

DIGITAL REGULATION PROJECT

The Second Bride in the Bath: A Roadmap for a Monopolization Case Against Google in AI

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Table of Contents

<i>I. Introduction.....</i>	<i>3</i>
<i>II. Google’s Conglomerate and Assets</i>	<i>4</i>
A. Search.....	5
B. The Android Operating System.....	7
C. Google Suite of Apps.....	8
D. Ad Tech	8
E. AI Stack	9
<i>III. Relevant Markets.....</i>	<i>10</i>
A. Search.....	10
B. AI Assistants	10
C. “AI” is Not a Market	12
D. Combining the Search and AI Assistants.....	12
<i>IV. Second Bride in the Bath: Maintaining Monopoly in Search and Monopolization of AI Assistants</i>	<i>13</i>
A. Monopoly Maintenance in Search	14
B. Attempt to Monopolize AI assistants	17
C. Illegal Tying in a Combined Market of Search and AI Assistants	24
D. Contracts Facilitate Monopolization	28
<i>V. Harms</i>	<i>30</i>
A. Innovation and Quality	30
B. Price	31
C. Harm to AI Rivals.....	32
<i>VI. Alternative Arguments are Unconvincing.....</i>	<i>32</i>
<i>VII. Remedies.....</i>	<i>34</i>
A. Design Issues	34
B. Distribution	34
C. Interoperability at the App Level.....	35
D. No Default AI Assistant	35
E. Data	36

F.	Hardware.....	36
G.	Android Divestiture	37
VIII.	<i>“Early” Enforcement is “Timely” Enforcement</i>	<i>37</i>
A.	Courts Demand Early Enforcement	38
B.	Lost Competition is Lost	39
C.	Good Enforcement Takes Time	41
IX.	<i>Conclusion.....</i>	<i>42</i>

“They just have this reach that few, if any, companies on Earth have,” Mr. Rivlin said. “Looking for the next Google? It’s probably Google.”²

I. Introduction

In 1915, the Englishman George Joseph Smith stood trial for the murder of his wife Margaret Loft, who was found drowned in her bathtub shortly after the couple had changed their life insurance arrangements in Smith’s favor. Standing alone, the circumstances of Margaret’s death were suspicious but perhaps explainable. What made Smith’s conviction possible was the evidence that two previous wives had died in identical circumstances, in identical postures, in identical financial arrangements, shortly after identical visits to a solicitor. The Court of Criminal Appeal upheld the admission of this pattern evidence in *Rex v. Smith* (or what was famously called the “Brides in the Bath” case) under what has since been called the doctrine of chances³: when the same outcome recurs through the same mechanism in the hands of the same actor, the probability that each instance is an innocent coincidence collapses. The repetition is itself the evidence.⁴

Google is the George Joseph Smith of digital markets. Search was the first “bride in the bath” and Google is now deploying a nearly identical mechanism in AI assistants. By embedding Gemini assistant as the default across its application suite, including search, and excluding rivals from mandatory apps and Android hardware functionalities, Google is using its control over its proprietary Android OS to foreclose rival AI assistants from that mobile channel. Just as it did in search, Google has contracted with Apple, this time to power Siri with Google’s AI model. Though the market is a new one, the same firm that monopolized search is carrying out the same strategy again: AI assistants are the new bride in the bath.

The enforcer arguments that convinced a court to find Google liable for monopolizing search are not merely legal history, but a template that can be used again with remarkably little modification. This time, however, the pace of enforcement must be drastically quicker if it is to protect competition in AI. In addition, we expect that enforcers, courts, and public opinion will be less

² Brian X. Chen, “How Google Is Starting to Win the A.I. Race,” *The New York Times*, May 19, 2026, <https://www.nytimes.com/2026/05/19/technology/personaltech/google-gemini-ai.html>.

³ See generally Sean Sullivan, “Probative Inference from Phenomenal Coincidence: Demystifying the Doctrine of Chances,” *Law, Probability and Risk* 14 (2015): 27, <https://ssrn.com/abstract=2389682>.

⁴ *Rex v. Smith*, 114 L.T.R. 239 (Crim. App.), 11 Cr. App. R. 229, 84 L.J.K.B. 2153 (Eng. 1915).

disposed to believe that the second bride accidentally drowned. Enforcers should be able to understand the theory of harm and dismiss specious counterarguments from Google more quickly.

The Article advances two principal claims. First, Google is unlawfully maintaining its monopoly in general search by deploying the same distribution agreements, data advantages, and ecosystem control that secured its dominance in the first place, while redesigning Search to absorb the competitive threat posed by AI assistants. The same assets that enabled Google's monopolization of search now position it to foreclose AI-native rivals before they can mature into effective competitive constraints to Google's search monopoly. Second, Google is attempting to monopolize the emerging market for consumer AI assistants by controlling the principal channels through which AI reaches consumers, including Android handsets, Google Mobile Services, and its agreement with Apple that covers iOS users. Google's integration of Gemini throughout Search, Android, and Google's application suite also supports a tying claim because it conditions access to products with market power on the acceptance of Google's AI assistant, while denying rival assistants equivalent distribution and interoperability.

These practices threaten more than developers of rival AI assistants and entrants in search. They also reduce competitive opportunities for application developers, publishers, and content creators whose ability to reach users increasingly depends on Google. More fundamentally, they threaten to determine not merely which AI assistant succeeds, but whether the next winners in digital technology are chosen through open competition on the merits, or whether Americans are restricted to using the AI technology chosen by a decades-old search monopolist. The sweep of US antitrust history has hitherto protected consumers: The AT&T case opened up competition in computing and allowed IBM to grow; the IBM case opened up the software industry and allowed Microsoft to grow; the Microsoft case protected the open internet and allowed Google to grow. But the outcome of the Google search case breaks this pattern by leaving the monopolist with the ability and incentive to foreclose. Could a second antitrust case against Google -- at the start of this technological cycle -- open up AI and allow innovation and competition to flourish?

The Article lastly emphasizes that timely enforcement is crucial; once monopoly power has become entrenched, meaningful remedies may no longer be available. At a superficial level, competition in AI assistants may appear vigorous because several developers are regularly in the headlines. But, as we describe below, Google's structural advantage gives it tremendous leverage to affect change. Digital markets characterized by defaults, network effects, feedback loops, and ecosystem advantages can tip rapidly. Once they do, effective remedies become increasingly difficult to design and implement. The history of Google's search monopoly demonstrates that establishing liability after a monopoly has become entrenched may produce a legal victory without restoring meaningful competition. If antitrust law is to preserve competition in AI assistants, enforcement must occur while the market remains contestable.

II. Google's Conglomerate and Assets

The emergence of LLMs and AI services such as ChatGPT, Claude, and Perplexity has created the first serious competitive challenge to Google's dominance in information retrieval in well over a decade. Google recognized this threat, reportedly declaring a "code red" following ChatGPT's

release and subsequently undertaking the most significant redesign of Search in its history.⁵ Some observers of the emerging competitors have predicted that competition among foundation models will be self-sustaining and require no policy intervention.⁶ This picture of durable competition has already produced real-world consequences: even after finding that Google had illegally monopolized the search market, Judge Mehta imposed relatively modest remedies in part because he viewed generative AI as a source of viable competitors for search.⁷

Yet Google's control over information retrieval has remained largely intact. A year after the weak remedies decision in the Search case, Google still controls more than 90% of the general search market and reports billions of monthly users of its various AI services: as of May 2026, 2.5 billion for AI Overviews, 1 billion for AI Mode in Search, and 900 million in the Gemini app.⁸ (By comparison, OpenAI, the leading consumer AI chatbot, reports weekly users rather than monthly, and says it is around 900 million, raising the prospect that Google may surpass it even in that sub-category of usage in which it had been the clear market leader.⁹) Regardless, the growing use of AI chatbots has not undermined Google's search position; chatbot interactions remain only a fraction of the volume of Google's general search services.¹⁰ Despite the appearance of competition, Google also controls critical layers of the AI ecosystem, placing it in a position to foreclose rivals, create strategic bottlenecks, and leverage its existing monopoly power to maintain its search monopoly and extend that power into AI assistants markets. Google's extraordinary profitability and strong market valuation demonstrate that many believe the company will continue to reap the benefits of its search monopoly while remaining a dominant force in emerging AI markets. As discussed below, Google's ecosystem provides the company with assets and power that can be used to foreclose in consumer AI assistants and search.

A. Search

Search is a critical lever in Google's ecosystem. Despite the emergence of products like ChatGPT, Perplexity, and Claude, Google continues to dominate general search, controlling approximately

⁵ David Phelan, "How ChatGPT Suddenly Became Google's Code Red, Prompting Return of Page and Brin," *Forbes*, January 23, 2023, <https://www.forbes.com/sites/davidphelan/2023/01/23/how-chatgpt-suddenly-became-googles-code-red-prompting-return-of-page-and-brin/>.

⁶ Jason Furman, "I Thought I Understood A.I. Companies. I Couldn't Have Been More Wrong," *New York Times*, February 25, 2026, <https://www.nytimes.com/2026/02/25/opinion/ai-industry-competition-innovation.html>.

⁷ *United States v. Google LLC*, No. 20-cv-3010 (APM) (D.D.C. Sept. 2, 2025) (remedies opinion), slip op. at 1–2, 155 (framing GenAI as a "nascent competitive threat" and declining broader relief in part because "[t]he GenAI product space is highly competitive").

⁸ "Search Engine Market Share Worldwide," Statcounter Global Stats, accessed July 8, 2026, <https://gs.statcounter.com/search-engine-market-share> (Google at roughly 90 percent of worldwide searches); Sundar Pichai, "I/O 2026: Welcome to the Agentic Gemini Era," Google (blog), May 19, 2026, <https://blog.google/innovation-and-ai/sundar-pichai-io-2026/#momentum>.

⁹ "Google Is Dethroning OpenAI as the King of Consumer AI," *The Economist*, May 20, 2026 (Gemini app "used by 900m people every month"); Aisha Malik, "ChatGPT Reaches 900M Weekly Active Users," *TechCrunch*, February 27, 2026, <https://techcrunch.com/2026/02/27/chatgpt-reaches-900m-weekly-active-users/>.

¹⁰ Rand Fishkin, "New Research: Google Search Grew 20%+ in 2024; Receives ~373X More Searches than ChatGPT," *SparkToro* (blog), March 10, 2025, <https://sparktoro.com/blog/new-research-google-search-grew-20-in-2024-receives-373x-more-searches-than-chatgpt/> (Google receives roughly fourteen billion searches per day, against some 37.5 million search-like prompts on ChatGPT).

85% of search traffic in the US and more than 90% worldwide.¹¹ The introduction of AI Overviews has helped Google retain users within Search even as AI chatbots have gained popularity. Google announced that beginning in the summer of 2026 search will be completely reimagined with AI, with responses being tailored to the kind of question the user asked. Indeed, recent evidence suggests that AI chatbots are not replacing Google Search but instead expanding overall information-seeking behavior, with users continuing to rely heavily on Google Search for many of their queries.¹²

Google's control of Search provides several distinct advantages as the market evolves towards this AI experience. First, Search generates an unparalleled volume of user queries and interaction data, giving Google insight into how users seek information, formulate questions, and evaluate results. These data can be used to improve Gemini's delivery of the AI experience, as well as services used in other apps on the device, and AI assistants. Second, Google has used vast amounts of proprietary publisher content (perhaps without the legal right) to train and power answers to user questions. For example, Google has required publishers who want to be included in search results to allow use of their data for training its AI without incremental benefits, though it has announced that it will begin giving publishers an opt-out option in response to an investigation by the UK's Competition and Markets Authority (CMA).¹³ The lack of choice for publishers results in them giving away content to Google, which uses it to create a service that takes away publishers' traffic.¹⁴ In addition, Google's practice of tying data for search and data for AI training raises rivals' costs because AI rivals must pay content providers for data to train their models while Google can coerce data without payment.

Third, Google has steered users to its AI services by progressively integrating them directly into search itself; Gemini-powered features such as AI Overviews and AI Mode appear directly on the SERP. While publishers have reported significant reductions in referral traffic associated with these features,¹⁵ Google's overall query volume and advertising revenues have remained strong. In the first quarter of 2026, Google reported a 16% increase in advertising revenue, suggesting that the emergence of AI has not undermined its advertising business. Google's existing search monopoly allows the company to distribute its evolving "reimagined" AI search to billions of users through an already dominant product rather than requiring users to download and adopt a standalone chatbot.

Search therefore functions simultaneously as a source of training data, a source of superior low-cost content, and a distribution channel for Google's AI products.

¹¹ "Search Engine Market Share United States of America," Statcounter Global Stats, accessed July 8, 2026, <https://gs.statcounter.com/search-engine-market-share/all/united-states-of-america>; "Search Engine Market Share Worldwide," Statcounter Global Stats, accessed July 8, 2026, <https://gs.statcounter.com/search-engine-market-share>.

¹² Luke Harsel, "ChatGPT Is Not Replacing Google—It's Expanding Search," *Semrush* (blog), August 11, 2025, <https://www.semrush.com/blog/google-usage-after-chatgpt-adoption/>.

¹³ Mrinalini Loew, "New Opportunities, Control and Insights for Website Owners," Google (blog), June 3, 2026, <https://blog.google/products-and-platforms/products/search/new-controls-website-owners/>.

¹⁴ Madhavi Singh and Fiona M. Scott Morton, "A Roadmap for a Monopolization Case Against Google: Monopsony Power and AI Overviews" (working paper, January 31, 2026).

¹⁵ Athena Chapekis and Anna Lieb, "Google Users Are Less Likely to Click on Links When an AI Summary Appears in the Results," Pew Research Center, July 22, 2025, <https://www.pewresearch.org/short-reads/2025/07/22/google-users-are-less-likely-to-click-on-links-when-an-ai-summary-appears-in-the-results/>.

B. The Android Operating System

Android is the world’s dominant mobile operating system, running more than 70% of smartphones globally.¹⁶ Although Google describes Android as open source, the open-source Android Open Source Project (“AOSP”) lacks many of the functionalities necessary for a commercially viable smartphone so that developers do not write for it, but rather for the proprietary Google Android. OEMs are entirely dependent on Google to have a working product and therefore must license the Google Mobile Services (“GMS”) bundle. The importance of access to Google’s version of Android was illustrated when U.S. sanctions prevented Google from licensing Android to Huawei, causing the company’s smartphone sales outside China to collapse.¹⁷ A second example is Amazon’s attempt to launch a forked version of Android, Fire, based on AOSP (and not controlled by Google) to power its mobile devices. The devices could not run any Android apps that were developed for Google’s proprietary Android, and the OS was a failure despite the resources and installed base that Amazon was able to provide.¹⁸

Control of Google Android provides Google with a powerful advantage in AI markets because it gives Google control over billions of mobile devices. Google ensures its operating system gives Gemini full functionality and pays OEMs to preinstall Gemini chatbots on Android phones and designate Gemini as the default AI assistant. At the remedy hearing for the Google Search case, testimony revealed that Samsung and Google had at least a two-year contract under which Google paid “an enormous sum of money” to ensure that Gemini shipped as the default on Samsung phones.¹⁹ Control over Android also allows Google to integrate Gemini at the operating-system level, enabling it to access device functionalities such as the microphone, camera, chips, and screens. Rival AI assistants cannot offer comparable functionality if they lack access to the same device capabilities—for example, the ability to understand and respond to what a user is viewing on her screen. Starting in the summer of 2026, Google is expected to update Google Android to include “Gemini Intelligence,” an on-device AI assistant with substantial agentic capabilities.²⁰ While users may be able to download competing AI assistants on Android, those assistants do not appear to possess access to the same system-level integrations, and cross-application functionality as Gemini.

