

Google sued for at least \$5 billion over claimed 'Incognito mode' grab of 'potentially embarrassing' browsing data

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A trio of Google users has filed a lawsuit seeking billions of dollars in damages for millions of people allegedly tricked into giving up their web-use data by promises of "private browsing" in "Incognito mode."

"Through its pervasive data tracking business, Google knows who your friends are, what your hobbies are, what you like to eat, what movies you watch, where and when you like to shop, what your favorite vacation destinations are, what your favorite color is, and even the most intimate and potentially embarrassing things you browse on the internet—regardless of whether you follow Google's advice to keep your activities 'private,'" said the suit filed in U.S. District Court in San Jose, Calif. "Google has made itself an unaccountable trove of information so detailed and expansive that George Orwell could never have dreamed it."

The suit centers on language the digital advertising giant uses to explain incognito mode, with the plaintiffs highlighting a statement that the mode

allows users "to browse the web privately" and Google pointing to advisories to users that explain "private" browsing doesn't mean data isn't collected.

Google said it strongly disputes the claims in the lawsuit and would defend itself vigorously.

"Incognito mode in Chrome gives you the choice to browse the internet without your activity being saved to your browser or device," the company said in an emailed statement Wednesday. "As we clearly state each time you open a new incognito tab, websites might be able to collect information about your browsing activity during your session."

The plaintiffs in the suit, Chasom Brown and Maria Nguyen of Los Angeles and William Byatt of Florida, are seeking class action status and damages of at least \$5,000 each for "millions" of people affected by the alleged data grab since June 2016. Those demands, if granted by the court, would force Google to pay at least \$5 billion in damages.

"To prevent information from being shared with Google, Google recommends that its consumers need only launch a browser such as Google Chrome, Safari, Microsoft Edge, or Firefox in 'private browsing mode,'" the suit filed Tuesday claimed.

However, regardless of whether a user selected private browsing, "Google continues to track, collect, and identify their browsing data in real time, in contravention of federal and [state laws](#) on wiretapping and in violation of consumers' rights to privacy," the suit alleged. "Unbeknown to most consumers, Google constantly tracks what they request and read, click by click and page by page, in real time.

"Google's various tracking tools, including Google Analytics and Google Ad Manager, are actually designed to automatically track users when they visit webpages—no matter what settings a user chooses."

Incognito mode's landing page on Chrome says, "Now you can browse privately, and other people who use this device won't see your activity. However, downloads and bookmarks will be saved." The page says Chrome won't save a user's browsing history, cookies, site data and information entered in forms, but warns that user activity might still be visible to websites visited, employers, schools and internet service providers. A link on the page goes to a support page clarifying that the reference to employers and schools concerns use of work or school computers.

Incognito mode won't "prevent you from telling a website who you are," the support page says. "If you sign in to any website in Incognito mode, that site will know that you're the one browsing and can keep track of your activities from that moment on."

The suit claims Google intercepts browsing data when private modes are used on other browsers including Safari. Google's statement referred to "Incognito mode in Chrome," and a spokesman, asked about the claim of data interception from other browsers, said, "Chrome works the same way the other browsers work."

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