

[Google's forced disclosure of users' data case]

Seoul Central District Court Decision 2014GaHap38116 decided October 16, 2015
Regarding Google's forced disclosure of status quo of its provision of personal information and service details of domestic users to a third party

Facts

Defendant Google Inc., a U.S. corporation, provides about 60 Internet-based services including Google Search, YouTube, and Gmail worldwide. Co-defendant Google Korea, Ltd. (hereinafter referred to as "Google Korea") is engaged in sales and marketing of online advertisement products, services, direct marketing (DM) products and services in Korea. Plaintiffs are Google service users who became members by generating Google account or using corporate mail service provided by Google Inc.

In February, 2014, Plaintiffs requested Defendants to respond to whether Defendants had provided information about Plaintiffs and to provide details of such information.

However, Google Korea did not give any answer to Plaintiffs. Google Inc. sent Plaintiffs emails dated February 22, 2014 to the effect that:

- 1) Google Korea is not in a position to respond to the information disclosure request because it is not the supplier of Gmail service; and
- 2) Google Korea provides the information of users to government agencies only when required by laws. Google Inc. lawyers examined all the individual requests and most of cases of such requests have been rejected because of improper

procedure or too broad questions. For the privacy protection of users, Google Inc. shall not make any statement whether a certain user is subjected to the said request of information. Unless otherwise prohibited by law or court orders, Google Inc. used to inform the users of the particulars required to provide by law.

In response, Plaintiffs requested again Defendants to give detailed answer about whether what kind of information of Plaintiffs has been provided to a third party. However, the Defendants did not give any response thereto.

Reasoning

Google Korea cannot be the principal providing Google services nor become the service provider jointly with Google Inc. because such company is subcontracted for improving the performance or handling personal information for and on behalf of Google Inc.

Therefore, Google service users have no right to request Google Korea to disclose the status quo of personal information provided to a third party pursuant to Article 30(2) of the Network Act.

However, it is reasonable to consider that the principal providing location information service and location-based service related to Google products is Google Korea because the end user agreement for those services clearly states that those services provided for Google products are provided by Google Korea. In this regard, the complaint filed by the Plaintiffs against Google Korea is grounded on Article 30(2) of the Network Act, while any disclosure of detailed location information shall be subject to Article 24(4) of the Act on Protection

and Use of Location Information. The end user agreement for location information service and location-based service is not mentioned in the complaint of Plaintiffs.

Conclusion

Plaintiffs' suits are unlawful and accordingly shall be dismissed because of wrongfully targeted defendant as well as incorrectly invoked statutory grounds