Google’s control of Android is among its most effective tools for exclusion because Android is a distribution bottleneck. Users want their AI assistants to work on their mobile devices. Users also typically “single-home,” meaning they carry only one mobile device. No company developing a foundation model controls a mobile operating system except Google (and Apple, if it chooses to

¹⁶ “Mobile Operating System Market Share Worldwide,” Statcounter Global Stats, accessed July 8, 2026, <https://gs.statcounter.com/os-market-share/mobile/worldwide> (Android at roughly 70 percent).

¹⁷ Arjun Kharpal, “From No. 1 to No. 6, Huawei Smartphone Shipments Plunge 41% as U.S. Sanctions Bite,” CNBC, January 28, 2021, <https://www.cnbc.com/2021/01/28/huawei-q4-smartphone-shipments-plunge-41percent-as-us-sanctions-bite.html>.

¹⁸ Austin Carr, “The Inside Story of Jeff Bezos’s Fire Phone Debacle,” *Fast Company*, January 6, 2015, <https://www.fastcompany.com/3039887/under-fire>.

¹⁹ Leah Nylen, “Google Trial: Company Paid Samsung ‘Enormous Sums’ for Gemini AI App Installs,” *Bloomberg*, April 21, 2025, <https://www.bloomberg.com/news/articles/2025-04-21/google-paid-samsung-enormous-sums-for-gemini-ai-app-installs>.

²⁰ Marko Nguyen, “Gemini Intelligence Could Change Android Forever—Here Are the Biggest New AI Features,” *Memeburn*, May 20, 2026, <https://memeburn.com/gemini-intelligence-could-change-android-forever-here-are-the-biggest-new-ai-features/>.

develop its own foundation model). Any other rival that wishes to access end users will have to partner with Google or Apple, just as was the case in mobile search when Google locked down the whole market.

C. Google Suite of Apps

Beyond the Google Android OS, Google operates a suite of widely used consumer applications, including Search, Chrome, Gmail, Google Meet, Maps, YouTube, Drive, Photos, and the Play Store, all of which are preinstalled and promoted on Android handsets. Indeed, a Google Android handset will not function unless the Play Store is installed.²¹ These applications are deeply integrated with one another and with Android, and are used by billions of consumers for search, communication, navigation, entertainment, productivity, and content storage. Together with hardware, they form one of the largest and most comprehensive ecosystems in the digital economy for consumers.

Google's application conglomerate provides three significant advantages in AI markets: distribution, personal data, and exclusion. First, the integration of Gemini across Search, Chrome, Gmail, Maps, YouTube, and other apps allows Google to distribute its AI assistants to billions of users without requiring them to download or adopt a standalone chatbot. This gives Google additional distribution channels unmatched by any rival AI provider and allows it to expose users to Gemini across multiple contexts throughout the day.

Second, Google's applications generate vast amounts of user-specific and aggregate data. A user who relies on Google services for email, calendars, documents, photos, navigation, and search creates a rich stream of information that can be used to personalize AI assistants and improve their functionality. At the aggregate level, data generated through Google's applications, including user interactions and content hosted across its services, provides training and product-improvement advantages that competitors are unlikely to replicate, or only at substantial cost and a significantly smaller scale.

Finally, Google's ecosystem can be used to exclude rival AI competitors. Google can choose to share APIs needed to seamlessly interoperate with these apps, or it can give inferior access to its rivals and preference Gemini. When a Gemini-based assistant can operate across Google's entire suite of applications, and draw on information and functionality from Gmail, Calendar, Maps, Docs, Photos, YouTube, and Search, it will provide superior functionality. For example, a user attempting to schedule a meeting could ask the Gemini assistant to draft a reply in Gmail, identify a free slot from Google Calendar, suggest a meeting location using Google Maps, and estimate travel time based on current traffic conditions. The value of the assistant in this scenario derives from its ability to operate seamlessly across multiple Google services. A competing AI assistant without equivalent access may be unable to provide the same functionality and therefore may be unable to compete effectively in the marketplace.

D. Ad Tech

²¹ *United States v. Google LLC*, 747 F. Supp. 3d 1 (D.D.C. 2024), findings of fact ¶¶ 352–53 (Play Store required for GMS applications to function; quoting testimony that “without [the] Google Play [Store], an Android phone is a brick”).

A further component of Google's ecosystem is its dominance in digital advertising, both in search and display markets. Advertising remains Google's primary source of revenue and continues to generate extraordinary cash flows, over \$260 billion in revenue in 2024 alone.²² Google's advertising business provides two distinct advantages in AI markets: financing and monetization. First, advertising revenues generate the enormous cash flows necessary to fund frontier AI development in a setting in which the supply of external capital may be limited. Training and deploying advanced models requires substantial expenditures on compute infrastructure, data centers, engineering talent, and research. While many AI firms continue to operate at significant losses and depend on outside investment to sustain development, Google can finance these investments using revenues generated elsewhere in its ecosystem at a lower opportunity cost. Second, Google's advertising business provides an established pathway to monetization. Rival AI firms continue to experiment with subscriptions, enterprise licensing, and other business models, often with uncertain prospects for long-term profitability. Google's advantage therefore is both that it enjoys a lower rate of loss as it rolls out AI, and that it faces less risk because it already possesses a proven mechanism for making profit.

E. AI Stack

Google is uniquely positioned among AI developers because it operates across every major layer of the AI stack. There are four basic layers: hardware (chips), cloud infrastructure, foundation models, and applications. At the hardware layer, Google designs its own Tensor Processing Units (TPUs), reducing its dependence on third-party chip suppliers and protecting it from any supply threats. At the infrastructure layer, Google operates Google Cloud, one of the three hyperscaler cloud providers capable of supporting frontier-model development. At the model layer, Google develops the Gemini family of foundation models using training inputs that include search data, YouTube content, and information generated across Google's broader ecosystem. At the application layer, Gemini is available as a standalone product and is a default in Google's GMS apps, including Search, Chrome, Gmail, Maps, YouTube, Docs, and Android. As we discuss in the case below, Google's control of Android and its agreement with Apple making Gemini the foundation of Apple Intelligence,²³ together give it almost complete dominance over distribution as well. No other company maintains a strong presence across all layers of the AI stack.

Google's control of multiple layers of the AI stack creates opportunities to foreclose rivals or create strategic bottlenecks at each layer. Because competitors may depend on a Google-controlled input or infrastructure, while Google faces no analogous dependence on any rival, those rivals cannot foreclose Google, yet Google is uniquely positioned to influence the terms on which rivals compete. Its vertical integration therefore provides not only defense, but also multiple opportunities for offense against competitors across the AI stack.

²² Alphabet Inc., Annual Report (Form 10-K) for Fiscal Year 2024, filed February 2025, <https://www.sec.gov/Archives/edgar/data/0001652044/000165204425000014/goog-20241231.htm> (Google advertising revenues of \$264.6 billion in 2024).

²³ "Joint Statement from Google and Apple," Google (blog), January 12, 2026, <https://blog.google/company-news/inside-google/company-announcements/joint-statement-google-apple/>; Samantha Subin, "Apple Picks Google's Gemini to Run AI-Powered Siri Coming This Year," CNBC, January 12, 2026, <https://www.cnbc.com/2026/01/12/apple-google-ai-siri-gemini.html>.

III. Relevant Markets

Two markets contain the essential conduct at issue: general search services, in which Google has already been adjudicated a monopolist, and AI assistants for end consumers, the emerging market in which Google is repeating its anticompetitive conduct. Numerous courts and competition authorities around the world have concluded that search is a distinct relevant market despite its evolution over the last two decades.²⁴ A virtual assistant provides AI assistants to end consumers; such a service is distinct from search (e.g. replying to messages and booking appointments) and distinct from software provided to enterprises.

A. Search

A federal court in *United States v. Google LLC* held that “general search services” (GSS) is a relevant product market and that Google holds monopoly power within it.²⁵ General search engines are distinct from specialized vertical providers (such as Amazon or Expedia) and social-media sites, which the court found are not adequate substitutes: a general search engine is “a gateway to the World Wide Web,” unconstrained by subject matter, inventory, or query type, whereas vertical providers are “walled gardens” confined to their own structured data.²⁶ For present purposes the operative market is general search services; we use “search” to refer to it. Importantly, the *Google* court already treated modern search as AI-inflected—the ranking systems at issue are themselves machine-learning systems—so the boundary we draw between “search” and “AI assistants” is not a line between non-AI and AI products, but between the established market for general web search and the distinct, emerging market described below. While search may be evolving with respect to the derivation and presentation of the classic “blue links” that defined Google Search in its early years, the essential project of ranking web content and delivering what is most relevant to a user query remains unchanged.

B. AI Assistants

The market for AI assistants for consumers is an emerging competitive area. What defines the market is not the underlying foundation model but the AI assistant’s ability to act for the user across the device in a variety of settings and using a variety of functionalities.

Since *Brown Shoe Co. v. United States*, a market’s outer boundaries turn on “the reasonable interchangeability of use or the cross-elasticity of demand between the product itself and substitutes for it,” but “well-defined submarkets” within a broad market may themselves be

²⁴ *United States v. Google LLC*, 747 F. Supp. 3d 1 (D.D.C. 2024); Google Search (Shopping), Case AT.39740, Commission Decision of June 27, 2017, aff’d, Case C-48/22 P, *Google and Alphabet v. Commission*, ECLI:EU:C:2024:726 (E.C.J. Sept. 10, 2024); Google Android, Case AT.40099, Commission Decision of July 18, 2018, aff’d in relevant part, Case T-604/18, *Google and Alphabet v. Commission* (Gen. Ct. Sept. 14, 2022); Competition and Markets Authority, *Strategic Market Status Investigation into Google’s General Search Services: Final Decision* (October 10, 2025).

²⁵ *United States v. Google LLC*, 747 F. Supp. 3d 1 (D.D.C. 2024) (Mehta, J.) (holding general search services a relevant product market in which Google has monopoly power); see *id.* (slip op. at 140–52) (market-definition discussion).

²⁶ *Id.* (“” (slip op. at 140–41) (general search engines are “a gateway to the World Wide Web,” not constrained by subject matter, inventory, or query type; specialized vertical providers are “walled gardens” confined to their own structured data).

relevant markets, identified through “practical indicia” such as industry recognition, the product’s peculiar characteristics and uses, specialized vendors, distinct prices, and sensitivity to price changes.²⁷

The most relevant here is the product’s peculiar characteristics and uses. An AI assistant is defined not by the underlying model but by its capacity to act for the user across the device—to “interact with the device hardware, have access to invocation mechanisms . . . and the user’s context and data, integration with other apps, and underlying system services.”²⁸ That distinguishes it from general search at the level of function: search retrieves and ranks links; an AI assistant completes tasks. The two are agentic versus retrieval-oriented, and an AI assistant’s quality turns on device integration rather than on indexing the open web.

Industry and public recognition points the same way. AI assistants are “becoming central access points on mobile devices,”²⁹ and the European Commission’s treatment of the category in its Article 6(7) specification proceeding concerning Google Android under the Digital Markets Act reflects an institutional judgment that AI assistants occupy a position distinct from the products in which they are embedded.³⁰ Recognition by a sophisticated regulator is strong evidence the category exists as “a separate economic entity.”³¹ Industry players, too, have recognized that search and AI assistants are not in the same market. During the UK’s Competition and Markets Authority’s designation process under the DMCCA, Anthropic told the regulator that its Claude did not compete in the market for general search.³² Instead, Claude is perhaps best known for its on-device agentic capabilities, including Claude Code and Cowork.

AI assistants should have a low cross-elasticity of demand with general search—and indeed even as use of AI assistants has increased, recent work has not found a large substitution effect in general search.³³ The services are also supplied by specialized vendors, a good example being Anthropic’s Claude (see above). A competitive AI assistant requires not just a capable model but privileged, device-level integration. And a degradation in an AI assistant’s agentic capability would not drive users to substitute web search, because search cannot perform the task the user is trying to

²⁷ *Brown Shoe Co. v. United States*, 370 U.S. 294, 325 (1962).

²⁸ “European Commission, “Features for AI or AI-related Services,” 2 (an AI service provider on Google Android “needs its services to be able to interact with the device hardware, have access to invocation mechanisms such as voice-based hotword activation, the user’s context and data, integration with other apps, and underlying system services”).

²⁹ *Id.* at 1 (“The smart mobile device market is at a technological inflection point, with AI services becoming central access points on mobile devices. . . AI based services such as AI assistants are gaining user traction on mobile devices as they allow users to navigate their mobile habits with increasing ease of use.”).

³⁰ *Id.* at 1.

³¹ *Brown Shoe*, 370 U.S. at 325 (listing “industry or public recognition of the submarket as a separate economic entity” among the practical indicia).

³² Competition and Markets Authority, *Strategic Market Status Investigation into Google’s General Search Services: Final Decision*, Annex B (October 10, 2025), 13, <https://www.gov.uk/cma-cases/googles-general-search-and-search-advertising-services>.

³³ See Samira Gholami, Cristiana Firullo, Cristobal Cheyre, and Alessandro Acquisti, “Beyond Search: LLM Adoption and Web Traffic Concentration” (working paper, February 14, 2026), <https://ssrn.com/abstract=6238578>; Harsel, “ChatGPT Is Not Replacing Google”; Fishkin, “New Research: Google Search Grew 20%+ in 2024.”

accomplish. Under *du Pont*, it is this absence of cross-elasticity, not any surface resemblance, that marks the boundary.³⁴

C. “AI” is Not a Market

Google may try to argue that all AI services belong in the same market: from Claude Code to Search Overviews to Meta’s AI advertising products to the ever-increasing applications of foundation models, Google may claim Gemini is competing everywhere. No court or regulator, though, should accept such an argument. Although foundation models may themselves compete (e.g., Google, Anthropic, OpenAI, and DeepSeek, etc.), the many uses for foundation models belong in different markets according to the same tests to which courts are now well-accustomed.

