

**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.	§ § § § § § § § § §	CIVIL ACTION NO. 6:20-cv-572 JURY TRIAL DEMANDED
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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

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>

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



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

⁴ *Id.*

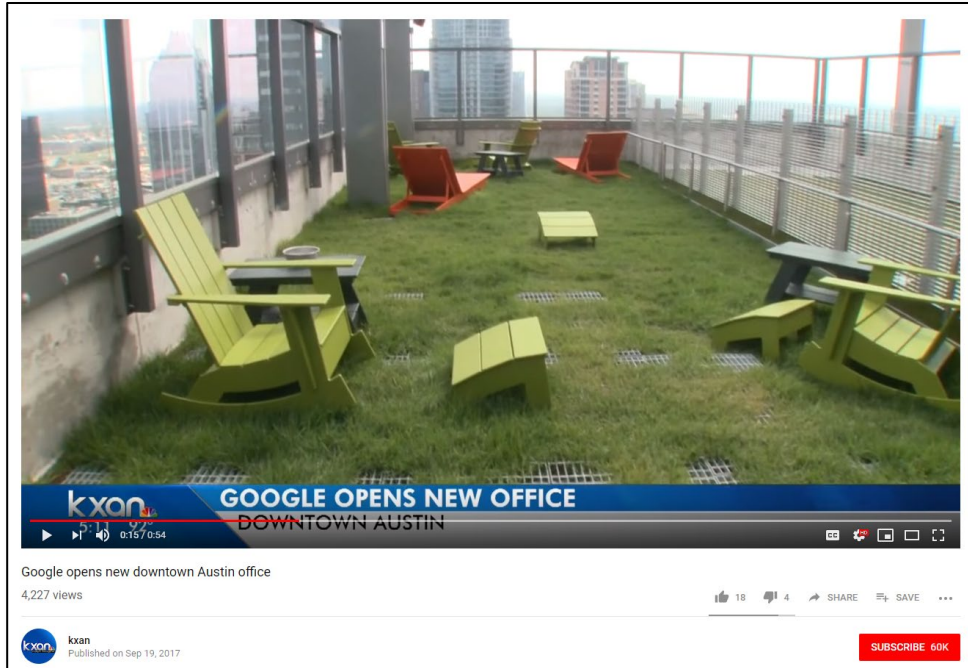
⁵ *Id.*

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

12. Google's taxed appraised property values in Travis County (Austin) are approximately \$1 billion.¹¹ Google's taxed appraised property values 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 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

¹⁰

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

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>

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

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=zBnDWSvaQ1I> (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 *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>.

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.

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. 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,

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/>.

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/>

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."

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

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

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

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.

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

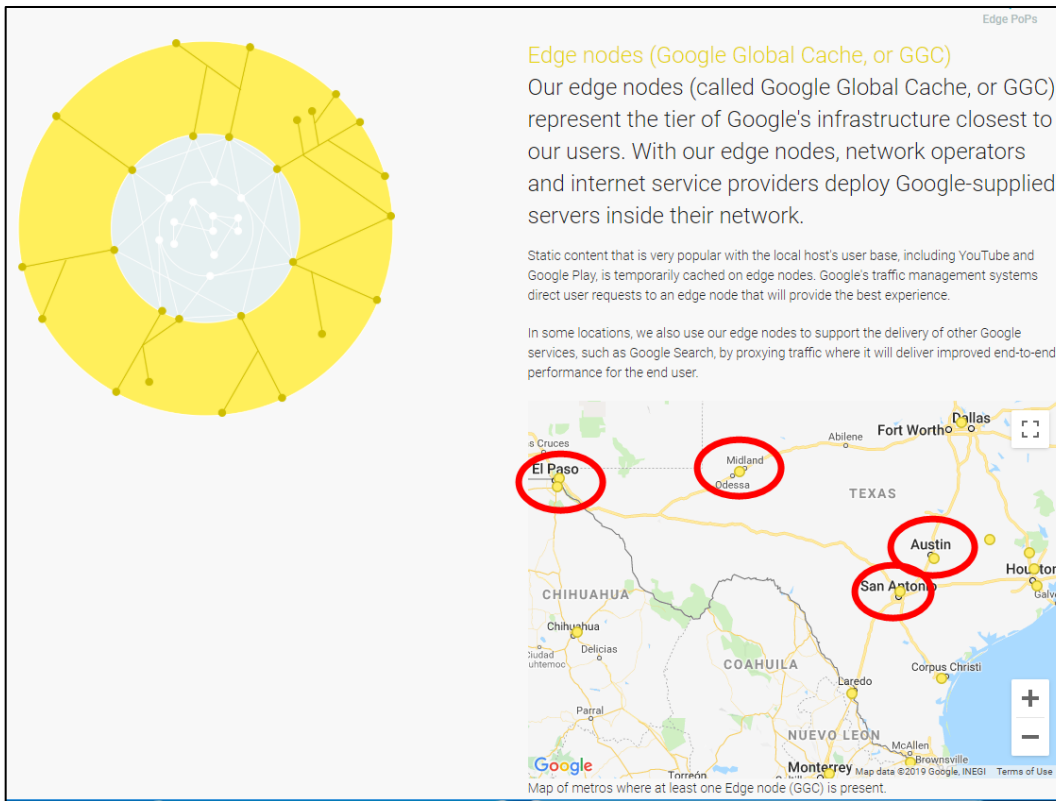
(ISPs) whose networks have substantial traffic to Google and are interested in saving bandwidth. Hosting Google servers allows ISPs to save both bandwidth and costs, as they do not incur the expense of carrying traffic across their peering and/or transit links.

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.

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.

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

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)

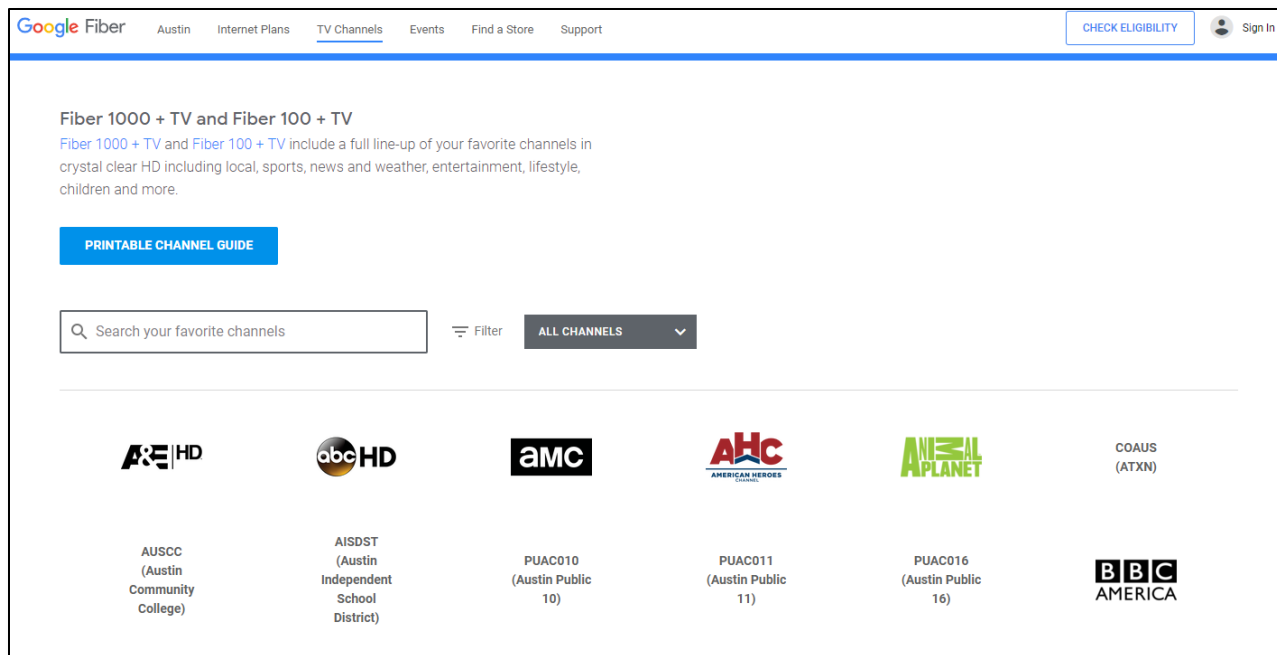
Source: <https://www.wired.com/2010/03/google-traffic/>

