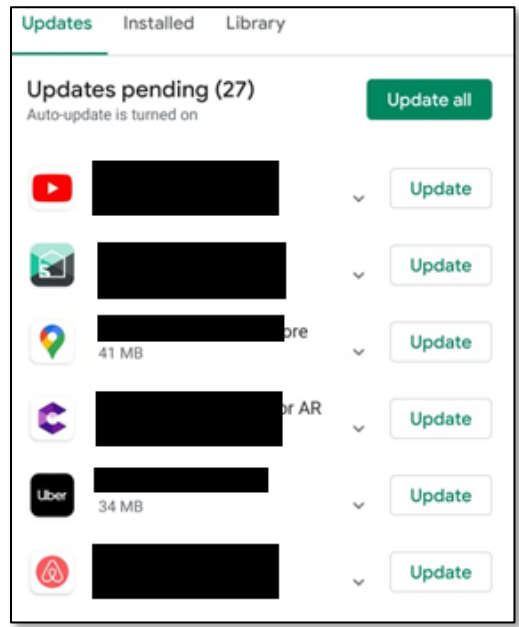
Note: If an account on your device has a sign-in error, apps may not update automatically.

Source: <https://support.google.com/googleplay/answer/113412?hl=en>

53. When the service is enabled, the updates are installed automatically in the order of user interest. As an example, live testing was performed using mobile devices from two different users (viz. User 1 and User 2). During the tests, the application list in My application and games for User 1 was different from that of the list for User 2 as shown below. The Applications and Games information displayed is based on user interest on the particular mobile device (i.e. receiver).

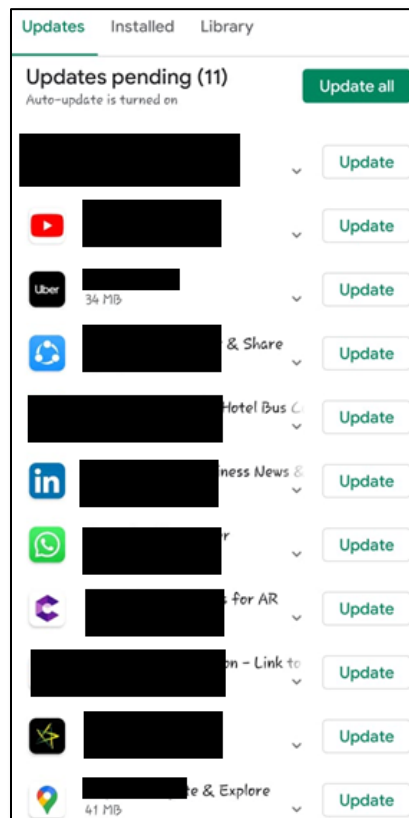


Source: Testing of Google Play Store.

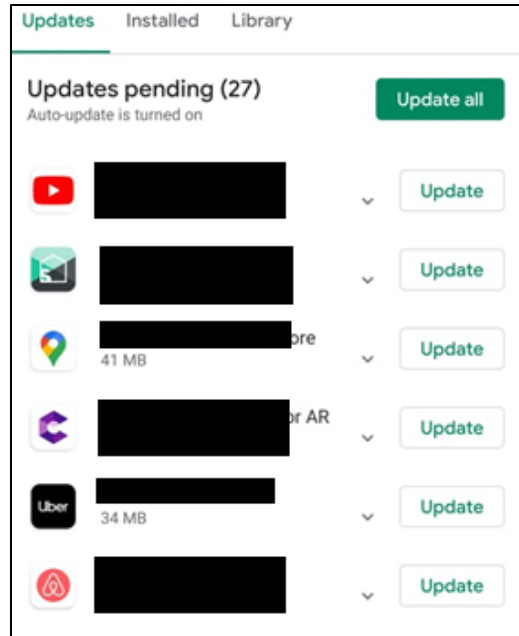


Source: Testing of Google Play Store

54. As an example and observed from live testing, the application list in My Apps and Games tab for two users is displayed respectively in the Google Play Store. The order of the applications in the “My Apps & Games” tab of the Google Play store indicates that applications get prioritized (i.e. sorting the information items in decreasing potential interest order) for updates. The applications are updated from top to bottom in the list. For each mobile device logged in with a user profile, the priority is different, as each user's interest is different. (i.e. the function of the user profile defined in the receiver).