An analogy to electricity, an earlier “general purpose technology” (GPT, as in ChatGPT), can make this point. The market for electricity generation and transmission is clearly cognizable—and has itself been subject to (de)regulation at various points in American history.³⁵ Given the right supporting facts, foundation models could similarly be argued to constitute a relevant market. But electricity is also the basis for a whole host of products ranging from cars to lamps to personal computers, all of which operate in their own markets even while similarly depending on electricity generation and transmission. Yet no one would suggest that there is a single market for “electrical products.” Both air conditioners and coffee machines use electricity, yet it would be fanciful to place those products in the same relevant antitrust market *because* they both run on electricity. Similarly, products with different uses that both run on AI do not belong in the same market *because* they both use AI.

D. Combining the Search and AI Assistants

While any claim that there is only a single market for “AI” is erroneous, Google may attempt to argue that consumer search and AI assistants are consolidating into one service. While we argue that the distinction between search and AI assistants is material, and that establishing distinct markets within AI services is the only route forward that makes sense when dealing with a general purpose technology, it remains the case that combining these two markets into one neither changes the theory of harm nor the extent of Google’s market power.

A single market for AI-mediated information services and assistance is one Google already dominates. Its position in search dwarfs anything any AI rival offers—the *Google* court found Google receives nine times the queries of all rivals combined—and its AI reach in search and assistants combined is head and shoulders above its competitors: Google reports that AI Overviews alone reach more than 2.5 billion monthly users and its conversational AI Mode more than one billion, figures no standalone AI entrant approaches.³⁶ An AI search market does not rescue

³⁴ *United States v. E.I. du Pont de Nemours & Co.*, 351 U.S. 377, 394–95, 400 (1956).

³⁵ “Understanding Electricity Market Frameworks & Policies,” U.S. Environmental Protection Agency, accessed July 8, 2026, <https://www.epa.gov/greenpower/understanding-electricity-market-frameworks-policies>.

³⁶ *United States v. Google LLC*, 747 F. Supp. 3d 1, findings of fact ¶ 87 (nine-times query disparity); Perez, “Google Search as You Know It Is Over” (AI Overviews “used by more than 2.5 billion monthly users”; AI Mode “tops 1 billion monthly users”). The Google figures are monthly actives and are offered to show the order of magnitude of Google’s AI reach, not a head-to-head share against any single rival.

Google by surrounding its monopoly with competition; instead, it describes a somewhat broader market in which Google’s dominance is not a possible future outcome but is already manifest.

Moreover, should a court decide the markets have converged, Google will have been the principal agent of that convergence: at its 2026 developer conference it announced a wholesale re-conception of search as an AI-powered, agentic experience. “Search” will now generate conversational answers, use background “information agents” that monitor the web on a user’s behalf, and generate interactive interfaces.³⁷ It is in Google’s interest to guide the development of AI assistants in a direction that builds on its position in search. Designing all information retrieval to be a form of search is, quite naturally, a good strategy for a monopolist in search. What makes a good corporate strategy, however, is unhelpful in the relevant antitrust case.

Accordingly, the precise boundary between search and AI assistants is not outcome determinative. If they are distinct markets, Google is leveraging its search monopoly to foreclose competition in AI assistants. If they have converged into a single market for AI-mediated information retrieval, Google already possesses a dominant position in that market and is using the conduct described below to maintain it.

IV. Second Bride in the Bath: Maintaining Monopoly in Search and Monopolization of AI Assistants

Google is not a first-time monopolist but a recidivist. It has already been found liable for illegally monopolizing three times in the United States: in search, ad tech, and app distribution.³⁸ Despite a finding of liability in search, the remedies imposed in the search case were ineffective and failed to restore competition, and indeed, left intact the market power and the ecosystem advantages that are enabling Google to try again. Google is now repeating the same playbook it used to illegally acquire and maintain its search monopoly, this time in AI assistants. Table 1 below (page 29) illustrates how Google’s conduct in AI assistants closely mirrors the tactics it deployed in search, suggesting a continuation of the same successful exclusionary strategy in a new technological context.

To establish a monopolization, or maintenance of monopoly, claim, a plaintiff must identify exclusionary conduct that is not competition on the merits. To establish attempted monopolization, a plaintiff must show that the defendant: 1) engaged in predatory or anticompetitive conduct; 2) acted with a specific intent to monopolize; and 3) has a dangerous probability of success in achieving monopoly power.³⁹ Using publicly available evidence, we describe theories of harm that fit these legal descriptions. First, Google is unlawfully maintaining its monopoly position in the market for general search by using its control over distribution, proprietary data, and its broader ecosystem to disadvantage and exclude newly threatening AI rivals. Second, Google is attempting to monopolize emerging markets for AI assistants by restricting access to Android devices through

³⁷Sarah Perez, “Google Search as You Know It Is Over,” *TechCrunch*, May 19, 2026, <https://techcrunch.com/2026/05/19/google-search-as-you-know-it-is-over/> (I/O 2026 overhaul: “intelligent search box,” background “information agents,” and generative interactive interfaces replacing ranked links).

³⁸ *United States v. Google LLC*, 747 F. Supp. 3d 1 (D.D.C. 2024); *United States v. Google LLC*, No. 1:23-cv-108 (LMB/JFA), slip op. (E.D. Va. Apr. 17, 2025); *Epic Games, Inc. v. Google LLC*, No. 3:20-cv-05671-JD, slip op. (N.D. Cal. Oct. 7, 2024).

³⁹ *Spectrum Sports, Inc. v. McQuillan*, 506 U.S. 447 (1993).

inferior access to hardware and software features. Third, Google’s integration of Gemini into Android and its GMS apps including Search, Gmail, Maps, Chrome, YouTube and others constitutes illegal tying that excludes both current and nascent competitors in both search and AI assistants. Finally, Google’s agreement⁴⁰ with Apple to use Gemini as the foundation model for Apple Intelligence and Siri forecloses AI rivals from iOS devices, thus closing down the only other channel of access to end consumers in both markets. Other agreements with rivals and input suppliers also restrict competition.

A. Monopoly Maintenance in Search

Section 2 of the Sherman Act prohibits monopoly maintenance as well as the original creation of monopoly under the same logic. Illegal monopolization has two elements: (1) the possession of monopoly power in the relevant market and (2) the willful acquisition or maintenance of that power as distinguished from growth or development as a consequence of a superior product, business acumen, or historic accident.⁴¹ It has already been established that Google possesses monopoly power in the market for general search services. A federal court concluded that Google’s monopoly power was unlawfully acquired through exclusionary conduct. Not only is Google’s monopoly in general search unlawfully acquired, but Google is now using the same type of exclusionary practices to unlawfully maintain and entrench the search monopoly as well as extend its monopoly power through Gemini-enhanced search.

Importantly, the court in *Microsoft* made it clear that a monopoly maintenance claim does not require proof of strict but-for causation, namely, that “a defendant’s continued monopoly power is precisely attributable to its anticompetitive conduct.” Rather, causation may be inferred where the challenged conduct “reasonably appear[s] capable of making a significant contribution to . . . maintaining monopoly power.”⁴² The following set of interconnected conduct by Google easily clears that hurdle. It is designed to make, and is reasonably capable of making, a significant contribution to the maintenance of Google’s monopoly power in general search.

Exclusionary Conduct: Two Interlocking Mechanisms to Block Creative Disruption

The emergence of ChatGPT represented the first significant competitive threat to Google’s search monopoly in years. Following ChatGPT’s release, Google declared “Code Red,” recognizing that AI could alter how users access information online. Google responded by co-opting this “creative disruption” through rapid integration of similar AI functionality directly into search itself and by doubling down on default and distribution deals as well as its data advantages built in part through search monopolization.

The court’s remedy in the search case required Google to alter its contracts with OEMs to allow them to install rival search engines as defaults if they prefer.⁴³ However, an Android OEM depends on the goodwill of Google and access to its many products and services for the health of its business. To our knowledge, no Android OEM has taken the risk of setting up a rival search engine as a default on its devices. Under the terms of the remedy, Google is permitted to continue to

⁴⁰ “Joint Statement from Google and Apple.”

⁴¹ *United States v. Grinnell Corp.*, 384 U.S. 563, 570–71 (1966).

⁴² *United States v. Microsoft Corp.*, 253 F.3d 34, 79 (D.C. Cir. 2001).

⁴³ *United States v. Google LLC*, No. 20-cv-3010 (APM), slip op. at 3 (D.D.C. Sept. 2, 2025).

incentivize (including pay) OEMs to install Google search as a default.⁴⁴ In this situation, there is no possibility for an AI-powered search rival to obtain default status on an Android device unless it controls that device.

In April 2026, reports emerged that OpenAI was developing a handset in collaboration with MediaTek, Qualcomm, and Luxshare, potentially launching as early as 2028.⁴⁵ And in July, as a string of former Apple employees and executives were joining OpenAI, Apple sued the start-up for intellectual property theft, naming two of its former employees in the suit.⁴⁶ OpenAI's efforts to create a new handset will give it a permanent open path to serve end users. The tremendous importance of handset access is demonstrated by OpenAI taking on a project that is both technically and economically challenging. It may also be tangible evidence of the extent to which OpenAI fears its entrenched rivals, Apple and Google, will foreclose an ambitious entrant seeking to challenge their dominance.

Meanwhile, Google's contract to pay Apple 36% of search revenue on iOS devices (even for users of Chrome) continues according to publicly available information.⁴⁷ Apple's services revenue is over \$100 billion⁴⁸ about a quarter of which is likely to be search payments. The Google court required the contract to omit the exclusivity provision, meaning that Google cannot require Apple to exclude all other search rivals in order to obtain payment.⁴⁹ However, the remedy does not prevent Google from obtaining a 100% share of defaults on iOS. Again, as long as Apple gains more from Google payments (which reflect monopoly power) compared to AI entrants, there will be no way for such entrants to obtain default status on an iOS device. An AI rival that cannot access end users by becoming the default search access point on Android and iOS, might attempt to reach consumers through other popular apps. Google's default integration of Gemini-backed tools across its suite of applications including Gmail, YouTube, Google Maps, Chrome, and Android, blocks a rival from obtaining that default position as well.

Google also uses the proprietary data generated across its application ecosystem and Android operating system to train and improve information retrieval. Gemini models improve their performance across the precise use cases in which AI-native rivals compete most directly with Google Search: information retrieval, question answering, and summarization. For example, a user who might previously have turned to ChatGPT to ask a question such as, "What is the best route to get to my meeting?" may instead increasingly rely on the Gemini chatbot because it has the most up-to-date information from Google's GMS suite, both public as well as data personal to the user. In such a context, the Gemini-based search tools (Overviews, AI Mode, chatbot, etc.) may be able to access the user's calendar, traffic conditions, prior email threads, contacts, and location

⁴⁴ *Id.* at 4.

⁴⁵ Ivan Mehta, "OpenAI Could Be Making a Phone with AI Agents Replacing Apps," *TechCrunch*, April 27, 2026, <https://techcrunch.com/2026/04/27/openai-could-be-making-a-phone-with-ai-agents-replacing-apps/>.

⁴⁶ Kalley Huang and Cade Metz, "Apple Sues OpenAI, Accusing It of Stealing Company Secrets," July 10, 2026, <https://www.nytimes.com/2026/07/10/technology/apple-openai-lawsuit.html>.

⁴⁷ Marcus Mendes, "Apple's Search Deal with Google Could Face Renewed Scrutiny as DOJ Appeals Antitrust Ruling," *9to5Mac*, February 3, 2026, <https://9to5mac.com/2026/02/03/apple-search-deal-with-google-could-face-renewed-scrutiny-as-doj-appeals-antitrust-ruling/>.

⁴⁸ Felix Richter, "Services: Apple's \$100-Billion Growth Engine," *Statista*, November 3, 2025, <https://www.statista.com/chart/14629/apple-services-revenue/>.

⁴⁹ *United States v. Google LLC*, No. 20-cv-3010 (APM), slip op. at 3.

information simultaneously, thereby enabling it to provide a more tailored and context-aware response than a standalone AI chatbot lacking access to comparable ecosystem-wide data.

The distribution advantage and the data advantage are not independent; they are mutually reinforcing. Leveraging its monopoly position in distribution generates more interaction data and more interaction data produces a better model. A better model justifies deeper integration across Google's application suite, which generates still wider distribution and still more data. Each iteration of this cycle widens the gap between Gemini's information retrieval capabilities and those available to rivals who are denied both the distribution and the data advantage.

Judge Mehta in *Google Search* identified an analogous dynamic in the relationship between distribution and product quality in platform markets.⁵⁰ Google's search distribution agreements did not merely foreclose rivals from efficient distribution channels; they also denied rivals the query volume that functions as a critical input into search quality improvement, thereby ensuring that the quality gap created by Google's scale advantages could not be closed by rival search engines regardless of their engineering efforts. The court specifically emphasized the role of scale advantages, network effects, and positive feedback loops in assessing the anticompetitive effects of Google's exclusionary conduct in search. The same relationship between distribution advantage, data advantage, and product quality is relevant in evaluating Google's exclusionary conduct in the information retrieval context.

The two mechanisms, Google's ecosystem-wide default placement of Gemini search products and its use of data gathered from its ecosystem to train Gemini in information retrieval, operate together to improve Google search's quality, personalization, and scale in ways rival AI systems cannot replicate.

The D.C. Circuit's monopoly maintenance framework in *Microsoft* provides doctrinal support for finding Google's conduct unlawful. In *Microsoft*, the court held that Microsoft unlawfully maintained its operating system monopoly by neutralizing the nascent competitive threat posed by middleware, specifically Netscape Navigator and Sun's Java, which threatened to erode the applications barrier to entry protecting Microsoft's monopoly.⁵¹ That barrier rested on a self-reinforcing cycle: consumers used Windows because most applications were written for it, and developers wrote applications for Windows because most consumers used it. Netscape and Java threatened this cycle because they enabled applications to run independently of the underlying operating system. If users increasingly accessed applications through a browser rather than directly through Windows, the browser and not the operating system would become the primary platform through which users and developers interacted, thereby weakening Microsoft's monopoly position.

Microsoft developed its own browser to ensure that, even if browsers became the future of computing, that future would still run through Microsoft's ecosystem. With that browser, Microsoft used its operating system dominance to foreclose Netscape from the distribution channels necessary to achieve the scale required to erode the applications barrier to entry. The D.C. Circuit recognized that product design choices may be exclusionary when they are structured to impede rivals and preserve monopoly power.⁵² For instance, Microsoft's exclusion of Internet

⁵⁰ *United States v. Google LLC*, 747 F. Supp. 3d 1, 161 (D.D.C. 2024).

⁵¹ *Microsoft*, 253 F.3d at 53–56.

⁵² *Id.* at 65–67.

Explorer from the Add/Remove Programs utility and its commingling of Internet Explorer and operating system code, made rival browsers less viable and reinforced the centrality of the Windows platform. The D.C. Circuit held that this conduct constituted unlawful monopoly maintenance because it was directed at preserving the structural conditions insulating Microsoft's operating system monopoly.