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

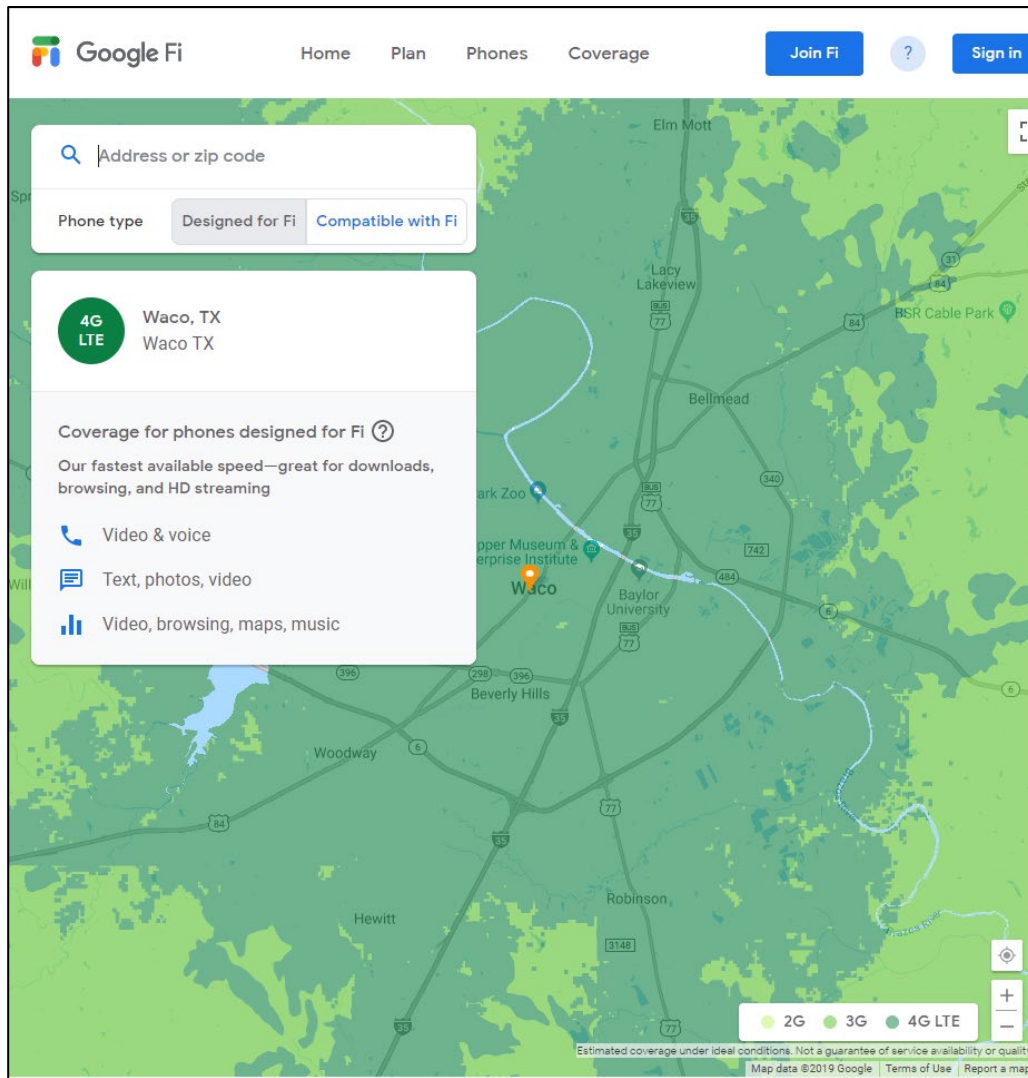
36. Google provides both data and television services to both San Antonio and Austin.²⁷

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



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.



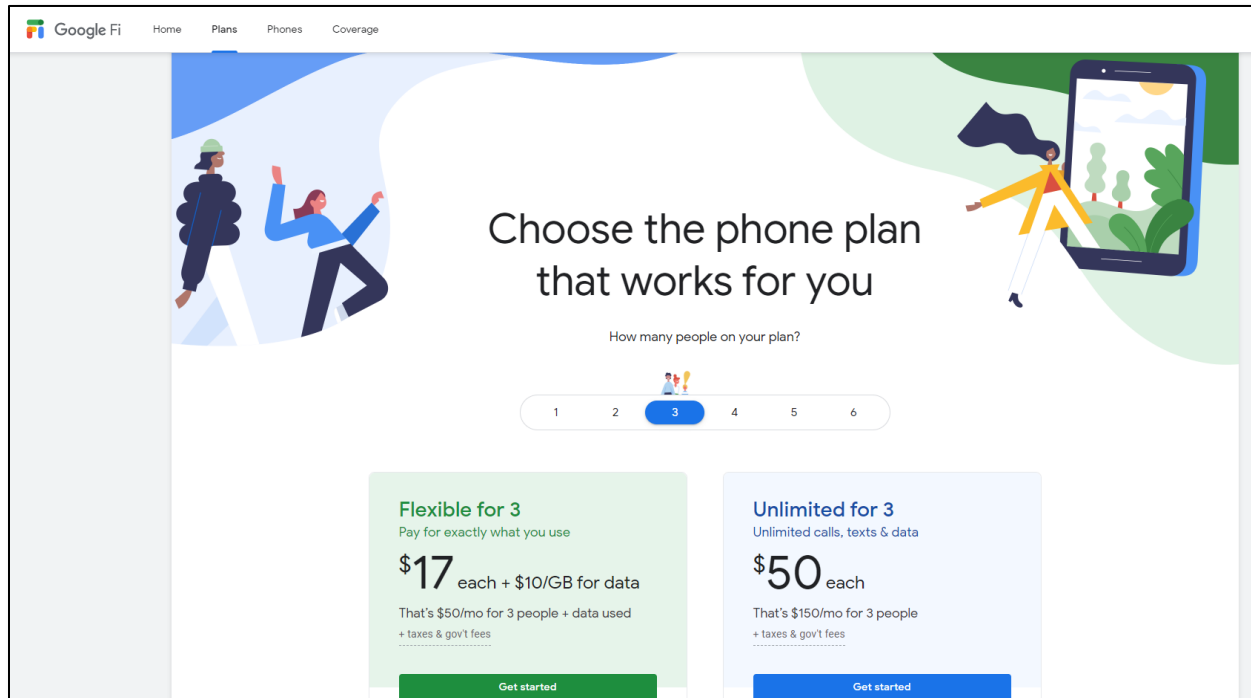
Source: <https://fi.google.com/coverage?q=Waco,%20tx>

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. 8,041,806

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

43. On October 18, 2011, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,041,806 (“the ‘806 Patent”), entitled “Targeted electronic content delivery control systems and methods.” A true and correct copy of the ‘806 Patent is attached as Exhibit A to this Complaint.

44. Brazos is the owner of all rights, title, and interest in and to the ‘806 Patent, including the right to assert all causes of action arising under the ‘806 Patent and the right to any remedies for the infringement of the ‘806 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, Google subscription TV services (collectively, the “Accused Products”).