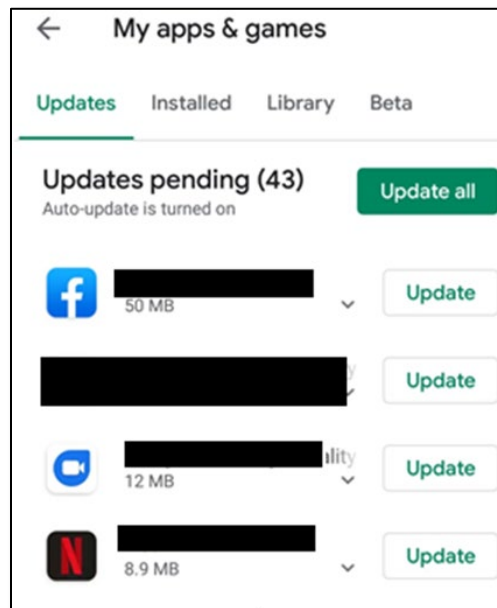


Source: Testing of Google Play Store




Source: Testing of Google Play Store

55. As an example observed from live testing, the applications are updated in the prioritized order for the user profile. The application update listed at the top updates first, followed by the others.



Source: Testing of Google Play Store

56. Further, the applications are also selected when Google determines an application update will fix a critical security vulnerability, prioritizing that application above other applications when updates are installed (i.e. broadcasting multimedia information items).

Note: If Google determines an app update will fix a critical security vulnerability, we may make certain app updates regardless of update settings in the app or on your device. For more information, please see the [Google Play Terms of Service](#) .

Source: <https://support.google.com/googleplay/answer/113412?hl=en>

57. Google determines the priority of application updates depending on device memory. For example, if less memory is left for application updates, it installs only those applications which don't allow the memory to exceed the maximum capacity.

58. The Google Play Store faces a problem when memory capacity is not enough.

More steps to fix problems on Google Play

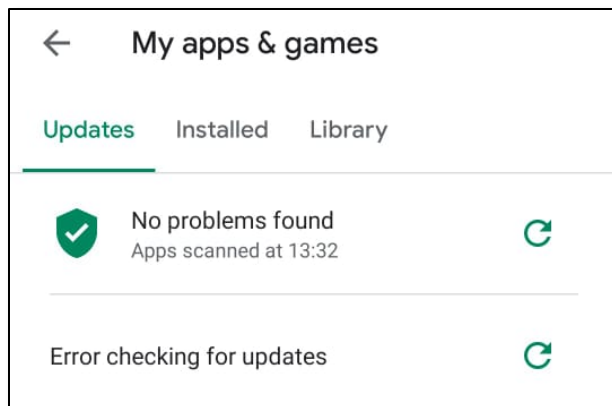
If you have a problem using Google Play, [first try these steps](#). If that page doesn't help, try the steps below.

Check your storage space

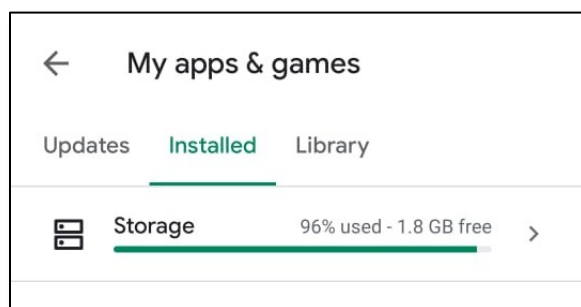
If your device is low on space it can stop apps downloading & installing. Your device may be low on space if you've seen a notification about storage space, or if there's less than 1 GB available when you check.

Source: <https://support.google.com/googleplay/answer/7512202?hl=en>,

59. If capacity is exceeded, the Google Play store show an “Error checking for updates.” In this situation, the receiver does not receive application update information. Thus, the applications are not updated when the memory associated with the mobile device is insufficient.

