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Harvard Professor Sees Google's Illegal Revenue Over \$1 Billion



[Harvard Business School](#) professor Ben Edelman — a product of Harvard's college, law school, and economics PhD program — believes that "Google" has done a nice job of rope-a-doping the legal community that has been trying to hold it accountable. Among Google's worst infractions are advertising illegal pharmaceuticals (the subject of a Department of Justice settlement), revenues from what Edelman alleges are other kinds of unlawful material — such as child trafficking — that Google allows or fails to block, and typosquatting. Google declined to comment but in its [most recent quarterly statement](#), it wrote, "With respect to our outstanding legal matters, based on our current knowledge, we believe that the amount or range of reasonably possible loss will not, either individually or in the aggregate, have a material adverse effect on our [business](#), consolidated financial position, results of operations, or cash flows. However, the outcome of such legal matters is inherently unpredictable and subject to significant uncertainties." Edelman believes — and so does Mississippi's attorney general — that Google has not cleaned up its act. For his part, Edelman estimates that Google's illegal revenue could exceed \$1 billion. That would be double the \$500 million it [paid in August 2011](#) to settle those charges of illegal pharmaceutical advertising. \$1 billion is not much to Google — it represents about 2% of its \$57 billion in revenues but it brings to mind a question: Is Google serious when it repeats its



Don't Be Evil mantra?

So far, Google has agreed that at least \$500 million worth of its revenue was illegal. In

[May 2011](#), the DOJ's investigation of Google allowing and assisting ads for unlawful pharmaceuticals yielded an agreement that "\$500 million was a proper estimate of total [illegal pharma] revenue of Google plus the advertisers," said Edelman. He added, "So Google and advertisers were collecting \$100m/year of revenue from illegal pharma." Edelman shares Google's sense of uncertainty but estimates its illegal revenue at over \$1 billion. As he explained to me, "I hesitate to attempt a single estimate without working through the details, but I'm sure it's on the order of a billion dollars per year. Google is massive!" Edelman listed

[six different kinds](#) of Google's "unlawful advertisements." Among the most egregious in my opinion were what he called, "Advertisements promising 'free' service but actually imposing a charge. I have also

[flagged](#) dozens of advertisements promising '100% complimentary' 'free' 'no obligation' service that actually comes with a monthly charge, typically \$9.99/month or more." These ads deliver their charges to users on their mobile phone bills. As Edelman wrote, "Promising 'free' ringtones, these services rarely ask users for their credit card numbers. Instead, they post charges straight onto users' mobile phone bills — combining carrier-direct billing with deceptive advertising claims in order to strengthen the illusion of 'free' service." Then there's "typosquatting" — selling keyword advertising on domains like

expe
ndia.com to "Expedia" — that generates Google revenues of what Edelman "conservative[ly] estimate[s] at [\\$497 million per year](#). Typosquatting is illegal. See the Anticybersquatting Consumer Protection Act (ACPA). ACPA statutory damages are \$1,000 to \$100,000 per domain name. If one takes those damages seriously, the statutory damages could be massive!" If an advertiser pays for an ad when the user types

expe
ndia.com — and the ad directs users to expedia.com, doesn't the advertiser get a benefit? Edelman answered, "True. But it's a strange kind of benefit. If you don't punch me, I get a benefit. But the law doesn't require me to pay you for the privilege of not being punched. Rather, you're prohibited from punching me. And that's probably for the best." Edelman proposes a simple remedy. Argued Edelman, "Were it not for typosquatting domain registrations, a user who (mistakenly) requests expe
ndia.com would ordinarily be taken to a browser error message suggesting expedia.com and referring the user there without charge. That's better for Expedia — it's free!" At the recent National Association of Attorneys General meeting in Boston, Edelman discussed advertising on Google's YouTube for what he alleges are "the most outrageous things — escort services, human trafficking, scams related to searches such as 'work from home', 'how to get a green card', or 'how to apply for a passport.'" And Edelman believes that attorneys general are angry at Google. As Edelman said, "Google promised they would fix it — by removing ads for things like prostitution. Then it claims that removing the content is technically difficult. How hard is it? Just run a search on 'prostitution' and remove it from the server." Mississippi attorney general Jim Hood is among the angry ones. As he told me in a recent interview, "Section 230 of

1996's Communications Decency Act allows freedom of expression on the Internet to encourage the Internet's growth, not to let companies profit from illegal activities." Hood alleges that Google is doing the latter. As he said, "Google's auto-complete search function turns a consumer search for 'Buy prescription drugs' into 'Buy prescription drugs without a prescription' with a Google ad in the margin." Hood argues that Google is not being forthright when it claims that it can't fix the problem. He said, "When we met with Google to ask them to remove it, they give us technobabble about why they can't. They never answer the question."

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