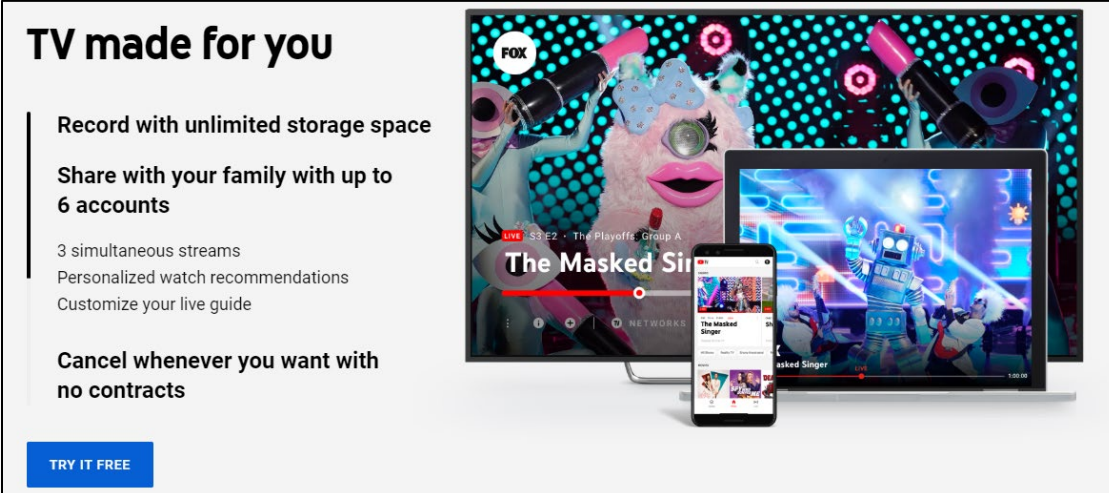
46. The Accused Products include, but are not limited to, YouTube TV.

47. YouTube TV is a subscription-based streaming service. YouTube TV subscribers (or, communication network subscribers) watch videos like live TV (i.e. electronic content) from broadcast and cable networks over the internet (or access communication link). A user can share a YouTube subscription with 6 other accounts. YouTube TV provides personalized recommendations to users.

What is YouTube TV?

YouTube TV is a subscription streaming service that lets you watch live TV from major broadcast and popular cable networks. Enjoy local and national live sports, breaking news, and must-see shows the moment they air. Included: unlimited cloud DVR storage space so you can record your favorites, and stream them wherever you go. You also get 6 accounts per household, so share with your family members or roommates.

Source: <https://tv.youtube.com/welcome/>



TV made for you

- Record with unlimited storage space
- Share with your family with up to 6 accounts
- 3 simultaneous streams
- Personalized watch recommendations
- Customize your live guide

Cancel whenever you want with no contracts

[TRY IT FREE](#)

The image shows a promotional graphic for YouTube TV. On the left, there is a list of features under the heading 'TV made for you'. On the right, there is a large image of a television displaying a live broadcast of 'The Masked Singer' on the FOX network. A smartphone in the foreground also shows the YouTube TV interface with the same show playing. The background of the TV screen is a vibrant, colorful stage with blue and pink lights.

Source: <https://tv.youtube.com/welcome/>

48. Google allows a subscriber to sign up for a YouTube TV membership using their Google account.

Sign-up process

Follow these steps to sign up and customize your YouTube TV membership.

Step 1: Sign up for YouTube TV

1. To sign up, visit tv.youtube.com on a web browser.
2. Click the button to begin the free trial.
3. Sign in with your Google Account.

Source: <https://support.google.com/youtubetv/answer/7129816>.

49. YouTube TV provides recommendations about TV programs based on user activity such as YouTube TV search and watch history. YouTube TV also uses imported data from across multiple Google properties (web search, Chrome, etc.). Google monitors the communication traffic exchanged with a user device while accessing electronic content (e.g. a webpage, video) using the internet (i.e. access communication link). This allows Google products such as its web search, YouTube, and YouTube TV to keep track of user activity and further store user history.

50. In this manner, Google applications and YouTube TV implement a behavioral information collector to monitor a user's activity (or, communication traffic) exchanged over the internet. Accordingly, YouTube TV controls the delivery of electronic content by presenting the recommended TV programs in the Home tab of the YouTube TV. YouTube TV uses user activities, saved in Google's My Activity server, about Google products such as its web search, Chrome, YouTube to generate recommendations about programs.

Recommendations on YouTube TV

Recommended programs on YouTube TV are based on your actions on YouTube TV and across other Google products, like YouTube.

[How recommendations work](#) ^

YouTube TV uses your watch history and recorded shows to make recommendations (learn more about [managing your YouTube TV search & watch history](#)). It also factors in what is trending or popular in your location. Recommendations will include live programs and suggestions to add to your library. The more you add, the more YouTube TV can surface relevant programs for you to enjoy.

[How YouTube TV uses Google data to drive recommendations](#) ^

To create your recommendations, YouTube TV uses imported data from across multiple Google properties (web search, Chrome, etc). You can manage which data YouTube TV sources from at [myactivity.google.com](#).

[How your YouTube TV search and watch history affects YouTube](#) ^

Your search and watch history is shared across YouTube and YouTube TV. You may see recommendations from your YouTube history on YouTube TV. Learn how to [manage your watch history on YouTube TV](#) and on [YouTube](#).

Source: <https://support.google.com/youtubetv/answer/7271625>.

View & control activity in your account

When you use Google sites, apps, and services, some of your activity is saved in your Google Account. You can see and delete this activity in My Activity, and you can stop saving most activity at any time.

What My Activity is

My Activity is a central place to view and manage activity like searches you've done, websites you've visited, and videos you've watched.

How activity works

When you use certain Google services, like Search, YouTube, or Chrome, your activity can be saved as data to your account. This activity helps make your experience on Google faster and more useful.

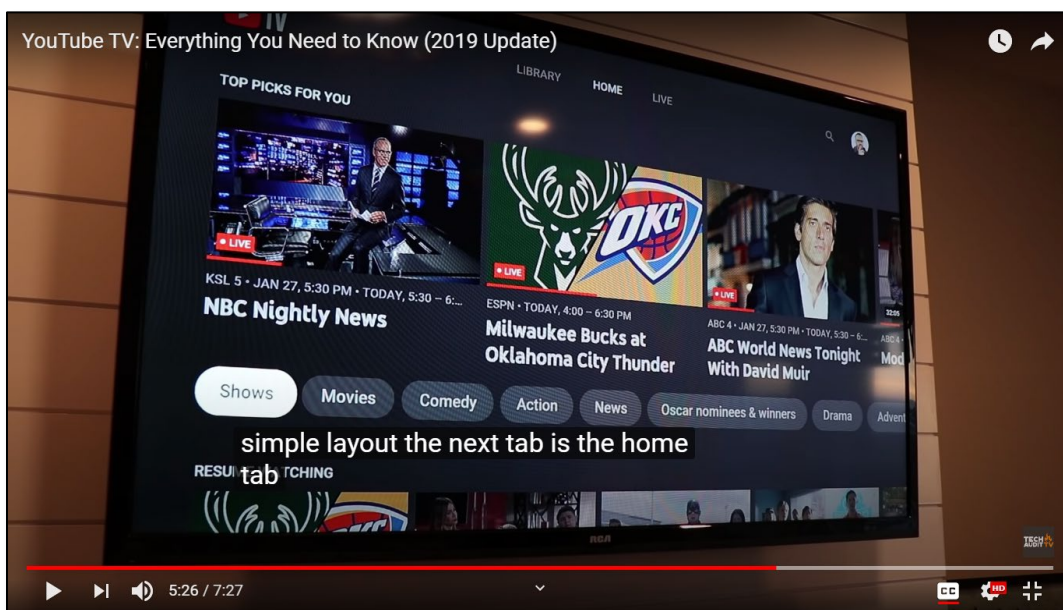
The kinds of activity that show up in My Activity depend on which Google products you use and which [Activity controls](#) are turned on.

When activity gets saved to your account

Activity is saved when you're signed in to your Google Account.

Your [Activity controls](#) control most of the activity that's saved to your account.

Source: <https://support.google.com/accounts/answer/7028918>



Source: <https://youtu.be/--NV-YMe1g>

51. Google collects information indicating user behavior (i.e. behavioral information) by monitoring user's activities (or communication traffic). The monitored user activities may

include the user's search history, viewing history, etc. (i.e., a plurality of types of communication traffic) associated with the user's Google account.