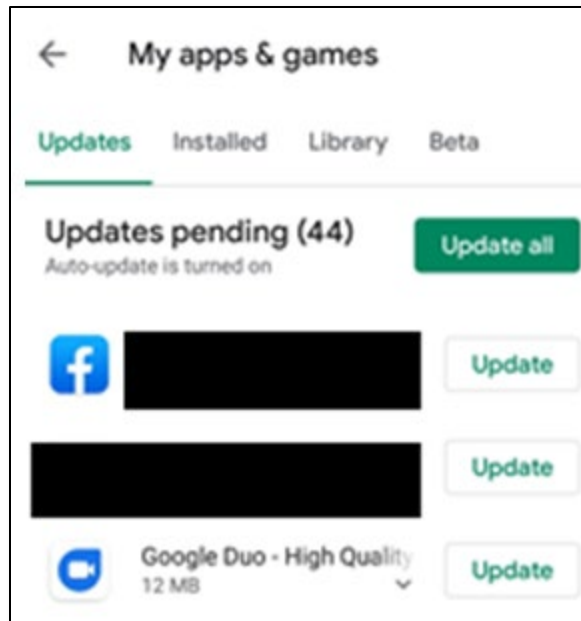


Source: Testing of Google Play Store

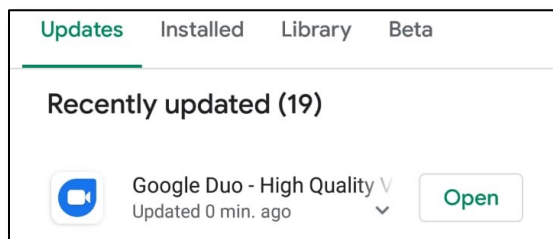


Source: Testing of Google Play Store,

60. Once the applications are prioritized and memory capacity of the device is available, the Google server sends the application data files to the receiver. The applications get updated once the user device receives the update information. As an example, when a user device receives an application notification for Google Duo with storage requirement 12 MB, the device installs the update automatically (or the user can install it manually by tapping on the “Update” option).

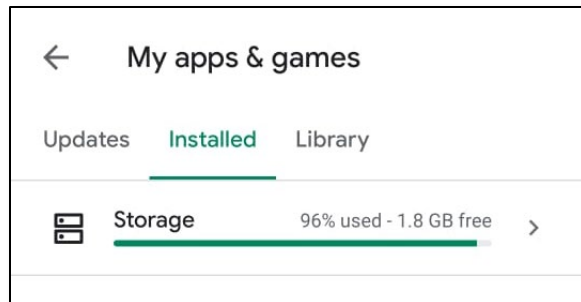


Source: Testing of Google Play Store

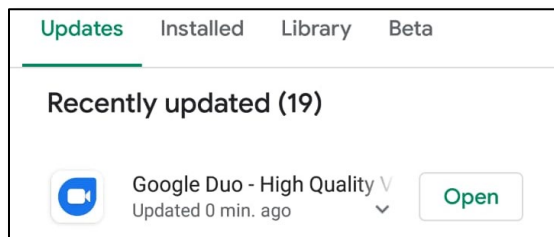


Source: Testing of Google Play Store

61. The Google Play Store integrates with the storage capacity of the devices. The updated applications get stored in the memory of the device. As an example, as observed from live testing when a user installs Google Duo updates on a device, the files related to these applications are stored in the device's memory.

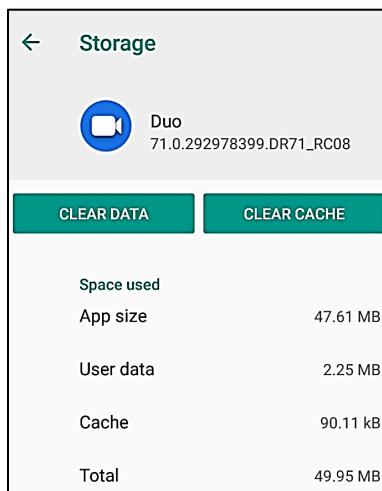


Source: Testing of Google Play Store



Source: Testing of Google Play Store

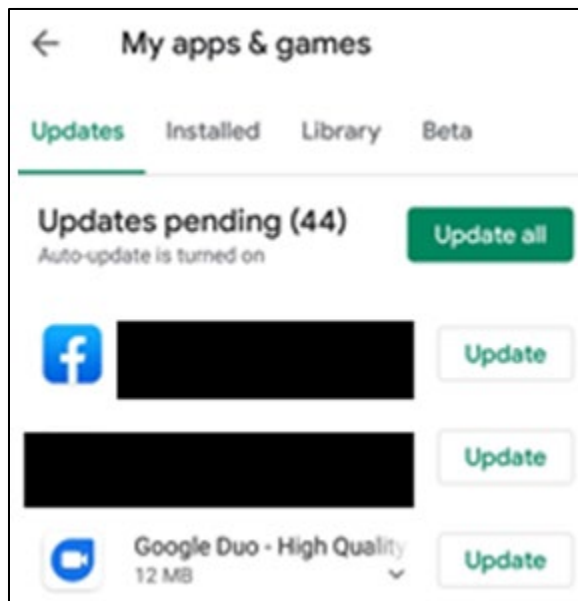
62. The Google Duo application uses memory on a mobile device. The Application size used in the memory of the receiver is 47.61 MB