Google's strategy here closely mirrors Microsoft's. AI chatbots such as ChatGPT, Claude, and Perplexity represent the first significant threat to Google's search monopoly, just like middleware represented a significant threat to Microsoft's operating system monopoly. Google did not merely launch a competing AI product in the form of Gemini. Instead, it progressively integrated Gemini into Search itself – perhaps to use its search dominance to foreclose rivals from the distribution channels necessary to achieve scale and erode the quality feedback loop. This strategy is analogous to Microsoft's which also progressively integrated Internet Explorer into its operating system to neutralize the middleware threat. Just as Microsoft sought to prevent middleware from developing into an alternative platform for applications and “protected its operating system monopoly from a middleware threat.”⁵³ Google is using search and Gemini integrations (including AI Overviews and the chatbot) to protect its search monopoly from the threat of rival AI chatbots taking over search. The analogous distribution barrier to the Windows OEM contracts is the pre-installed default position on both Android and iOS devices that is possible due to control of the operating system (for Android) and sharing monopoly profits (for iOS).

The court in *Microsoft* clearly held that such exclusionary conduct constitutes unlawful monopoly maintenance. Indeed, the analogy may understate Google's competitive threat. Unlike AI chatbots and search engines, browsers did not improve through self-reinforcing data and usage feedback loops. If the D.C. Circuit found Microsoft's response to the browser threat sufficiently exclusionary to violate Section 2, the case for scrutinizing Google's response to AI search rivals (e.g., chatbots)—which can rapidly improve as scale generates additional data and model refinement—is even stronger.

The court has already determined that competition was harmed in search due to Google's monopolization of search defaults. The issues that are different for this second “bride” are the court's removal of any formal requirement that OEMs be exclusive and the presence of vigorous challengers who want that default position. Though both of these changes should stimulate entry, the market structure of search remains almost the same—a Google monopoly—despite the existence of innovative AI competitors.

B. Attempt to Monopolize AI assistants

Section 2 of the Sherman Act also prohibits attempted monopolization. To establish attempted monopolization, a plaintiff must prove: (1) anticompetitive or exclusionary conduct; (2) a specific intent to monopolize; and (3) a dangerous probability of achieving monopoly power in the relevant market.⁵⁴

At present, several firms compete to provide AI assistants to end users. OpenAI, Anthropic, Google, xAI, and Meta all offer AI products and services to both consumer and enterprise users.

⁵³ *Id.* at 67.

⁵⁴ *Spectrum Sports*, 506 U.S. at 456.

Should courts determine that AI assistants are different from search, Google has not yet monopolized this market. However, an AI provider must be able to deploy its services on users' mobile devices to have a viable consumer product, as mobile handsets are the primary consumer gateway.⁵⁵ The AI model will improve if it is trained on all the digital activities of a user's life—and most of those occur on mobile devices. Users also single-home on handsets, giving the controller of that device substantial insight into their activity. Therefore, if one AI provider can monopolize AI assistants on mobile devices, that provider will very likely be the overall monopolist in consumer AI assistants. The European Commission explains the critical nature of this moment in its recent Case Summary of Features for AI or AI-related Services (we refer to the most specific category of "AI assistants"):

"The smart mobile device market is at a technological inflection point, with AI services becoming central access points on mobile devices. In parallel, there is a clear consumer demand for AI-powered devices supported by an industry-wide push towards AI. AI based services such as AI assistants are gaining user traction on mobile devices as they allow users to navigate their mobile habits with increasing ease of use."⁵⁶

There are only two major mobile operating systems used in the United States, Google Android, belonging to Alphabet, and iOS, belonging to Apple.⁵⁷ These two operating systems can therefore determine the winners in the AI assistants' market. On Android, Google's most basic exclusionary tactic is to pay OEMs to preinstall Gemini, thereby effectively, though not contractually, excluding rivals. This repeats the strategy Google successfully employed in search (and is possible because the *Google Search* court refused to enjoin payments for default status).

Beyond straightforward payments, Google also engages in exclusionary conduct both through Android functions and its proprietary GMS suite. Google's control of the Android OS gives it numerous opportunities to favor its own AI assistant over those of its rivals. Without access to the APIs that operate handset functions, rivals cannot match the functionality of services that do have access. The European Commission details many of these advantages in its report:

"For example, any AI service provider that wants to offer its services to users of smart mobile devices powered by Google Android needs its services to be able to interact with the device hardware, have access to invocation mechanisms such as voice-based hotword activation, the user's context and data, integration with other apps, and underlying system services. Such access would ensure that alternative AI services can provide at least comparable performance, responsiveness, visibility, functionality, and utility to end users with Alphabet's AI services."⁵⁸

As mentioned above, in 2026, Google announced plans to launch "Gemini Intelligence," an AI assistant incorporated deep inside the Android OS. We anticipate that this improved assistant will

⁵⁵ *United States v. Google LLC*, 747 F. Supp. 3d 1, 158 (D.D.C. 2024) (listing the major channels of distribution as Android and Apple mobile devices, Apple desktops, and third-party browsers).

⁵⁶ European Commission, "Features for AI or AI-related Services," 1.

⁵⁷ *Id.*

⁵⁸ *Id.*

widen the already large gap between the functionality afforded to Google’s own AI assistant in the Google Android OS as compared to that available to rival assistants.

In addition to its control of the base operating system and device functionalities, Google also uses control of the GMS suite including Search, the Play Store, YouTube, etc. to reinforce its advantage on Android and bottleneck or degrade rivals’ access and functionality. Licensing Google Android requires the inclusion of the GMS suite, giving Google a secondary opportunity to privilege the Gemini assistant over rival assistants.⁵⁹ An effective assistant will require access to applications a user employs to organize and carry out tasks, and on Android, many of these applications are Google’s, too. While the extent to which third-party AI assistants enjoy functionality comparable to Gemini varies across applications, in no application is parity maintained.⁶⁰

Google has not entirely shut out rival AI assistants from its applications such as Gmail and Drive, but the access it allows is at the cloud level, not inside the applications. For example, a Claude user in the United States can configure Claude to interact with Google Drive and Gmail by authenticating in the cloud and then gaining access to the specific information authorized. However, when that user opens the Drive or Gmail webpage, Gemini will by default be enabled and displayed on that page (currently in the top right corner) with no option to substitute a different agent. (While the user can disable Gemini features, the button will not disappear and will always be a click away to reenable those features.)⁶¹ In other applications, such as Maps⁶² and YouTube,⁶³ integrating a third-party assistant is possible only for technically sophisticated users capable of running a model context protocol (MCP) server to connect with Google’s APIs. Such connections provide very limited, essentially read-only, access to features that Google chooses. By contrast, Gemini-based features appear prominently on desktop and mobile websites and apps for these services.

Critically, Google’s choice to permit third party access is a business decision, and one that can be reversed should further foreclosing the rival AI assistants advantage Google at some future time. The fact that Google is keeping some of its applications somewhat open to rival AI assistants at present suggests it is obtaining advantages from interoperability during this period. If, however, Google’s own AI assistant gains sufficient share and heft, the firm’s calculus could easily flip to favor a closed model, especially in cases where AI rivals that successfully integrate with Google’s products became a substantial competitive threat to Google. A business risk like this will tend to prevent innovation and entry by rivals because their investment can be appropriated.

We have witnessed this dynamic before: platforms often encourage interoperability while complementary products increase the value of the platform, only to restrict access once those products mature into competitive threats. Facebook followed a similar strategy: it initially encouraged third-party developers to build on its platform, but later restricted API access when

⁵⁹ Complaint at 24–25, *United States v. Google LLC*, No. 20-cv-3010 (D.D.C. Oct. 20, 2020) (describing GMS, MADAs, and Google’s proprietary Android ecosystem).

⁶⁰ *Id.*

⁶¹ Google is continuously updating the features and design of Gemini inside its applications. We reference this article as of July 14, 2026. “Learn More About the Features of Gemini,” *Google*, <https://support.google.com/mail/answer/16831098?hl=en>.

⁶² Arthur Katcher, “Google Maps MCP,” *Github*, May 4, 2026, <https://github.com/arthurkatcher/google-maps-mcp>.

⁶³ tunde-alao, “YouTube,” *MCP Market*, <https://mcpmarket.com/server/youtube-14>.

applications such as Vine and Circle emerged as competitive threats.⁶⁴ Google has likewise encouraged developers to build apps for Android because apps increase the value of the Android ecosystem. But once those apps (such as Yelp, Expedia, Spotify) begin to compete with Google's own products, Google's incentives shift toward developing and promoting its own services.⁶⁵ With Gemini, Google's incentives may similarly shift from promoting interoperability to limiting it where rival AI assistants threaten Google's own products.

Beyond Android, the other game in town is Apple's iOS. An essential part of Google's search monopolization playbook was its contract with Apple to share search revenue in exchange for default and exclusive status on Apple products (this contract effectively remains in effect to date, a consequence of the weak remedies decision in the *Google Search* case).⁶⁶ Similarly, Google and Apple have entered into an agreement under which Gemini will serve as the foundation model for Apple Intelligence, including Siri, on iOS devices.⁶⁷ Google has also become Apple's preferred cloud provider for AI infrastructure.⁶⁸ While Apple's deal with Google is formally not exclusive, meaning Apple can contract with other AI service providers, it appears that Apple has chosen to work solely with Google.⁶⁵ Apple previously had an agreement with OpenAI to rely on its ChatGPT for some Siri queries, but the recent lawsuit Apple filed against OpenAI suggests that this partnership may be effectively over.⁶⁶

While the exact terms of the agreement between Apple and Google are not publicly available, if the deal results in Google having privileged status on iOS in addition to its privilege on Android, the company will have successfully foreclosed rivals from the mobile market yet again. The competitive significance of Google's AI assistant agreement with Apple may ultimately exceed that of the company's search agreement with Apple. Although iOS users could change their default search engine away from Google or install a competing browser (albeit with much friction), it remains unclear whether users will be able to substitute a different foundation model for the one powering their phone's Apple Intelligence and Siri at all.⁶⁹ If not, then iOS users will be completely foreclosed from competition among AI assistants.

Leaving their Apple device will not improve options for iOS users because the only alternative ecosystem is Android and rival AI assistants may be foreclosed there also. Interestingly, this is not true in Europe where Google Android interoperability has been regulated by the Digital Markets Act. As of August 2026 Google must permit rival AI assistants to access the same hardware features that Gemini can access such as the camera, screen, and chip.⁷⁰ This European Commission

⁶⁴ Jeff Blagdon, "Facebook Has Apparently Blocked Vine's Friend-Finding Feature," *The Verge*, January 24, 2013, <https://www.theverge.com/2013/1/24/3913082/facebook-has-apparently-blocked-vines-friend-finding-feature>.

⁶⁵ See for example the Google *Shopping* case in the EU.

⁶⁶ Mendes, "Apple's Search Deal with Google Could Face Renewed Scrutiny."

⁶⁷ This deal is not an identical match to the search deal. For one, formally Apple pays Google \$1B/year to use Gemini (although as the Google search payments apparently continue unabated likely to the tune of over \$20B/year, this "price" should not be read into overmuch). Second, it is unclear how much users will actually be aware they are using a Gemini product and whether their use will encourage them to use Gemini elsewhere.

⁶⁸ Kalley Huang, "Apple Teams Up With Google for A.I. in Its Products," *New York Times*, January 12, 2026, <https://www.nytimes.com/2026/01/12/technology/apple-google-ai-partnership.html>.

⁶⁹ Even if the Apple-Gemini agreement does not completely exclude rival AI providers, it may replicate the same competitive logic as Google's search distribution agreements by positioning Gemini as the default intelligence layer, or one with superior access to user apps and data on iOS.

⁷⁰ European Commission, "Features for AI or AI-related Services."

“specification” is designed to prevent foreclosure and create contestability. If OpenAI and other rivals are able to enter on the Android devices carried by 500 million Europeans, those rivals will have the incentive to innovate and may provide exciting choices. Apple, by contrast, is choosing not to sell handsets containing the rebranded Siri in Europe. Google may gain a competitive edge in its competition with Apple in Europe where iOS handsets will not offer the latest in AI assistants.

There are other agreements such as acquihires and long-term partnerships as well as other equity investments and acquisitions that may constitute evidence of an attempt to monopolize when they form part of a broader strategy to eliminate nascent competition, secure critical inputs, or foreclose rivals from obtaining the scale necessary to compete.⁷¹ For example, Google owns almost 15% of Anthropic.⁷²

The exclusionary conduct and agreements described above foreclose rival AI assistants from the distribution channels—pre-installation, default placement, hardware access, and native in-application integration—that are most effective at acquiring users at scale. They ensure that Gemini accumulates interaction data at a rate that rivals, denied equivalent distribution, cannot match. Foreclosing rivals from these inputs does not merely deny them users—it permanently degrades the quality of their products relative to Gemini, compounding the distributional advantage into a product quality advantage that entrenches over time.

The second element in an attempted monopolization claim is intent. Google has drawn explicit parallels between its strategy to monopolize search and AI. In its opening presentation to the *Search* court for the remedies hearing, the Department of Justice cited a Google Powerpoint describing a plan to repeat its exclusionary contracts in search in emerging AI services markets on Android.⁷³ Moreover, specific intent to monopolize may be inferred from exclusionary conduct and the surrounding circumstances.⁷⁴ Google’s agreements with Apple and Android OEMs and its privileged treatment of Gemini throughout Android and Google’s applications, without equivalent access for rivals, all point toward a common objective: securing both distribution and functionality for Gemini while denying rivals comparable opportunities to compete. As shown in the DOJ’s presented evidence, Google’s own internal documents reinforce that inference. Finally, Google is no stranger to Section 2 liability. Having recently been found to have unlawfully monopolized search, key portions of the advertising technology stack, and Android app distribution, Google cannot plausibly contend that it was unaware of the competitive significance of defaults, exclusive distribution agreements, and control over critical bottlenecks. Rather, the evidence suggests a deliberate effort to replicate in AI services the same playbook that proved successful in search.

The final element in an attempt-to-monopolize claim asks if the defendant’s conduct has a dangerous-probability-of-success of obtaining in monopoly power, in light of its market position

⁷¹ We discuss these further below. See, e.g., *Microsoft*, 253 F.3d at 78–80 (evaluating Microsoft’s agreements with OEMs, IAPs, and other firms as part of a broader scheme to preserve monopoly power); *Lorain Journal Co. v. United States*, 342 U.S. 143, 152–55 (1951) (holding that a monopolist’s agreements with advertisers designed to “destroy threatened competition” constituted attempted monopolization).

⁷² Cade Metz, Nico Grant, and David McCabe, “Inside Google’s Investment in the A.I. Start-Up Anthropic,” *The New York Times*, March 11, 2025, <https://www.nytimes.com/2025/03/11/technology/google-investment-anthropic.html>.

⁷³ U.S. Department of Justice, Antitrust Division, “*U.S. and Plaintiff States v. Google LLC*,” slide 25, April 21, 2025, <https://www.justice.gov/atr/media/1397241/dl?inline>.