The screenshot shows a support article titled "Recommendations on YouTube TV". The main heading is "Recommendations on YouTube TV". Below the heading is a sub-heading: "Recommended programs on YouTube TV are based on your actions on YouTube TV and across other Google products, like YouTube." The article is divided into three sections, each with a blue heading and an upward-pointing arrow icon on the right:

- How recommendations work**: YouTube TV uses your watch history and recorded shows to make recommendations (learn more about managing your YouTube TV search & watch history). It also factors in what is trending or popular in your location. Recommendations will include live programs and suggestions to add to your library. The more you add, the more YouTube TV can surface relevant programs for you to enjoy.
- How YouTube TV uses Google data to drive recommendations**: To create your recommendations, YouTube TV uses imported data from across multiple Google properties (web search, Chrome, etc). You can manage which data YouTube TV sources from at myactivity.google.com.
- How your YouTube TV search and watch history affects YouTube**: Your search and watch history is shared across YouTube and YouTube TV. You may see recommendations from your YouTube history on YouTube TV. Learn how to manage your watch history on YouTube TV and on YouTube.

Source: <https://support.google.com/youtubetv/answer/7271625>.

View & control activity in your account

When you use Google sites, apps, and services, some of your activity is saved in your Google Account. You can see and delete this activity in My Activity, and you can stop saving most activity at any time.

What My Activity is

My Activity is a central place to view and manage activity like searches you've done, websites you've visited, and videos you've watched.

How activity works

When you use certain Google services, like Search, YouTube, or Chrome, your activity can be saved as data to your account. This activity helps make your experience on Google faster and more useful.

The kinds of activity that show up in My Activity depend on which Google products you use and which [Activity controls](#) are turned on.

When activity gets saved to your account

Activity is saved when you're signed in to your Google Account.

Your [Activity controls](#) control most of the activity that's saved to your account.

Source: <https://support.google.com/accounts/answer/7028918>

52. YouTube TV provides personalized recommendations for each user by analyzing user behavior across Google applications associated with the user's Google account.

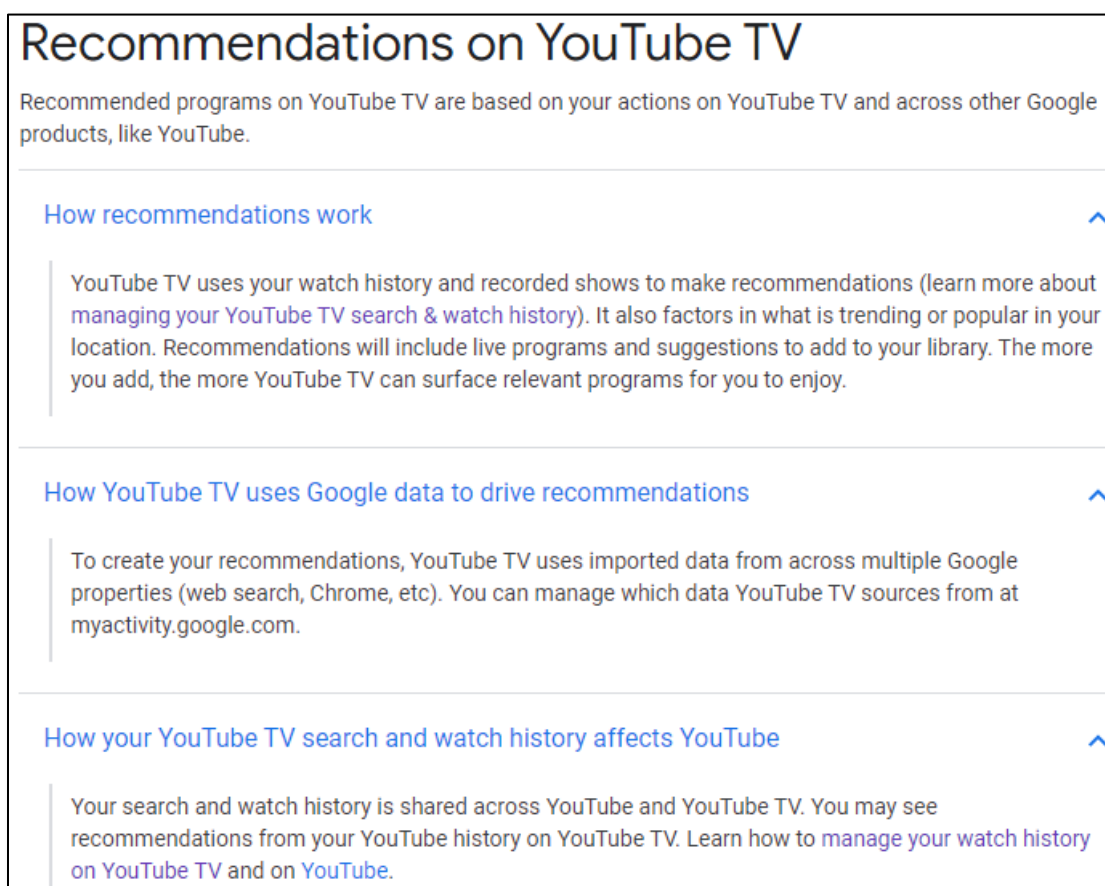
TV made for you

- Record with unlimited storage space**
- Share with your family with up to 6 accounts**
 - 3 simultaneous streams
 - Personalized watch recommendations
 - Customize your live guide
- Cancel whenever you want with no contracts**

[TRY IT FREE](#)

Source: <https://tv.youtube.com/welcome/>

53. YouTube TV maintains a separate profile for each Google account using past and ongoing user activities associated with YouTube TV and other Google products. This includes activities such as user's search history and watch history (i.e. particular types of communication traffic) associated with the Google account. This allows Google to provide recommendations about the live programs of the respective user.



Recommendations on YouTube TV

Recommended programs on YouTube TV are based on your actions on YouTube TV and across other Google products, like YouTube.

How recommendations work ^

YouTube TV uses your watch history and recorded shows to make recommendations (learn more about [managing your YouTube TV search & watch history](#)). It also factors in what is trending or popular in your location. Recommendations will include live programs and suggestions to add to your library. The more you add, the more YouTube TV can surface relevant programs for you to enjoy.

How YouTube TV uses Google data to drive recommendations ^

To create your recommendations, YouTube TV uses imported data from across multiple Google properties (web search, Chrome, etc). You can manage which data YouTube TV sources from at [myactivity.google.com](#).

How your YouTube TV search and watch history affects YouTube ^

Your search and watch history is shared across YouTube and YouTube TV. You may see recommendations from your YouTube history on YouTube TV. Learn how to [manage your watch history on YouTube TV](#) and on [YouTube](#).

Source: <https://support.google.com/youtubetv/answer/7271625>

We collect information about your activity in our services, which we use to do things like recommend a YouTube video you might like. The activity information we collect may include:

- Terms you search for
- Videos you watch
- [Views and interactions with content and ads](#)
- Voice and audio information when you use audio features
- Purchase activity
- People with whom you communicate or share content
- Activity on third-party sites and apps that use our services
- Chrome browsing history you've [synced with your Google Account](#)

Source: <https://policies.google.com/privacy?hl=en>.

View & control activity in your account


When you use Google sites, apps, and services, some of your activity is saved in your Google Account. You can see and delete this activity in My Activity, and you can stop saving most activity at any time.

What My Activity is

My Activity is a central place to view and manage activity like searches you've done, websites you've visited, and videos you've watched.


How activity works

When you use certain Google services, like Search, YouTube, or Chrome, your activity can be saved as data to your account. This activity helps make your experience on Google faster and more useful.