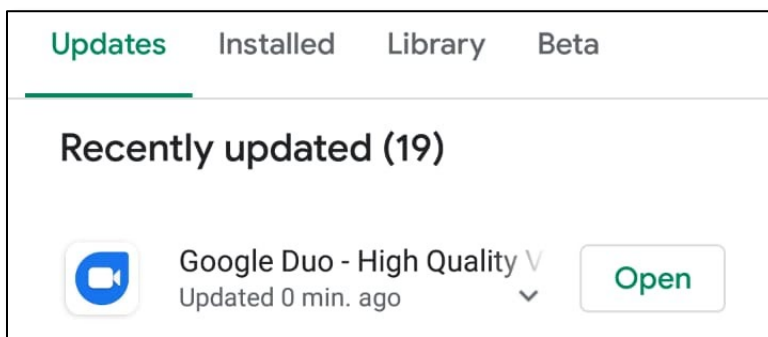
Source: Testing of Google Play Store & Mobile Device.

63. The user profile in the Google Play Store gets updated automatically when the auto-updates option is enabled. As an example, when the application of Google Duo is updated, the “update” icon changes to “Open.” The Google Play Store also shows the time of the installed

update and updates the profile with recency of the application update information. In this manner, Google Play Store logged in with a user profile gets associated with the latest version of the application installed.



Source: Testing of Google Play Store.



Source: Testing of Google Play Store.

64. In view of preceding paragraphs, each and every element of at least claim 1 of the '967 Patent is found in the Accused Products.

65. Google continues to directly infringe at least one claim of the '967 Patent, literally or under the doctrine of equivalents, by making, using, selling, offering for sale, importing, and/or distributing the Accused Products in the United States, including within this judicial district, without the authority of Brazos.

66. Google has received notice and actual or constructive knowledge of the '967 Patent since at least the date of service of this Complaint.

67. Since at least the date of service of this Complaint, through its actions, Google has actively induced product makers, distributors, retailers, and/or end users of the Accused Products to infringe the '967 Patent throughout the United States, including within this judicial district, by, among other things, advertising and promoting the use of the Accused Products in various websites, including providing and disseminating product descriptions, operating manuals, and other instructions on how to implement and configure the Accused Products. Examples of such advertising, promoting, and/or instructing include the documents at:

- <https://support.google.com/googleplay/answer/190860?hl=en>
- <https://support.google.com/googleplay/answer/1727131?hl=en>
- <https://developers.google.com/web/ilt/pwa/introduction-to-push-notifications>
- <https://support.google.com/googleplay/answer/113412?hl=en>
- <https://developer.android.com/guide/playcore/in-app-updates#java>
- <https://support.google.com/googleplay/answer/7512202?hl=en>
- <https://support.google.com/googleplay/answer/2521798?hl=en>

68. Since at least the date of service of this Complaint, through its actions, Google has contributed to the infringement of the '967 Patent by having others sell, offer for sale, or use the Accused Products throughout the United States, including within this judicial district, with knowledge that the Accused Products infringe the '967 Patent. The Accused Products are especially made or adapted for infringing the '967 Patent and have no substantial non-infringing use. For example, in view of the preceding paragraphs, the Accused Products contain functionality which is material to at least one claim of the '967 Patent.

JURY DEMAND

Brazos hereby demands a jury on all issues so triable.

REQUEST FOR RELIEF

WHEREFORE, Brazos respectfully requests that the Court:

(A) Enter judgment that Google infringes one or more claims of the '967 Patent literally and/or under the doctrine of equivalents;

(B) Enter judgment that Google has induced infringement and continue to induce infringement of one or more claims of the '967 Patent;

(C) Enter judgment that Google has contributed to and continue to contribute to the infringement of one or more claims of the '967 Patent;

(D) Award Brazos damages, to be paid by Google in an amount adequate to compensate Brazos for such damages, together with pre-judgment and post-judgment interest for the infringement by Google of the '967 Patent through the date such judgment is entered in accordance with 35 U.S.C. § 284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. § 284;

- (E) Declare this case exceptional pursuant to 35 U.S.C. § 285; and
- (F) Award Brazos its costs, disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court.

Dated: June 29, 2020

Respectfully submitted,

/s/ James L. Etheridge

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