⁷⁴ *Lorain Journal*, 342 U.S. at 152–53; *Microsoft*, 253 F.3d at 59.

and the structure of the market.⁷⁵ Where a defendant is integrated across multiple complementary layers of the AI stack, we argue that that prospect is materially higher than for a defendant present at only one or two layers. Google’s vertical integration, described above, means that Google cannot be foreclosed against because it has its own internal source of supply, a defensive advantage unique among peer firms. At the same time, its dominant positions in distribution and consumer data give it offensive power against emerging rivals to foreclose against them. As the European Commission has stated:

“Through access to the key components of the AI value chain including the infrastructure (Google cloud), foundational models (Gemini family of LLM models), platform integration (web of integrated services such as messaging, Google docs, Google Search, Google Maps etc.) and distribution (through its various services and Google Android), Alphabet is uniquely placed to leverage its strength into [AI services].”⁷⁶

In Section II above we briefly outlined Google’s strength across the AI stack: from chips to cloud to models (and related data) to applications. We add here more detail as well as a fifth and sixth “layer” of data (useful for foundation models and applications/services) and distribution, where Google’s control of Android and contract with Apple constitutes a critical bottleneck for the company to exert pressure on would-be competitors’ applications. Each layer is a potential bottleneck and a firm that controls one layer can extract rents from surrounding firms that need access to it (“offensive” power). By contrast, a firm that has a position in every layer cannot be extracted from (hence, “defensive” power). A quick summation of these layers shows that no firm other than Google enjoys comparable presence across the stack:

- *Chips*: Google designs proprietary Tensor Processing Units (TPU) optimized for training and serving its own foundation models. In-house chip design generates an option to deny optimized hardware to rivals. NVIDIA is currently the dominant supplier of the chips needed for AI.⁷⁷ (Note that TSMC manufactures for both firms.) Other major firms across the AI stack have also increased their investments in chip development, including AWS and Microsoft, but at least as of writing, these efforts are far smaller than Google’s and likely further.⁷⁸
- *Cloud*: Google Cloud is one of three hyperscale cloud providers, alongside AWS and Azure. Operating its own cloud protects Google from foreclosure in compute and allows

⁷⁵ *Spectrum Sports*, 506 U.S. at 456.

⁷⁶ European Commission, “Features for AI or AI-related Services,” 1.

⁷⁷ Axis Intelligence Research, “Nvidia Statistics 2026: Revenue, Market Share, GPU Pricing & AI Dominance Data,” *Axis Intelligence*, June 25, 2026, <https://axis-intelligence.com/nvidia-statistics/> (finding Nvidia has an 80-88% share of the AI Accelerator market).

⁷⁸ James Dargan, “AWS Moves Toward Selling Trainium AI Chips to Third Parties in Direct Challenge to Nvidia’s Data Center Dominance,” *The AI Insider*, June 19, 2026, <https://theaiinsider.tech/2026/06/19/aws-moves-toward-selling-trainium-ai-chips-to-third-parties-in-direct-challenge-to-nvidias-data-center-dominance/>; Julie Bort “Microsoft Won’t Stop Buying AI Chips from Nvidia, AMD Even After Launching Its Own, Nadella Says,” *TechCrunch*, January 29, 2026, <https://techcrunch.com/2026/01/29/microsoft-wont-stop-buying-ai-chips-from-nvidia-amd-even-after-launching-its-own-nadella-says/>; Timothy Green, “Google’s TPUs Create Another Risk for Nvidia Stock,” *The Motley Fool*, November 26, 2025, <https://www.fool.com/investing/2025/11/26/googles-tpus-create-another-risk-for-nvidia-stock/>.

Google to set the terms on which rival AI assistants that run on Google Cloud reach their users.

- *Foundation models:* Gemini is one of the leading foundation-model families. Google's most significant rivals are Anthropic (Claude) and OpenAI (ChatGPT).
- *Data:* Google has trained Gemini on data from across the web and from within its own divisions. This includes Search queries, YouTube videos, Gmail correspondence, Maps location histories, and Chrome browsing data, as well as any participant in the open web that wants to be included in Google's search index. There is no rival at any other part of the stack with free access to a training corpus this large and this detailed. Significant portions of that corpus were accumulated through conduct the court has now found unlawful.⁷⁹
- *Applications:* The applications layer remains competitive, with Google's largest advantage being better access inside the GMS suite of dominant applications including Chrome, Maps, and YouTube. Competitors have developed their own applications and integrations as well, including with GMS apps (for example Anthropic's Claude can integrate with Chrome).
- *Distribution:* Google Android runs more than seven in ten of the world's smartphones. Google controls the nature of the OS build and what is integrated into it, on it, and at least some of the hardware it runs on.

No rival AI assistant developer occupies more than two or three of these layers. OpenAI controls a leading foundation model and an application, but relies on others for cloud, has no proprietary chip, and has no comparable proprietary data corpus. Anthropic controls a foundation model and an application and is similarly constrained at the other layers. The asymmetry is structural and durable. Defensive abilities can be assessed through this lens: no matter which layer is leveraged by a rival, Google has it also and can protect itself against any exclusionary conduct by others.

A firm present at multiple layers does not need to win at any specific layer; it needs only to find one layer at which to foreclose rivals. The probability of monopolization succeeding derives from the probability that *any* layer can be turned into a binding bottleneck for or against the aspiring monopolist. This is a multiplicative exercise and therefore an integrated firm thus has a higher probability of success than the sum of its parts.

If a layer commoditizes, the firm can shift extraction upstream or downstream; if a rival emerges at one layer, the firm can foreclose through an adjacent layer where it retains stronger position; if a new technology threatens to disintermediate one layer, the firm can absorb the new layer into its existing positions. Strategic optionality across layers is itself a source of market power.

Among the six layers, distribution is where Google's power is strongest. A foundation model that cannot reach users cannot accumulate the interaction data that compounds quality advantages over time. This personal usage data is required to generate the application engagement that monetizes

⁷⁹ *United States v. Google LLC*, 747 F. Supp. 3d 1.

the model. Today, distribution to end consumers occurs through Android devices by design (and iOS devices by contract). Together these two channels reach approximately the entirety of U.S. mobile devices. Where the same firm controls both major distribution channels, the dangerous-probability-of-success element is met as a matter of economic structure rather than as a matter of any single contested instance of conduct.

When a single firm controls multiple complementary layers, the economic gains from excluding a rival accrue to that firm across the stack rather than being split among independent gatekeepers. By contrast, its AI rivals must gain by selling foundation services. Those rivals cannot deploy strategies that involve losses in foundation services offset by gains in cloud, chips, or elsewhere. Google's Gemini may gain from foreclosure, but so can its cloud provider, its chip business, its applications, or its distribution businesses like Android and search. An integrated incumbent captures all of these revenues in its corporate bottom line and therefore has both the incentive and the ability to invest in exclusion strategies that an unintegrated firm at any single layer would find unprofitable.

Google's vertical integration across the AI stack converts what, for an unintegrated firm, might be a difficult monopolization attempt into a structurally favorable one. The integration internalizes the rents from exclusion at every layer; it provides strategic optionality across multiple potential bottlenecks; and it gives Google control over the distribution channels through which AI assistants reach essentially all U.S. mobile users. In addition, we just 'watched this movie' in the search market, which proved that it is a strategy that works.

C. Illegal Tying in a Combined Market of Search and AI Assistants

Google is pre-installing Gemini products as a default feature across its entire suite of consumer applications including Search, Gmail, Google Maps, YouTube, and Google Docs. With this, Google is repeating a successful distribution strategy that excluded rivals in search. The tying arrangement in AI assistants operates through the familiar default mechanism. A user who opens Gmail to draft an email finds Gemini already present, offering to write, summarize, or respond. A user navigating Google Maps finds Gemini available to answer questions about destinations. A YouTube user finds Gemini integrated into their viewing experience. In each case, the user has made no decision to adopt an AI assistant—the decision has been made for them, by Google, as a condition of using applications they for which have no practical alternative.

This is tying in its economic essence: access to a desired product (Gmail, Maps, YouTube, Android) conditioned on acceptance of a second product (Gemini) that the user has not independently chosen. In the search market, the mechanism is the same as it has always been: ensuring that Google search is the default at all search access points on both iOS and Google Android. To prove the existence of a tie, two elements must be shown: (1) the existence of two distinct products or services; and (2) a conditioned sale i.e., the tying product must be available only on the condition that the tied product also be purchased.⁸⁰

Gemini is a Distinct Product

⁸⁰ *Jefferson Parish Hospital District No. 2 v. Hyde*, 466 U.S. 2 (1984).

The first element of a tying claim is that the tying and tied products are distinct. The tying product is the operating system, Google Android, and its associated bundle of GMS apps, while the tied product is the Gemini information retrieval service. The test, established in *Jefferson Parish Hospital District No. 2 v. Hyde*, is whether there is sufficient independent demand for the tied product, that is, whether consumers would purchase it separately if given the choice.⁸¹ That condition is plainly satisfied here. Gemini competes directly with ChatGPT, Claude, Perplexity, and Microsoft Copilot, all of which are sold or distributed as standalone products with substantial independent user bases. Consumers demonstrably seek out and use AI services independently of any particular application suite or operating system. Gemini itself is available as a standalone application. Furthermore, the tying of Gemini to the operating system (including the GMS suite) is not technically necessary. Nothing in the architecture of Gmail requires a single integrated AI assistant. Nothing in the design of Google Maps demands that its conversational features be provided by Gemini rather than by a third-party assistant accessed through an open API. These are design choices. They reflect a decision to use Google's dominant position in consumer applications to foreclose the distribution channels that rival AI assistants would otherwise be able to contest.

Google will no doubt argue that Gemini is not a separate product at all, but it is simply a new feature of Gmail, Maps, and YouTube in the same way that spell-check is a feature of a word processor. As the court recently observed in the Google Ad Tech litigation, “[d]istinct products should not be grouped into a single omnibus market simply because they work together to achieve the same overarching purpose.”⁸² Likewise, Google's decision to place a default Gemini assistant into its applications does not resolve the distinct-product inquiry. The mere fact that two products are technologically integrated or offered as part of a single user experience does not mean they constitute a single product for antitrust purposes.

The *Microsoft* court provides guidance on this question. Microsoft also contended that Internet Explorer was not a separate product but an integrated technological improvement to the Windows operating system, that combining a browser with an operating system was precisely the kind of product innovation that antitrust law should encourage rather than condemn. The D.C. Circuit held that the product improvement defense does not survive where the integration serves primarily as a distribution mechanism for a product that faces independent competition.⁸³ The test is not whether the tied product can be described as a feature, virtually any bundled product can be described as a “feature,” but whether there is independent consumer demand for it and whether it faces competition from standalone alternatives. Both conditions are plainly met here. Gemini competes directly with ChatGPT, Claude, and Perplexity as standalone information retrieval products and as AI assistants that operate across applications. The decision to make Gemini a default is a distribution decision, not an engineering necessity.

The court in Google Search also recognized that distribution choices have profound competitive consequences because “the combination of user habit, Google's brand, and choice friction creates a powerful default effect.”⁸⁴ Thus, the mere fact that Gemini is integrated into Google's applications cannot end the inquiry. The relevant question is whether that integration is

⁸¹ *Id.*

⁸² *United States v. Google LLC*, No. 1:23-cv-108 (LMB/JFA), slip op. at 60.

⁸³ *Microsoft*, 253 F.3d at 87–92.

⁸⁴ *United States v. Google LLC*, 747 F. Supp. 3d at 229.

technologically necessary or whether, as in *Microsoft*, it principally serves to secure privileged distribution for a product that faces independent competition.

Conditioned Sale

The conditioned sale element requires proof that the structure of the bundling arrangement coerces acceptance of the tied product in a manner that forecloses competition. It does not require proof that the tie is technically absolute, that users are literally incapable of removing the tied product or accessing a rival. In *Microsoft*, even though Internet Explorer could technically be uninstalled from Windows, the D.C. Circuit observed that the conditioning element was nevertheless satisfied because: IE had been removed from the Add/Remove Programs utility, so users had no standard mechanism to remove it. Microsoft had also commingled IE code with core Windows OS code so that attempting to remove IE would cripple the operating system and it designed Windows to override a user's choice of a different browser in certain circumstances.⁸⁵

Similarly, in the context of Gemini's integration into Google's suite of applications, it seems that users can disable Gemini in certain apps, such as Gmail,⁸⁶ Photos,⁸⁷ and Chrome,⁸⁸ but only through a tedious and obscure multi-step process. By contrast, publicly available documentation does not appear to identify any simple, user-facing mechanism for disabling Gemini's integration in products such as Search and YouTube.⁸⁹ Moreover, even where some AI functionalities can ostensibly be turned off, users are still unable to disable Gemini-related data usage entirely. For example, disabling Gemini features in Gmail or Docs does not appear to prevent Google from using data generated within those applications for Gemini training purposes. Thus, Gemini appears either impossible to uninstall or, at minimum, exceedingly difficult to disable fully, with certain functionalities and data integrations remaining active even after users attempt to opt out. These features bear a notable resemblance to Microsoft's integration of Internet Explorer into Windows.

The relevant question from *Microsoft* is not whether removal is theoretically possible, it is whether the design of the tying arrangement discourages users from removing the tied product and discourages rivals from obtaining equivalent distribution. In *Microsoft*, the court condemned Microsoft specifically for excluding IE from the Add/Remove Programs utility which was a deliberate friction-raising design choice that served no function other than to suppress removal. Google has made the same choice in both search and in AI assistants. Disabling Gemini in Gmail and on Android requires navigating multiple steps through settings menus that are not prominently surfaced to ordinary users. This friction by design replicates the logic the *Microsoft* court condemned: raising the cost of removal to suppress usage of rivals, without any procompetitive justification for the specific design choice.

⁸⁵ *Microsoft*, 253 F.3d at 64–65.

⁸⁶ Kate Menzies, "How to Turn Off Gemini in Gmail — and Why You Should," *Proton*, January 12, 2026, <https://proton.me/blog/turn-off-gemini-gmail>.

⁸⁷ Sanuj Bhatia, "Google AI Is Creeping into Every App on Your Phone. Here Is How to Disable It," *Android Central*, April 30, 2026, <https://www.androidcentral.com/apps-software/disable-google-ai-across-apps-on-your-phone>.

⁸⁸ Lily Hay Newman, "You Can Disable Gemini in Chrome if It's Freaking You Out," *WIRED*, May 7, 2026, <https://www.wired.com/story/you-can-disable-gemini-in-chrome-if-its-freaking-you-out/>.

⁸⁹ "Can't Remove Gemini Button from YouTube," *Gemini Apps Community*, Google Help, December 24, 2025, <https://support.google.com/gemini/thread/397288781/can-t-remove-gemini-button-from-youtube?hl=en>.