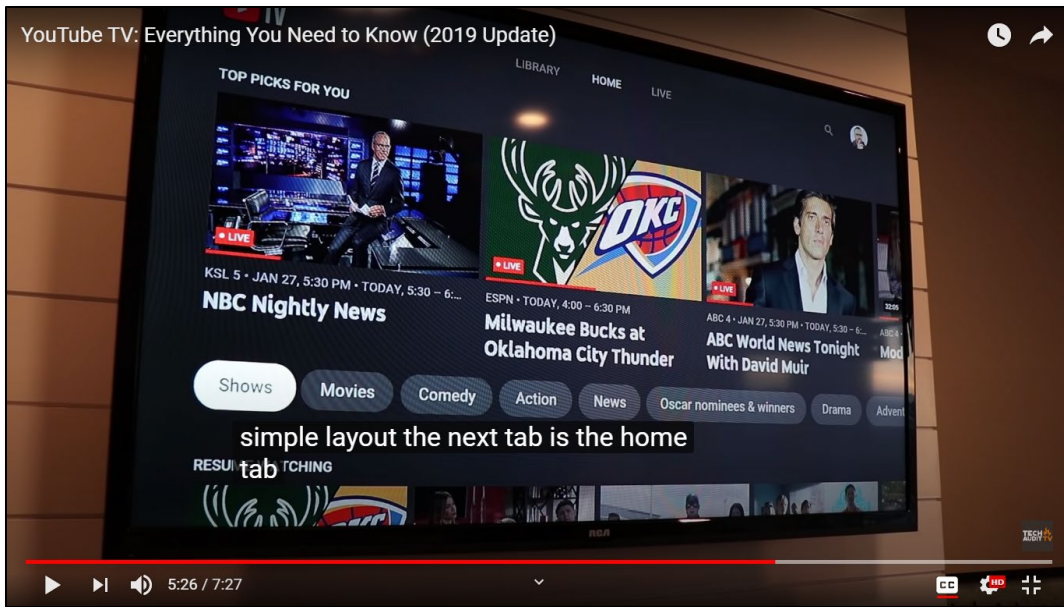
The kinds of activity that show up in My Activity depend on which Google products you use and which [Activity controls](#)  are turned on.

When activity gets saved to your account

Activity is saved when you're signed in to your Google Account.

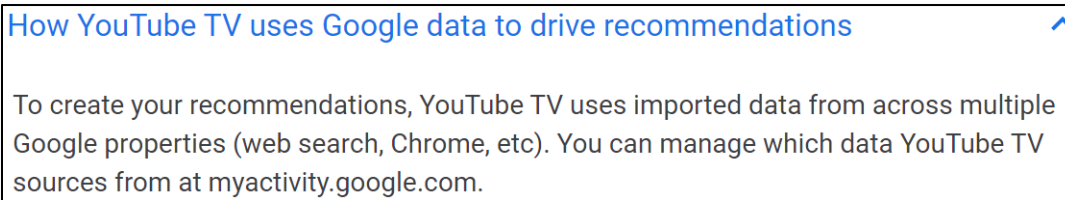
Your [Activity controls](#)  control most of the activity that's saved to your account.

Source: <https://support.google.com/accounts/answer/7028918>.



Source: https://youtu.be/--_NV-YMe1g, Time 5:25-5:34.

54. Google allows the user to manage which user activities (i.e. one or more particular types of the plurality of communication traffic) YouTube TV should use to generate recommendations. A YouTube TV user can manage and control the use of specific types of activities for recommendations using My Activity portal.



Source: <https://support.google.com/youtubetv/answer/7271625>.

55. The My Activity portal allows a user to view and manage what user activities should be saved on the Google server. Such data is used to create program recommendations on YouTube TV. The user activities, and the associated type of communication traffic, that are selected to be saved by the user affect the computation of the recommendation of programs on YouTube TV.

View & control activity in your account


When you use Google sites, apps, and services, some of your activity is saved in your Google Account. You can see and delete this activity in My Activity, and you can stop saving most activity at any time.

What My Activity is

My Activity is a central place to view and manage activity like searches you've done, websites you've visited, and videos you've watched.


How activity works

When you use certain Google services, like Search, YouTube, or Chrome, your activity can be saved as data to your account. This activity helps make your experience on Google faster and more useful.

The kinds of activity that show up in My Activity depend on which Google products you use and which [Activity controls](#)  are turned on.

When activity gets saved to your account

Activity is saved when you're signed in to your Google Account.

Your [Activity controls](#)  control most of the activity that's saved to your account.

Source: <https://support.google.com/accounts/answer/7028918>.

Activity that can be saved

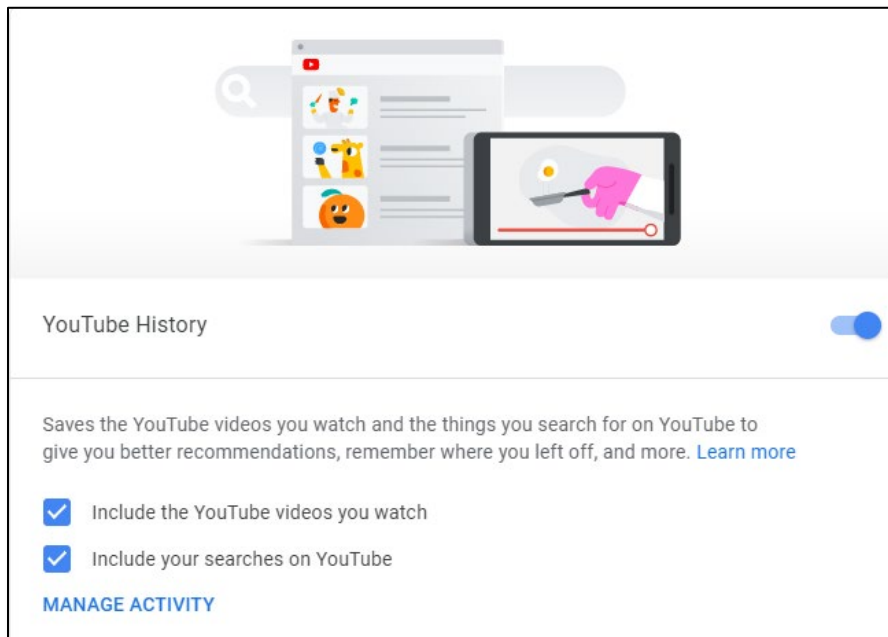
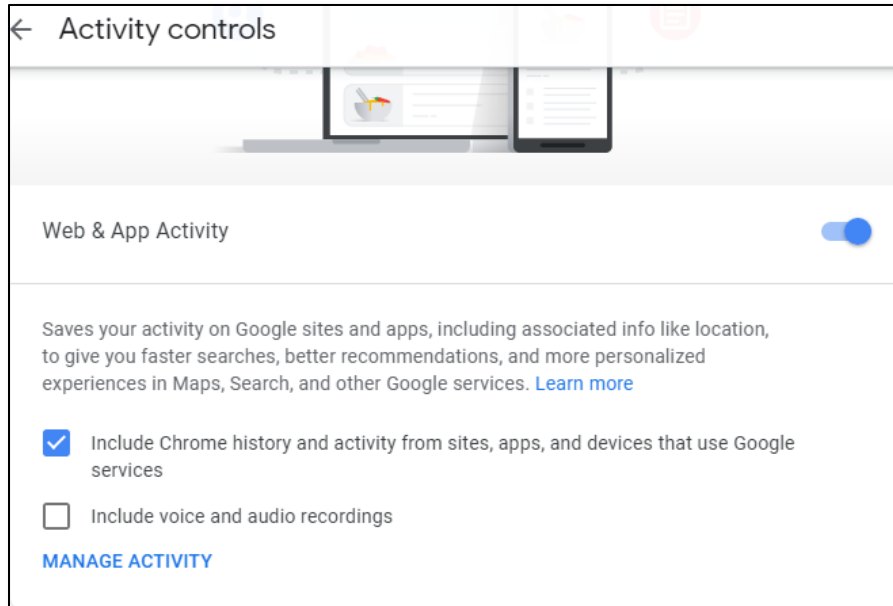
Your Activity controls let you decide whether or not to save these types of activity:

- [Web & App Activity](#) saves your searches and other activity on Google services to make searches faster and give you customized experiences in Search, Maps, and other Google products. You can also choose to save your:
 - Chrome history and activity from sites, apps, and devices that use Google services
 - Voice and audio recordings
- [Location History](#) creates a private map of where you go with your signed-in phones to provide improved map searches, commute routes, and more.
- YouTube History stores:
 - Your [YouTube search history](#) to make your future searches faster and improve your recommendations.
 - Your [YouTube watch history](#) to make it easier for you to find your recently watched videos on YouTube, avoid getting recommendations for already watched videos, and improve your recommendations.