Just as important is whether the user is free to load a rival AI service and use it to provide the services that Gemini provides. Today there is a limited ability for rivals to enter. For example, users may install alternative AI tools or browser extensions for Chrome, such as Claude or Perplexity. Courts have repeatedly recognized that the existence of technically available but inferior distribution channels does not eliminate the foreclosure created by preferential distribution arrangements. In *Dentsply*, the Third Circuit held that competitors' ability to sell through alternative channels did not defeat liability because those channels were not realistically comparable to the dominant firm's preferred distributors.⁹⁰ In *Google Ad Tech*, a federal court in Virginia found the conditioning element satisfied even though publishers were technically free to use non-DFP ad servers alongside AdX.⁹¹ Likewise, in *Microsoft*, OEMs and consumers remained free to install browsers other than Internet Explorer, yet that fact did not undercut the tying theory.⁹²

The same reasoning applies in this case. Although users may technically be able to use AI services other than Gemini with Google applications and Android devices, consumer behavior is heavily shaped by default settings and native integration. The *Google Search* decision recognized the substantial economic value of default placement and the stickiness of user defaults. Gemini similarly appears preinstalled and preactivated across Google's ecosystem, including Gmail, Maps, YouTube, Google Docs, and Android itself. It is therefore presented to users before they even make any independent choice regarding which AI service to use. The default advantage, compounded across hundreds of millions of users and billions of interactions, functions as the mechanism of foreclosure. The conditioning element is satisfied not because users are literally incapable of removing Gemini, but because the default placement ensures that most users never will.

Moreover, even where disabling Gemini is technically possible, users may still need to navigate cumbersome multi-step processes before installing alternative AI services. Adding third-party AI services when users are unable to disable Gemini would also create a cluttered and inferior user experience relative to Google's native integration. Even more importantly, it is unclear whether third-party AI providers can realistically compete on equal terms with Gemini given their lack of comparable access to necessary functions on the device. In the absence of open APIs or equivalent access to a user's device and the Google apps the user wants their AI services to operate, third-party providers may be unable to provide services that work as well with key Google applications as Gemini does.

The coercion or conditioning inquiry in tying law therefore does not turn solely on whether consumers are contractually or technically prohibited from using alternatives. The relevant question is whether meaningful consumer choice exists as a functional matter. In the context of Gemini's integration into Google's suite of applications, the combination of default placement, the difficulty or in some contexts impossibility of disabling Gemini, and the comparatively inferior access available to third-party providers may result in most users functionally defaulting to Gemini rather than affirmatively choosing competing AI services.

⁹⁰ *United States v. Dentsply International, Inc.*, 399 F.3d 181, 191–92 (3d Cir. 2005).

⁹¹ *United States v. Google LLC*, No. 1:23-cv-108 (LMB/JFA), slip op. at 95.

⁹² *Microsoft*, 253 F.3d at 60–64.

Technological tying is usually examined under the rule of reason standard.⁹³ Under rule of reason analysis, the operative inquiry is whether the bundling arrangement has produced or is likely to produce anticompetitive effects that outweigh any procompetitive justifications. Since rival chatbots are chosen by consumers themselves, interoperability is procompetitive. Interoperability for rival chatbots is technologically feasible and has been mandated already in the European Union, meaning that the incremental engineering cost to Google is small or zero.

Google may ultimately argue that the distinction between search and AI assistants has disappeared because Search itself has become conversational and AI-driven. That argument, however, is beside the point. If the products remain distinct, Google’s conduct constitutes the tying of a dominant search product to a separate AI assistant. If they converge into a single product, Google has engineered that convergence by ensuring that Gemini becomes the AI functionality through which users increasingly experience Search. The tying strategy therefore succeeds under either characterization: it either forecloses a distinct AI assistant market or secures Google’s dominance over the next generation of search (powered by AI) itself.

D. Contracts Facilitate Monopolization

Lastly, Google’s contracts with third parties may also be anticompetitive and exclusionary. In this section our reliance on public information limits our conclusions. However, the breadth and frequency of even publicly-reported agreements indicates that an authority would be justified in investigating them, just as both the FTC and the CMA did in 2023-25.⁹⁴

Alphabet has built an extensive set of relationships with rival foundation models and these tend to be structured to provide influence without triggering a merger review. As mentioned above, Google owns close to 15%⁹⁵ of Anthropic.⁹⁶ Google’s announcement in April 2026 commits up to \$40 billion more to Anthropic — \$10 billion immediate at a \$350 billion valuation, with \$30 billion contingent on performance milestones. In addition to an equity stake, Google has committed to provide Anthropic a 5-gigawatt TPU capacity commitment starting in 2027.⁹⁷ Google also owns a

⁹³ *Microsoft*, 253 F.3d at 84–85.

⁹⁴ Federal Trade Commission, *FTC Staff Report on AI Partnerships & Investments 6(b) Study* (Jan. 2025), <https://www.ftc.gov/reports/ftc-staff-report-ai-partnerships-investments-6b-study>; Competition and Markets Authority, *AI Foundation Models: Initial Report* (Sept. 18, 2023), <https://www.gov.uk/government/publications/ai-foundation-models-initial-report>; Competition and Markets Authority, *AI Foundation Models: Update Paper* (Apr. 11, 2024), <https://www.gov.uk/government/publications/ai-foundation-models-update-paper>.

⁹⁵ Eva Roytburg, “Google and Amazon’s Biggest Profit Driver Last Quarter Was Their Anthropic Stakes—which They Haven’t Sold,” *Fortune*, April 30, 2026, <https://fortune.com/2026/04/30/google-amazon-ai-profits-anthropic-stake-bubble-earnings-2026/>.

⁹⁶ The 15% cap in the deal is likely structured to avoid the appearance of Google having influence over Anthropic, though it is not a legal requirement. Delaware’s General Corporation Law defines an “interested stockholder” for purposes of its business combination restrictions as generally a person who owns 15% or more of a corporation’s outstanding voting stock (or certain affiliates or associates of such a person), but because Anthropic is not a publicly traded corporation, the statute’s anti-takeover provisions have limited relevance here. Del. Code Ann. tit. 8, § 203. Separately, under U.S. GAAP, the FASB Accounting Standards Codification presumes that ownership of 20% or more of the voting stock of an investee provides the investor with the ability to exercise significant influence, absent evidence to the contrary. FASB Accounting Standards Codification (ASC) 323-10-15-8.

⁹⁷ Rebecca Bellan, “Google to Invest Up to \$40B in Anthropic in Cash and Compute,” *TechCrunch*, April 24, 2026, <https://techcrunch.com/2026/04/24/google-to-invest-up-to-40b-in-anthropic-in-cash-and-compute/>.

stake in xAI acquired through a \$900m investment in SpaceX in 2015.⁹⁸ In 2024 Google carried out a \$2.7 billion “reverse acquihire” of Character.AI, in which Google licensed the models and brought co-founder Noam Shazeer back to DeepMind without formally acquiring Character.AI.⁹⁹ Other interesting rivals in which Google has links include Hugging Face, AI21 Labs, Runway AI,¹⁰⁰ Essential AI,¹⁰¹ and Recursive Superintelligence.¹⁰² Google purchased DeepMind in 2014.¹⁰³

The contract that raises the most competitive concern, though, is between Alphabet and Apple. As we describe above, the use of Gemini for all iOS devices in combination with the default use of Gemini on all Android devices leaves AI rivals with no effective distribution channel to end users.

Table 1. Google’s Strategy for AI Assistants Repeats the Search Monopolization Playbook

S. No.	Search Playbook	AI Assistants Playbook
1.	Locked up default distribution through Apple. Google paid Apple to make Google Search the default search engine on iOS, denying rivals the most important distribution channel.	Locked up AI distribution through Apple. Google has contracted with Apple to make Gemini the foundation model for Apple Intelligence and Siri, potentially securing privileged AI distribution on iOS.
2.	Paid Android OEMs for default placement. Google used revenue-sharing agreements and other payments to ensure Google Search remained the default search access point on Android devices.	Pays Android OEMs to preinstall Gemini. Google pays OEMs (such as Samsung) to preinstall Gemini and designate it as the default AI assistant on Android devices.
3.	Leveraged Android OS and GMS apps to foreclose in search. Control of Android created power over OEMs which enabled Google to require GMS apps and control access points for search.	Leverages Android OS and GMS apps to foreclose in AI. Control over Android and GMS apps allows Google to incentivize OEMs to accept Gemini as the pre-installed default AI assistant in both the OS and Google apps.

⁹⁸ Ben Bergman and Lee Chong Ming, “Google stands to make \$111 billion if SpaceX goes public at a \$1.5 trillion valuation,” *Business Insider*, December 2025, <https://www.businessinsider.com/spacex-ipo-would-earn-google-111-billion-as-an-early-investor-2025-12?op=1>.

⁹⁹ Omer Kabir, “Google’s \$2.7B AI Deal with Noam Shazeer’s Character.AI Draws DOJ Attention,” *Calcalist Tech*, May 25, 2025, <https://www.calcalistech.com/ctechnews/article/sy06wllflg>.

¹⁰⁰ Gené Teare, “As Funding to AI Startups Increases and Concentrates, Which Investors Have Led?” *Crunchbase News*, August 20, 2025, <https://news.crunchbase.com/venture/big-dollar-ai-investors-2025-softbank/>.

¹⁰¹ David Marshall, “Essential AI Chooses Google Cloud to Power Enterprise Decision Making with Generative AI,” *CloudCow*, January 31, 2024, <https://cloudcow.com/content/essential-ai-chooses-google-cloud-to-power-enterprise-decision-making-with-generative-ai/>.

¹⁰² Sofia Chesnokova, “GV, Nvidia Back a Four-Month-Old AI Lab in a \$500M Raise: Report,” *Tech Funding News*, April 20, 2026, <https://techfundingnews.com/recursive-superintelligence-500m-funding-gv-nvidia-4b-valuation/>.

¹⁰³ Catherine Shu, “Google Acquires Artificial Intelligence Startup DeepMind for More Than \$500M,” *TechCrunch*, January 26, 2014, <https://techcrunch.com/2014/01/26/google-deepmind/>.

4.	Leveraged monopoly distribution into product quality. Default search placement generated query volume, which improved Google’s search algorithms, reinforcing Google’s quality advantage and market share.	Leverages default AI distribution into model quality. Gemini’s privileged distribution generates user interactions and data that improve model quality, creating a self-reinforcing distribution-data-quality feedback loop.
5.	Foreclosed rivals from efficient distribution. Rivals theoretically could reach users, but not through channels comparable to Google’s default positions.	Forecloses rival AI assistants from efficient distribution. Rivals may be downloadable, but lack equivalent operating-system integration, in-app placement, and hardware access.
6.	Used proprietary data unavailable to rivals. Google relied on search query volumes obtained through defaults and coerced user and publisher data to improve search quality.	Uses ecosystem-wide proprietary data. Gemini benefits from Search, Gmail, Maps, Chrome, YouTube, Photos, Calendar, and Android data unavailable to excluded AI providers who could otherwise attract their own user data.

V. Harms

A. Innovation and Quality

The first harm is the one Judge Mehta himself acknowledged: under the remedy, Google’s “massive financial advantage” combined with its “superior monetization” will leave the search ecosystem “exceptionally resistant to change.”¹⁰⁴ The normal innovation pressure of rivals contesting for users will not operate so long as Google can pay distribution partners to default to using Google. If channel partners were open to distributing alternatives, rivals could contest for those opportunities. If rivals see a viable path to market, they have the incentive to innovate. With a viable path, rivals such as Neeva¹⁰⁵ and Spotlight, to say nothing of AI-enabled rivals that might have launched in a competitive market, would have the incentive to bring their search innovations to consumers. In a market where consumers generally do not pay monetary prices for the service, innovation is the main source of consumer gain from competition.

The same dynamic operates, with greater force, in AI assistants. The Apple-Google Gemini Commercial Agreement of January 12, 2026 reduces Apple’s incentive to develop Apple Intelligence as the basis of an independent assistant — a reprise of the search agreement the court identified at liability.¹⁰⁶ Consumers lose the quality improvements that head-to-head competition among Apple, Google, and the foreclosed rivals would otherwise have produced. Further, AI

¹⁰⁴ *United States v. Google LLC*, No. 20-cv-3010 (APM), slip op. at 127 (D.D.C. Sept. 2, 2025) (quoting *United States v. Google LLC*, 747 F. Supp. 3d 1, 145 (D.D.C. 2024)).

¹⁰⁵ Ashley Capoot, “Neeva, Co-Founded by a Former Google Exec, to Shut Down Its Consumer Search Product and Focus on A.I.,” CNBC, May 20, 2023, <https://www.cnbc.com/2023/05/20/neeva-co-founded-by-a-former-google-exec-to-shut-down-its-consumer-search-product-and-focus-on-ai.html> (quoting the founders: “it is one thing to build a search engine, and an entirely different thing to convince regular users of the need to switch”).

¹⁰⁶ “Joint Statement from Google and Apple”; Subin, “Apple Picks Google’s Gemini to Run AI-Powered Siri.”

assistants and related technology already show promise for a vast web of complements. Healthy competition among assistants will also increase incentives for complementors to invest in their own products, shaping and diversifying both markets. By contrast, should Google cement control over AI assistance, the window of innovation will shrink to the monopolist's path, not only for the product but for its complements, too; likewise, the incentive to invest in complements to the monopolist will also decrease, for fear of having the profits of innovation captured by the incumbent.

Loss of quality is another harm that will be borne by consumers. Monopolization at the AI-information layer differs in kind from monopolization at the search-intermediary layer: a search engine returns a list of sources from which a citizen synthesizes her own view, while an AI assistant returns a single synthesized answer. The consequence of giving one firm primary mediation over how a consumer makes complex decisions, such as whether to rent or buy a house, in which there are many vested interests—is qualitatively different from the consequence of giving that firm dominance over the search ranking that surfaces the underlying source material. A citizen with many AI chatbots to choose from can stimulate competition based on quality. A monopolist need not compete on that dimension.

Together, these harms constitute an enormous loss of surplus to consumer. AI is a transformational technology. Closing off access to creativity and technological choice as search evolves, or as AI assistants develop, has the potential to be very costly to consumers and society.

B. Price

Loss of competition between AI agents for services to businesses trying to reach end consumers will mean Google can charge a higher price for access. A monopolized agentic-AI layer is the choke point through which businesses will increasingly reach consumers. Once an AI assistant is the user's primary interface for shopping, scheduling, communication, and research, the assistant's owner controls the price of access to that commercial activity.¹⁰⁷ The competitive pressure that would otherwise discipline those prices — pressure from rival assistants — will be lessened. A Google monopoly in AI assistants will allow Google to effectively tax all commerce that runs through consumer devices.