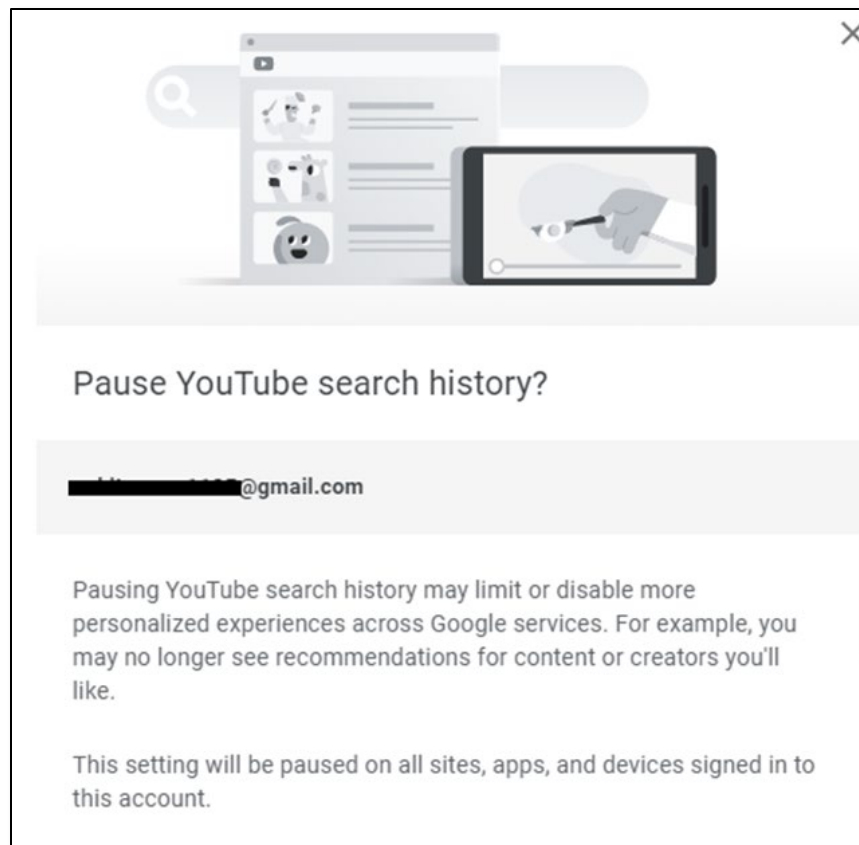
Source: <https://support.google.com/accounts/answer/6139018>.

56. A YouTube TV user can control distinct types of activities to be used for generating recommendations using the My Activity portal. A user can select the use of watch history and

search history from YouTube history for recommendations. Only the selected type of user activity (or communication traffic) will participate in generating recommendations for a user profile.

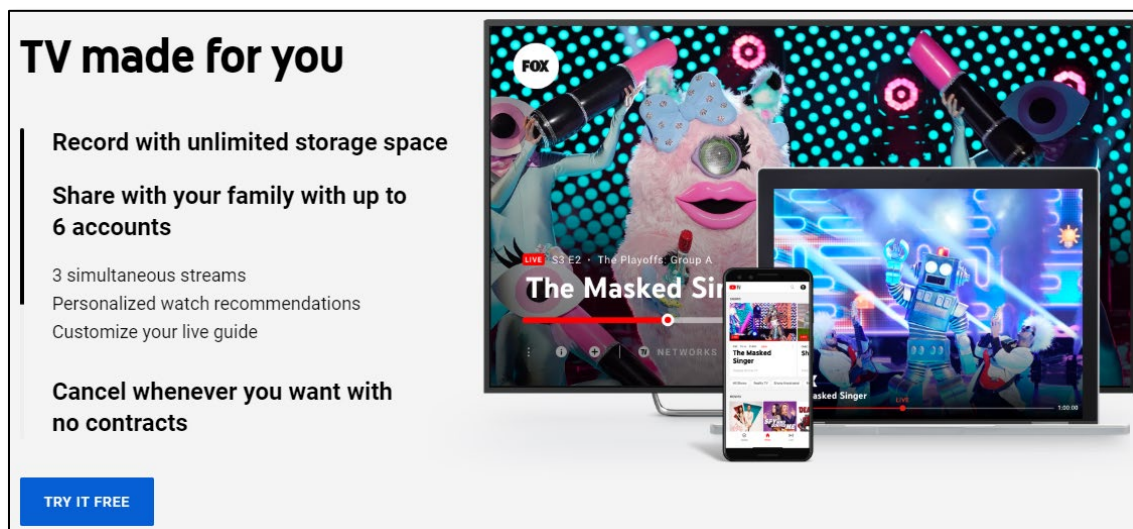


Source: Screenshot from live testing



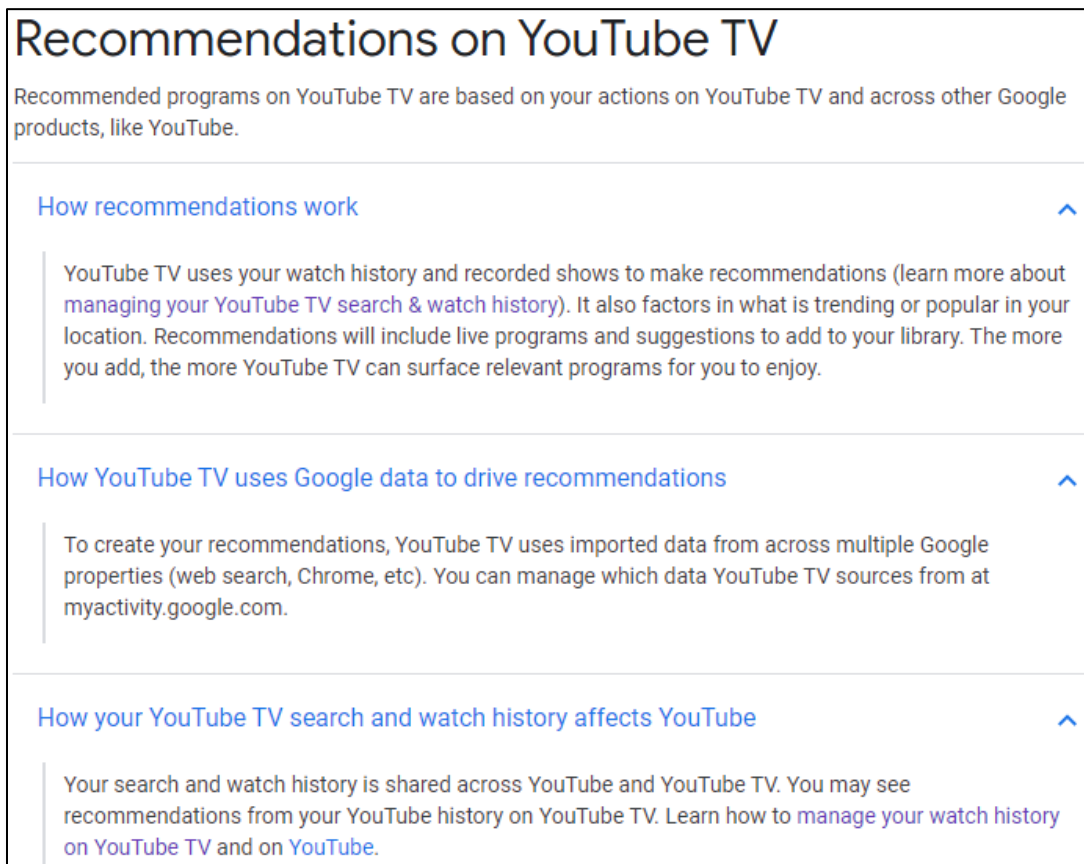
Source: Screenshot from live testing

57. YouTube TV controls personalized recommendations for each user by analyzing user behavior across Google applications associated with the user's Google account.