A second effect is a reduction in price to suppliers of different forms of data and content. Google's deployment of AI Overviews and AI Mode has harmed the firms whose content trained the underlying models. First, the threat of omission from search results enables Google to take publisher data for AI training without incremental compensation. Second, publishers lose traffic due to AI Overviews which appear on more than 40% of informational queries. Click-through rates on affected queries have fallen by 30% or more, with some publishers reporting reductions exceeding 50%; AI Mode produces clicks on fewer than 5% of queries.¹⁰⁸ The Section 2 monopsonization argument those facts support — that Google extracts content as an “unavoidable trading partner” without paying its costs of production — is fully developed in Singh & Scott Morton, *A Roadmap for a Monopolization Case Against Google: Monopsony Power and AI*

¹⁰⁷ Matt Stoller, “Will Google Become Our AI-Powered Central Planner?,” *BIG* (newsletter), January 16, 2026, <https://www.thebignewsletter.com/p/will-google-organize-the-worlds-prices>.

¹⁰⁸ European Publishers Council, “Executive Summary: Formal Complaint by the European Publishers Council Against Google LLC and Alphabet Inc. Under Article 102 TFEU” (Brussels, February 10, 2026), 1.

Overviews (Jan. 31, 2026).¹⁰⁹ We cite that paper for the detailed argument and use the figures above to mark the magnitude of the harm. By appropriating publisher content while simultaneously reducing traffic and revenue to the underlying sources, Google weakens the economic viability of a content creation business model and lowers the incentive to invest, including in independent journalism.

Turning from publishers to users, Gemini’s default privacy posture is to use Google account activity, including Search history, YouTube viewing, and Chrome page context, as training input unless the user opts out.¹¹⁰ That default-on architecture allows Google to capture value without paying for it.

C. Harm to AI Rivals

Clearly AI rivals that could have entered, competed, and earned profits are harmed if Google’s actions exclude them from the market. Rival AI assistants — Claude, ChatGPT, Perplexity — are pushed to less effective channels such as distribution as a standalone app or indirect access through browsers, while Gemini has access to the Google product surfaces consumers use most.¹¹¹ The data-feedback gap between an integrated assistant and a foreclosed standalone rival compounds over time, narrowing the set of viable competitors and discouraging entry and investment.

VI. Alternative Arguments are Unconvincing

Confronted with the theory that it is maintain its search monopoly and leveraging it into AI assistants, Google might try to deflect scrutiny by pointing to OpenAI, Anthropic, and others who make foundation models to argue that competition among foundation models is strong. But the chatbots launched by foundation model entrants show little evidence of eroding Google’s search monopoly.¹¹² Instead, Google appears to be excluding them by deploying the same anticompetitive tactics it used to monopolize search.

Because relentless evolution of technology markets make market definition difficult, Google might alternately argue that this dynamism ensures that market power in any AI market is temporary. The argument would be that an incumbent with market power will inevitably be dislodged by exciting new entrants, so enforcers can wait to enforce. First, this claim lacks empirical support. Second, claiming a dynamic market solves everything mistakes an uncommon but necessary condition for competition to reassert itself (at least an opening) for a sufficient one (only an opening). Paradigm shifts are rare, but when they do occur they open a window for entrants. In that window, the incumbent *can* be displaced by an innovative new firm; but those windows of change do not *ensure* displacement if the incumbent engages in exclusion. Indeed, we have many examples of the dominant firm using its existing market power to maintain its monopoly and capture a transition rather than fall to an entrant. A monopoly incumbent has both the ability and

¹⁰⁹ Singh and Scott Morton, “A Roadmap for a Monopolization Case Against Google”; see also European Publishers Council, “Executive Summary,” 2 (“unavoidable trading partner”).

¹¹⁰ “Gemini Apps Privacy Hub,” Google Gemini Apps Help, last updated February 18, 2026, <https://support.google.com/gemini/answer/13594961>; see also Section II (cross-product data).

¹¹¹ European Commission, “Features for AI or AI-related Services,” 1–2; “Google Is Dethroning OpenAI as the King of Consumer AI” (Gemini’s distribution across Google’s consumer surfaces).

¹¹² See Harsel, “ChatGPT Is Not Replacing Google”; Fishkin, “New Research: Google Search Grew 20%+ in 2024.”

incentive to block, acquire, or co-opt the entrant, and is usually aware of the threat before any regulator can protect competition.

Google is likely to argue that Gemini’s integration into Gmail, Maps, and Search improves the user experience because AI-assisted email drafting, AI-enhanced navigation, and AI Overviews in search deliver genuine consumer benefits. So they do. But OpenAI-assisted drafting, or Claude-assisted drafting would also produce those benefits. The decisions in *Microsoft* and the search liability decision make it clear that a procompetitive justification must establish a connection between the claimed benefit and the exclusionary feature.¹¹³ Google must show not merely that AI integration benefits users, but that the specific exclusivity of Gemini’s integration—the foreclosure of rival AI assistants from equivalent data access, equivalent default status, and equivalent application-layer integration—is necessary to deliver those benefits. That showing will be difficult to make. For example, the user experience benefits of AI integration in Gmail could be delivered through an open API that permitted rival AI assistants to access the same application-layer data that Gemini accesses. Relatedly, Google may argue that it needs to develop features like Gemini Intelligence on Android to compete with Apple for handsets. The same logic, though, applies, insofar as making Android competitive does not require privileging Google’s own foundation model and AI services.

Google may argue that it is only redesigning and improving its search service, which is not an antitrust violation. As with much conduct that is actionable under the antitrust laws, illegality depends on the specifics of the parties, timing, and situation. The *Microsoft* appeals court made it clear that product design choices may constitute exclusionary conduct under Section 2 when they are undertaken to impede rivals and preserve monopoly power. But changing search to incorporate elements of an AI assistant is not the problem *per se*, rather, the problem is a design change that excludes rivals.

In response to these counterarguments, Google may cite the *Search* remedy decision’s note that, “The court will not hobble Google’s competitiveness by prohibiting self-preferencing of its own GenAI technologies, when that is precisely how the emerging—and highly competitive—GenAI marketplace operates.”¹¹⁴ To some extent, this ruling reflects the limitations of the *Google Search* case, and evidences the need to bring a case squarely about Google’s conduct in emerging AI markets. The court’s examples describing the “GenAI marketplace” are also unhelpful to Google. In particular, the competitors it cites that have incorporated chatbots into distribution channels have insignificant market power (e.g., the Perplexity browser, Bing, Edge, etc.). And yet the platform with the largest market power that the court does cite—Meta (owner of Instagram and WhatsApp)—is currently facing antitrust enforcement for foreclosing rival chatbots from its platform.¹¹⁵ The market power Google possesses, particularly through its ownership of the

¹¹³ *Microsoft*, 253 F.3d at 59, 71 (a procompetitive justification is “a nonpretextual claim that [the] conduct is indeed a form of competition on the merits,” and it must reach “the specific means here in question”); *United States v. Google LLC*, 747 F. Supp. 3d 1 (slip op. at 248–49) (quoting *Microsoft*, 253 F.3d at 71).

¹¹⁴ *United States v. Google LLC*, No. 20-cv-3010 (APM), slip op. at 217 (D.D.C. Sept. 2, 2025).

¹¹⁵ “EU Threatens to Force Meta to Restore WhatsApp Full Access for Rival AI Chatbots,” *Washington Post*, April 15, 2026, <https://www.washingtonpost.com/business/2026/04/15/whatsapp-meta-eu-european-union-antitrust-ai/> (European Commission, Italian, and Brazilian proceedings over Meta’s exclusion of third-party AI chatbots from WhatsApp).

Android operating system necessitates protections to ensure that competition—not incumbency and leverage—determines market outcomes.

VII. Remedies

Suppose an antitrust case was brought and won against Google’s conduct. What could a court do to protect competition in both AI assistants and search? Without a solution a court can impose that will protect or restore competition, it is not clear that antitrust litigation is worthwhile. Foreseeing this problem, a court that is unconvinced there is a remedy may be reluctant to rule for the plaintiff. Therefore, it is important to set out a suite of effective remedies of various kinds so that it becomes obvious that maintaining competition in search and in AI assistants is both feasible and cost-effective. Indeed, one of the core advantages of timely enforcement is that remedies need not disrupt settled market distortions that would-be monopolies have not yet created (unlike the challenges the court faced attempting to unwind Google’s long-entrenched search monopoly).

A. Design Issues

Remedies must match the source of the market power they are designed to constrain. Where the illegal conduct is in a single layer of a market, behavioral remedies at that layer may be sufficient. But when the defendant operates in all layers of a value chain, behavioral remedies at any single layer might be neutralized by adjustments at the others. A successful remedy will be designed so that it cannot be circumvented by substitution to an adjacent layer. Remedies require continuing technical oversight which courts themselves are not well placed to carry out. Therefore, a key element to an effective remedy is a court-appointed monitor with the technical capacity to evaluate compliance and the authority to escalate if compliance proves insufficient. With a technical committee to supervise interpretation, the remedies can be described by what they need to accomplish—both in terms of what Google must not do, and what Google must permit competitors to do—rather than as detailed product specifications. Such specifications inevitably become out of date as the technology evolves and the opportunities for mis-interpretation by the defendant rise.

B. Distribution

Contracts for default placement. Google must not be able to preference its own AI assistants on either Android or iOS devices. The same goes for the reimagined search experience. This requirement means that rival AI assistants and search providers should be able to access the same apps, APIs, device functionalities, defaults, and settings, etc. as Gemini, of course subject to reasonable security screenings and ultimately to user choice.

Importantly, the provision prohibits Google from paying any ecosystem participant to obtain preference and also prohibits preferential contractual obligations on Android OEMs (detailed below). The prohibition prohibits Google from contracting for any privileged status on a third-party browser or mobile device or other consumer-facing distribution channels. An alternative proposal is to allow Google to “Pay for Half” of distribution defaults, as some of us have proposed

in previous work.¹¹⁶ These terms could easily be applied to AI assistants and would allow for some payments from Google to channel partners.

Android OEM choice of AI assistant. For any application that an OEM is required to preinstall as part of Google Mobile Services, the OEM must be permitted to substitute a rival AI assistant for the Gemini default. Where the application is not subject to the GMS preinstallation mandate, the OEM retains full independence concerning the choice of AI assistants and services. This remedy operates at the contractual layer rather than the technical layer; it removes the contractual exclusivity that the *Google Search* court found unlawful in the MADA context and prevents Google from re-creating that exclusivity through AI-assistant defaults. User choices in these decisions should be designed according to industry best practices to ensure users are not being steered by designs tilted in favor of market power.

C. Interoperability at the App Level

API sharing. For each of Google’s own consumer applications in the GMS suite, i.e., Search, Gmail, Maps, Docs, YouTube, Chrome, Google must share with any qualifying rival AI agent all the application-programming interfaces and functionalities that Gemini itself uses to deliver AI features within those applications. Sharing must be equitable: the same APIs, the same latency, the same data-access permissions, the same release timing, on terms no less favorable than those Gemini receives. The “equitable” modifier is essential.

Nominal interoperability without equity has historically been the circumvention strategy of dominant platforms.¹¹⁷ The types of degradations we have seen include slower API response times, restricted functionality, withheld data, and delayed access to new features. A court or regulator will help consumers by learning from these examples and not retreading the same ground.

App Stores. A rival AI assistant provider may want to deploy its suite of customized apps through an independent app store. In such a store it can locate apps for its assistant as well as any customized apps that are designed to work closely with it. Data sharing and updates should work smoothly within a third party store, while neither hosting nor purchases should incur any fees to the legacy app store. It is therefore critical that entry regulations concerning app stores are successfully enforced and the functionality of rival app stores is equivalent to that of the legacy app store.

D. No Default AI Assistant

The appropriate remedy for AI assistants differs from the remedy for search. Choice screens may remain a useful remedy in search, where users have long expected a default search engine. AI assistants present a different question altogether. It is far from obvious that applications such as Gmail, Maps, YouTube, or Google Docs should contain an AI assistant by default. Many users may prefer to use those applications without any embedded AI functionality, while others may wish to choose a competing assistant. Given the privacy implications and increasing autonomy of

¹¹⁶ Fiona Scott Morton and Paul Heidhues, “Google Search’s Exclusivity Payments Must Be Capped,” ProMarket, July 18, 2025, <https://www.promarket.org/2025/07/18/google-searchs-exclusivity-payments-must-be-capped/>.

¹¹⁷ Fiona M. Scott Morton et al., “Equitable Interoperability: The ‘Supertool’ of Digital Platform Governance,” *Yale Journal on Regulation* 40, no. 3 (2023): 1013.

AI assistants, consumers should not be presumed to have accepted the installation or operation of one simply because they use a particular application. The appropriate default is therefore no AI assistant at all. If Google instead installs Gemini by default, many users will simply continue using it because defaults are sticky and most consumers will not invest the time or effort required to identify, install, and configure competing assistants, even where those alternatives exist. While some rival AI providers may be capable of integrating with particular Google services through extensions or APIs, those alternatives are unlikely to be discovered or adopted except by the most technically sophisticated users. AI providers should instead compete by persuading consumers to make an affirmative choice, rather than by inheriting users through default placement.

E. Data

Opt-in consent for AI training. The current opt-out, or default, treatment of consumer data must be reversed. This includes data collected from Search queries, YouTube viewing, Chrome page context, Gmail contents, Maps activity, etc and used as training input for Gemini. Use of such data for AI-model training requires affirmative opt-in which can be sought by any AI services provider.

Consumers should have the ability to share data from any app with more than one foundation model, as they choose. Foundation models may want to compensate or reward consumers for sharing data, depending on its value to them. On the publisher side, publishers, too, should be able to opt in or out of their data being used for training Google’s AI services independent of whether they are included in the search index, as Google has indicated it will shortly allow.¹¹⁸

The remedy is necessary to create competition in consumer-facing AI: rivals lacking access to the data that Google harvests without compensation will face an unequal data position because they either lack the data entirely or must pay for it while Google does not. Consumer consent environments and opportunities should be equivalent between Google and its rivals.

Training data and index sharing with licensing. For data that Google has accumulated through conduct found to be unlawful, Google could be required to make that data available to rival foundation-model providers at the marginal cost of production, subject to a licensing regime that addresses privacy and safety considerations. The same is true for Google’s search index as rivals develop their own search tools.

F. Hardware

Custom chips for rival AI agents. Innovation will be greatly enhanced if Android OEMs are permitted to partner with rival AI innovators and ship devices with custom silicon optimized for a rival AI agent. A device with chips optimized for Claude inference, for example, would increase speed and reduce power consumption. Speed and low power make the device more attractive. In addition, they allow for more on-device AI processing. However, on-device processing reduces demand for cloud services which is not in the interest of the major cloud providers but could lower the cost of AI rivals that are not vertically integrated into cloud. Freedom to explore all these strategies would jumpstart innovation among applications and hardware and could lead to new functionalities.

¹¹⁸ Singh and Scott Morton, “A Roadmap for a Monopolization Case Against Google.”