Source: <https://tv.youtube.com/welcome/>, Page 2, Last accessed April 29, 2020, Exhibit A

58. YouTube TV maintains a separate profile for each Google account using past and ongoing user activities associated with YouTube TV and other Google products. This includes activities such as user's search history and watch history (i.e. particular types of communication traffic) associated with the Google account. This allows YouTube TV to control the delivery of specific videos (or electronic content) provided as recommendations about the live programs based on the user's behavioral profile.



The screenshot shows a help page titled "Recommendations on YouTube TV". Below the title is a sub-header: "Recommended programs on YouTube TV are based on your actions on YouTube TV and across other Google products, like YouTube." The page is divided into three sections, each with a blue heading and an upward-pointing arrow icon:

- How recommendations work**: YouTube TV uses your watch history and recorded shows to make recommendations (learn more about [managing your YouTube TV search & watch history](#)). It also factors in what is trending or popular in your location. Recommendations will include live programs and suggestions to add to your library. The more you add, the more YouTube TV can surface relevant programs for you to enjoy.
- How YouTube TV uses Google data to drive recommendations**: To create your recommendations, YouTube TV uses imported data from across multiple Google properties (web search, Chrome, etc). You can manage which data YouTube TV sources from at [myactivity.google.com](#).
- How your YouTube TV search and watch history affects YouTube**: Your search and watch history is shared across YouTube and YouTube TV. You may see recommendations from your YouTube history on YouTube TV. Learn how to [manage your watch history on YouTube TV and on YouTube](#).

Source: <https://support.google.com/youtubetv/answer/7271625>.

View & control activity in your account

When you use Google sites, apps, and services, some of your activity is saved in your Google Account. You can see and delete this activity in My Activity, and you can stop saving most activity at any time.

What My Activity is

My Activity is a central place to view and manage activity like searches you've done, websites you've visited, and videos you've watched.

How activity works

When you use certain Google services, like Search, YouTube, or Chrome, your activity can be saved as data to your account. This activity helps make your experience on Google faster and more useful.

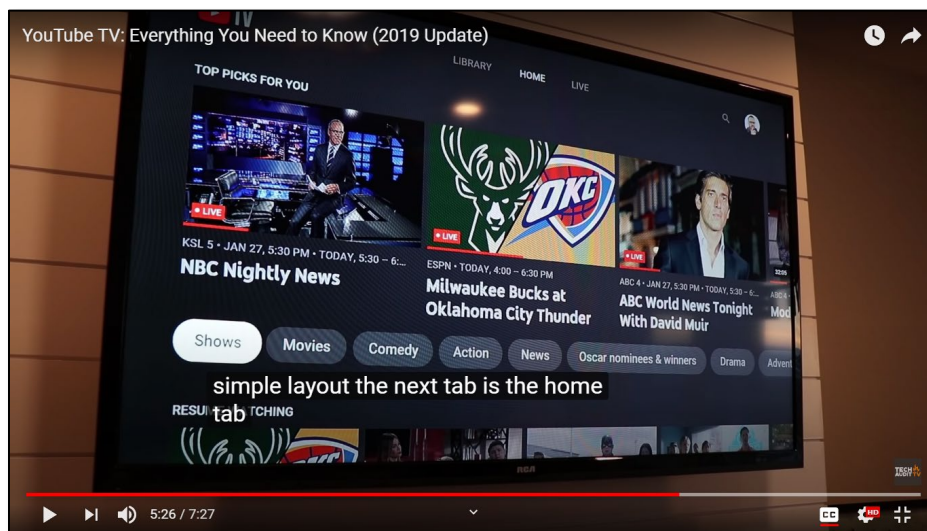
The kinds of activity that show up in My Activity depend on which Google products you use and which [Activity controls](#) are turned on.

When activity gets saved to your account

Activity is saved when you're signed in to your Google Account.

Your [Activity controls](#) control most of the activity that's saved to your account.

Source: <https://support.google.com/accounts/answer/7028918>.



Source: <https://youtu.be/--NV-YMe1g>, Time 5:25-5:34

59. Google provides services like search engine, recommendation engine, and user behavior analysis using its servers.

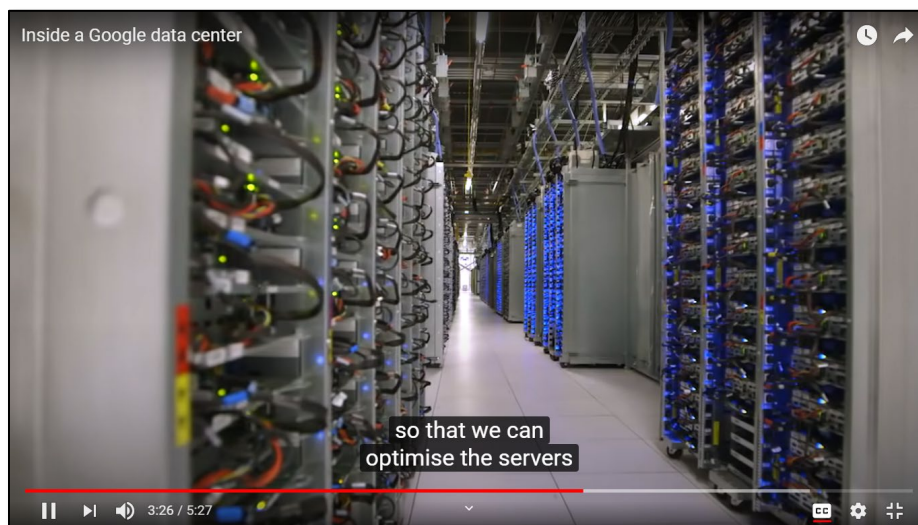
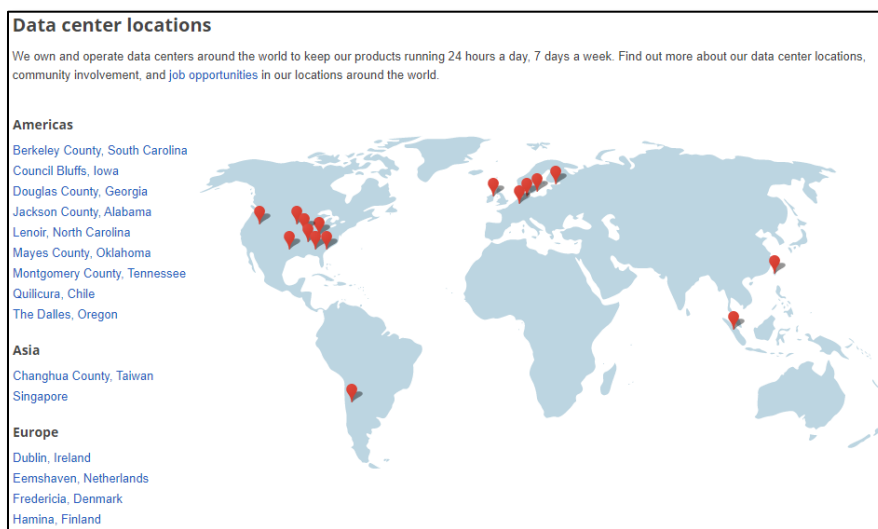


Fig. 1

Source: <https://youtu.be/XZmGGAhHqa0>.

60. For example, Google implements hardware servers (or data centers) across the world to monitor and collect (or process) user’s behavioral information (i.e. behavioral information collector and the behavioral analyzer). This helps YouTube TV to manage and control the delivery of specific live TV programs to a user (or electronic content delivery controller).



Source: <https://www.google.com/about/datacenters/inside/locations/?hl=en>.

Data transfers

We maintain servers around the world and your information may be processed on servers located outside of the country where you live. Data protection laws vary among countries, with some providing more protection than others. Regardless of where your information is processed, we apply the same protections described in this policy. We also comply with certain legal frameworks relating to the transfer of data, such as the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks.

Source: <https://policies.google.com/privacy?hl=en>.

We collect information about your activity in our services, which we use to do things like recommend a YouTube video you might like. The activity information we collect may include:

- Terms you search for
- Videos you watch
- Views and interactions with content and ads
- Voice and audio information when you use audio features
- Purchase activity
- People with whom you communicate or share content
- Activity on third-party sites and apps that use our services
- Chrome browsing history you've synced with your Google Account

In Source: <https://policies.google.com/privacy?hl=en>.

Find Out Data Google Stored About You In Its Server

- First logon to your Google Account
- Now go to [Web & App Activity](#)

Fig. 2

Source: <https://techlog360.com/find-delete-data-google-stored-server/>

61. YouTube TV allows a subscriber to watch live TV programs (i.e. electronic content) from broadcast and cable networks using an internet network link between the user device and YouTube TV (or access communication link comprising a network link in an access network). YouTube TV (i.e. electronic content source) delivers the electronic content to the subscriber over the internet (or network) link maintained between the two.

What is YouTube TV?

YouTube TV is a subscription streaming service that lets you watch live TV from major broadcast and popular cable networks. Enjoy local and national live sports, breaking news, and must-see shows the moment they air. Included: unlimited cloud DVR storage space so you can record your favorites, and stream them wherever you go. You also get 6 accounts per household, so share with your family members or roommates.

Source: <https://tv.youtube.com/welcome/>

62. YouTube TV is an IPTV service that deliver electronic content to the subscriber over the internet.

This article will provide you with details and review of **YouTube TV**. This is an IPTV Service that hosts sports and entertainment channels. It can be installed on any device including the **Amazon Firestick**, Fire TV, Fire TV Cube, NVIDIA Shield, and more.

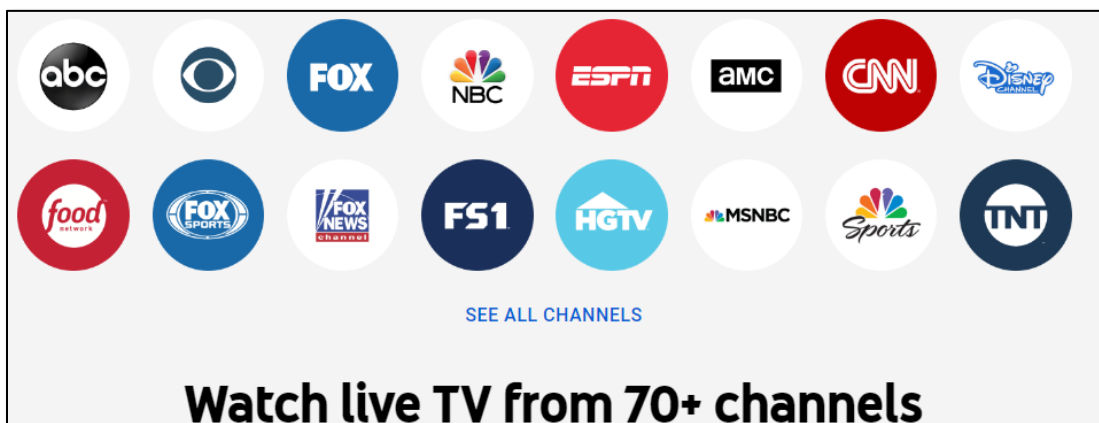
Source: <https://troypoint.com/youtube-tv-review/>,

63. YouTube TV operates multiple TV channels provided by various broadcaster and cable network providers (i.e. multiple electronic content providers). This allows YouTube to operate delivery of recommended (or target) live videos (or electronic content) to users from multiple providers.

What is YouTube TV?

YouTube TV is a subscription streaming service that lets you watch live TV from major broadcast and popular cable networks. Enjoy local and national live sports, breaking news, and must-see shows the moment they air. Included: unlimited cloud DVR storage space so you can record your favorites, and stream them wherever you go. You also get 6 accounts per household, so share with your family members or roommates.

Source: <https://tv.youtube.com/welcome/>



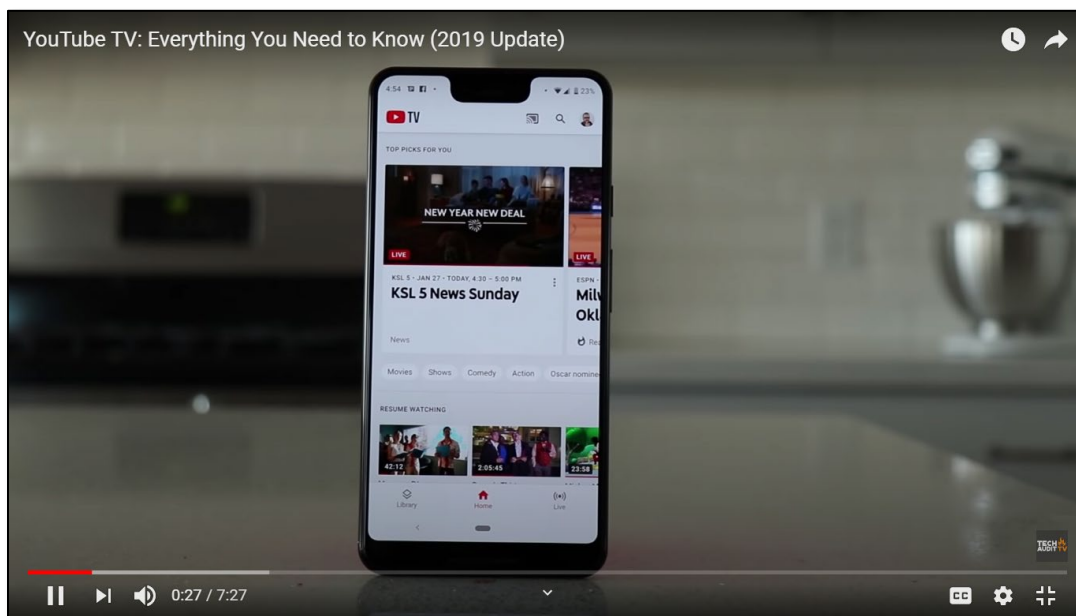
Source: <https://tv.youtube.com/welcome/>

64. YouTube TV recommends (or selects) TV programs that subscribers might like and automatically presents the program preview in the application interface. YouTube TV servers automatically start playing the recommended programs (i.e. targeted electronic content) by delivering the associated electronic content from various broadcasters and cable network providers who provide the recommended programs.

Recommendations on YouTube TV

Recommended programs on YouTube TV are based on your actions on YouTube TV and across other Google products, like YouTube.

Source: <https://support.google.com/youtubetv/answer/7271625>.



Source: <https://youtu.be/--NV-YMe1g>, Time 0:23-0:29.

65. In view of preceding paragraphs, each and every element of at least claim 11 of the ‘806 Patent is found in the Accused Products.

66. Google continues to directly infringe at least one claim of the ‘806 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.

67. Google has received notice and actual or constructive knowledge of the ‘806 Patent since at least the date of service of this Complaint.

68. 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 ‘806 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://tv.youtube.com/welcome/>
- <https://support.google.com/youtubetv/answer/7129816>
- <https://support.google.com/youtubetv/answer/7271625>
- <https://support.google.com/accounts/answer/7028918>
- https://youtu.be/--_NV-YMe1g
- <https://policies.google.com/privacy?hl=en>
- <https://youtu.be/XZmGGAbHqa0>
- <https://techlog360.com/find-delete-data-google-stored-server/>
- <https://www.google.com/about/datacenters/inside/locations/?hl=en>
- <https://troypoint.com/youtube-tv-review/>
- <https://support.google.com/accounts/answer/6139018>

69. Since at least the date of service of this Complaint, through its actions, Google has contributed to the infringement of the ‘806 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 ‘806 Patent. The Accused Products are especially made or adapted for infringing the ‘806 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 ‘806 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 ‘806 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 ‘806 Patent;

(C) Enter judgment that Google has contributed to and continue to contribute to the infringement of one or more claims of the ‘806 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 ‘806 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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