A hardware remedy operates by removing the GMS licensing restriction requiring use of Google-specified hardware, and by ensuring that Google’s own applications function on rival-optimized hardware on terms no less favorable than they function on Tensor or other Google-aligned silicon. This is the hardware analogue of the equitable-interoperability requirement above. Without it, Google retains the option to bottleneck rivals at the hardware layer even if the application-layer and distribution-layer remedies are in force.

G. Android Divestiture

As we have discussed throughout, among Google’s most powerful weapons is its control of distribution via its proprietary Google Android operating system. Should Google continue to use Android as a gateway for access to its rivals in AI and beyond, a simple solution would be to require the company to divest Google Android to a nonprofit foundation. Elsewhere, some of us have described in greater detail how this proposal might work.¹¹⁹

VIII. “Early” Enforcement is “Timely” Enforcement

It may appear premature to develop a theory of antitrust harm in AI-related markets as the market has not yet fully formed, and there is still competition between major AI companies like Google, OpenAI, and Anthropic. These features of emerging markets are frequently invoked as reasons to defer enforcement and to wait for the competitive landscape to clarify before beginning to enforce.¹²⁰ Of course, opening an investigation does not harm competitors or competition. It positions and informs authorities in the event they find a competition problem.

More generally, however, our view is that the current competition among AI providers is to be both celebrated *and* protected. The time to begin enforcement is when the competition that benefits consumers is still thriving and before the market tips. Since no one can predict when a market will tip, and such tipping occurs very quickly, it is not possible to open and carry out an antitrust investigation after the tipping becomes identifiable by outsiders. Such investigations must be opened prophylactically. Given that the remedies in the Google Search case have not levelled the playing field for competition in AI services, a new investigation is needed to ensure a free market.

The past decade of (attempted) antitrust enforcement also teaches that delay can be fatal. History gives us at least three compelling reasons to start now. First, recent judicial precedent demands it. Second, restoring competition in these monopolized tech markets is difficult at best, and perhaps impossible after too much time; in such a situation, only action that prevents the monopoly from forming can realistically help consumers. Digital markets can quickly distort around powerful

¹¹⁹ Digital Regulation Project, “Judicial Remedies to Restore Competition in the Market for General Search” (Yale Tobin Center for Economic Policy, working paper, October 2024), <https://tobin.yale.edu/sites/default/files/2024-10/Judicial%20Remedies%20Working%20Paper.pdf> (proposing divestiture of Android to an independent nonprofit).

¹²⁰ Information Technology and Innovation Foundation, “Testimony Before the House Judiciary Committee Regarding Artificial Intelligence Trends in Innovation and Competition,” April 3, 2025, <https://itif.org/publications/2025/04/03/testimony-house-judiciary-committee-artificial-intelligence-trends-innovation-competition/>; “Act First, Learn Later: AI Antitrust and the Error Costs of Regulation at Machine Speed,” International Center for Law & Economics, accessed July 8, 2026, <https://laweconcenter.org/resources/act-first-learn-later-ai-antitrust-and-the-error-costs-of-regulation-at-machine-speed/>.

players amid a multiplicity of strategies, so waiting until the enforcer is sure of how all the strategies will play out results in enforcement action that is too late. And third, good enforcement inevitably takes time; given the first two reasons, any additional delay can be deadly both to the case and to the competitive process.

A. Courts Demand Early Enforcement

Shifting markets create a heavy burden for the plaintiff in an antitrust case. The problem of choosing a market and violation that will sit fixed in a complaint for years while the market continues to move is a compelling reason for the defendant to slow the litigation. (In addition to the usual incentive for delay in order to keep reaping monopoly profits.) A second problem created by the courts is that their jurisprudence has explicitly penalized delays, therefore reinforcing the need for governments to move quickly.

The largest technology firms operate across many markets at once, and often across several distinct functions inside a single product. That multiplicity, layered on top of constant change, can make a monopoly hard to see: a firm that dominates one market can almost always point to vigorous competition in a neighboring one. A monopolist that once offered one kind of service, a decade later offers a service that differs in important respects. A court that takes the whole sprawl as its frame may mistake an enduring monopoly for a competitive scrum. Meanwhile some of those markets are tipping and an enforcer or court may not be able to determine what is a significant change and what is the usual churn and sprawl.

FTC v. Meta is the cautionary example. The Commission alleged that Meta had unlawfully maintained a monopoly in “personal social networking”—the friends-and-family services offered by Facebook, Instagram, Snapchat, and a few others—by acquiring Instagram and WhatsApp to neutralize nascent threats.¹²¹ In November 2025, after a five-year litigation and a full bench trial, the court entered judgment for Meta. Its reason was definitional: TikTok and YouTube, the court found, now compete with Facebook and Instagram for users’ “time and attention,” and once those rivals are counted in the relevant market, Meta’s share falls below the level required to infer monopoly power.¹²² “While it once might have made sense to partition apps into separate markets of social networking and social media,” the court wrote, “that wall has since broken down.”¹²³ The court further observed, “Whether or not Meta enjoyed monopoly power in the past . . . the agency must show that it continues to hold such power now.”¹²⁴ The verb tense used by the court is the critical point: a monopoly the government cannot prove at the moment of judgment insulates the former monopolist from liability even if it engaged in illegal conduct to create that monopoly in the past. That is a demanding rule when the defendant is a fast-evolving multi-product firm, because every year of delay changes the product and the technology, to say nothing of the incentive created for the defendant to add, subtract, recombine, and rename its services in order to evade liability. The conduct the FTC challenged—the acquisitions—was no less harmful for having

¹²¹*FTC v. Meta Platforms, Inc.*, No. 20-cv-3590 (JEB), Mem. Op. at 1–2 (D.D.C. Nov. 18, 2025).

¹²²*Id.* at 2 (adding TikTok and YouTube “diminishes Meta’s share below monopoly level”); *see id.* at 41–52 (empirical substitution evidence).

¹²³*Id.* at 1.

¹²⁴*Id.* at 89.

occurred a decade earlier. But the case arrived so late that the market had changed too much for the court to be convinced of the agency’s theory of harm.

The problem is worse for state enforcers, an increasingly important bulwark of antitrust enforcement. Laches does not run against the United States, but the court held that it barred the state plaintiffs’ claims. The states who litigated separately against Meta lost their case not on the merits, but because they had, according to the court, waited too long to bring suit.¹²⁵ The doctrinal and the practical disadvantages of delay run together: delay makes the harm harder to see and, increasingly, harder to remedy even when seen. And a defendant has every incentive to slow the litigation to bend the outcome in its favor.

The two rulings, read together, amount to judicial instruction on timing: get to a hearing quickly. A federal enforcer that waits must prove its monopoly case against the market as it stands after years of litigation—against a defendant with every incentive, and ample procedural means, to multiply those years. A state that waits may forfeit its claim before any court reaches the merits. Five years separated complaint from judgment in *Meta*, and each of them supplied new technology for the defendant to invoke and new history for the government to explain. Whatever one makes of the *Meta* court’s market definition, its message on timing is hard to misread: a monopolization case in an evolving market must be brought, start to finish, while the monopoly remains.

B. Lost Competition is Lost

Once a technology market with network and data effects has been monopolized, competition rarely returns on its own. The remedies that might restore the competition are difficult to devise, disruptive to impose, and costly to implement and enforce. For all these reasons courts are reluctant to impose them, foreseeing, perhaps, that they may take a long time to work or may not work at all.

These difficulties are not unique to digital platforms, and we have confronted them before in other network industries—railroads, telephony, and electricity are good examples. But the response to these problems in the past was rarely a behavioral remedy after antitrust litigation (as resulted in the *Search* case). Courts either broke the monopoly apart and supervised the result for years, as with Standard Oil and the 1984 divestiture of AT&T, or Congress abandoned case-by-case enforcement altogether and created a sectoral regulator, as for the railroads in 1887 and later for telephone and broadcast service.¹²⁶

The lessons of that history is that restoring competition ex post is costly and difficult, and courts, acting alone, have seldom been a successful instrument for restoring competition in network-based markets. Digital markets intensify this logic: data-and-network feedback loops make scale self-reinforcing rather than a one-time advantage; near-zero marginal costs and multi-sidedness let a

¹²⁵ *New York v. Facebook, Inc.*, 549 F. Supp. 3d 6 (D.D.C. 2021) (states’ acquisition claims barred by laches), aff’d sub nom. *New York v. Meta Platforms, Inc.*, 66 F.4th 288 (D.C. Cir. 2023).

¹²⁶ *Standard Oil Co. of N.J. v. United States*, 221 U.S. 1 (1911) (dissolution); *United States v. AT&T*, 552 F. Supp. 131 (D.D.C. 1982), aff’d sub nom. *Maryland v. United States*, 460 U.S. 1001 (1983) (Modification of Final Judgment; 1984 divestiture, supervised by Judge Greene); Interstate Commerce Act, ch. 104, 24 Stat. 379 (1887) (creating the ICC); Communications Act of 1934, ch. 652, 48 Stat. 1064 (creating the FCC).

dominant firm give its products away and entangle adjacent markets; and network effects strongly entrench the monopolist.

These consequences were clear long before the *Search* case. In *United States v. Microsoft*, the government prevailed, yet the applications barrier to entry had already done its work: Netscape's browser never recovered, because by the time relief arrived the conduct had kept Navigator's usage "below the critical level necessary . . . to pose a real threat" to the monopoly.¹²⁷ The European Commission's decisions in *Google Android* and *Google Shopping* each found liability, and in neither did a meaningful rival emerge afterward.¹²⁸ The recurring lesson is that a liability finding, even paired with behavioral relief, arrives too late to rebuild the scale that the conduct destroyed.¹²⁹ The interventions that will work to restore competition are frequently those that courts are hesitant to impose because the entrenched monopolist has accustomed users to its technology and its prices and has built up an ecosystem of surrounding dependent firms whose strategies are designed for the status quo. Ending the conduct and redesigning incentives requires change on the part of users as well as on the part of companies providing complements. Some of those companies will benefit and grow because of the remedy, while others may serve a function that will not be needed when the industry becomes competitive. Still others must make changes to the way they operate to adjust to the new environment. Courts will hear from the latter two categories -- and both are likely against any change in the status quo. The consumers and entrants who benefit from change tend to have weaker voices in an antitrust context, either because they are not organized to defend a collective interest, or they do not yet exist.

The *Google* remedy provides a clear demonstration. The most direct way to dislodge Google's search defaults would be to prohibit the multibillion-dollar revenue-share payments that secure them. The plaintiffs asked for exactly that remedy but the court refused.¹³⁰ The payments harm consumers much more than they benefit them, hence the court's finding of liability. However, because a fraction of Google's monopoly profits flow to third parties, those third party recipients asked the court to maintain the exclusionary payments. The court did protect (declined to ban) them, reasoning that "acting in equity" it "cannot be so myopic" as to ignore "the harms that might befall other market actors, even if that means, as here, forgoing a remedy that could help restore competition."¹³¹ Whether that was the right legal judgment is doubtful—the payments are the mechanism of the foreclosure, and the refusal to reach them may not survive appeal.

Either way, the decision illustrates a practical problem that operates outside the law: courts are reluctant to order relief that moves around profits in a way that harms some parties while benefiting others, even while it creates a net benefit to end consumers. The parties who would suffer the cost of effective remedies are in the room; the beneficiaries of restored competition are usually not. A

¹²⁷ *Microsoft*, 253 F.3d at 106–07; see also *United States v. Google LLC*, 747 F. Supp. 3d 1 (slip op. at 242) (analogizing Google's revenue-share payments to the Microsoft agreements).

¹²⁸ Case AT.40099, *Google Android*, Commission Decision of July 18, 2018, aff'd in relevant part, Case T-604/18, *Google and Alphabet v. Commission* (Gen. Ct. Sept. 14, 2022); Case AT.39740, *Google Search (Shopping)*, Commission Decision of June 27, 2017, aff'd, Case C-48/22 P, *Google and Alphabet v. Commission*, ECLI:EU:C:2024:726 (E.C.J. Sept. 10, 2024).

¹²⁹ Furman et al., *Unlocking Digital Competition*, ch. 3 (limits of ex post enforcement in fast-moving digital markets).

¹³⁰ *United States v. Google LLC*, No. 20-cv-3010 (APM), slip op. at 122–31 (D.D.C. Sept. 2, 2025) (remedies opinion).

¹³¹ *Id.* at 130.

court that adopts an effective remedy for a digital platform is one that is laser focused on competition and consumers and ready to ignore inconveniences borne by other parties.

C. Good Enforcement Takes Time

Antitrust litigation in complex digital markets unfolds over many years: time is needed for developing the complaint, engaging in extensive discovery, writing and exchanging long and complex expert reports, and then the hearing itself – all followed by contested remedy proceedings and appellate review. The Google Search case ran nearly five years from the government’s October 2020 complaint to the September 2025 remedy, but that does not include the years it took to write the complaint, nor the years of appeals remaining.¹³² Similarly, the Meta case was filed first in 2020, failed a motion to dismiss and was subsequently refiled in 2021, and eventually reached trial and a decision in 2025.¹³³ It is currently under appeal.¹³⁴

The length of antitrust litigation allows the monopolist to firm entrench itself. The entrenched positions make it difficult to find an effective remedy should the government prevail. For example, the prohibition of exclusive distribution contracts by judge Mehta is unlikely to help competition in search today. The market has tipped and nascent entrants do not have ability to pay to gain a foothold against Google without stronger remedies. In our second example, by the time the Meta case was litigated the court found that the market Meta may have monopolized no longer exists.

The same logic will apply in AI markets if antitrust litigation takes a decade. Preventing exclusive preinstallation or preferential distribution of Gemini on Android or Apple devices today could meaningfully preserve competitive conditions while there still are strong competitors. But imposing similar restrictions after the market has consolidated will likely yield substantially diminished benefits. Consider that while Google’s search conduct was understood by 2010, the antitrust trial did not occur until 2023.¹³⁵ Mimicking that slow pace would yield a US AI trial around 2040. Perhaps the market for search and AI assistants will no longer exist when that hearing occurs.

By contrast, courts are more effective when they hear antitrust cases quickly and effectively so as to be able to act in a way that forestalls the creation of durable monopoly power. In addition, early intervention need be less drastic, because each of the conditions that makes late relief so costly has not yet formed. Before scale has entrenched, a remedy need not manufacture competition, because rivals still possess the scale to provide it. Before the monopoly’s revenues are shared by adjacent markets, the offending conduct can be ended. And before a sprawling ecosystem has organized itself around the dominant firm, modest conduct rules can be effective. Early enforcement is

¹³² Complaint, *United States v. Google LLC*, No. 20-cv-3010 (D.D.C. filed Oct. 20, 2020); *United States v. Google LLC*, No. 20-cv-3010 (APM) (D.D.C. Sept. 2, 2025) (remedies opinion).

¹³³ “FTC v. Meta Platforms, Inc.,” Federal Trade Commission, case docket, accessed July 8, 2026, <https://www.ftc.gov/legal-library/browse/cases-proceedings/191-0134-facebook-inc-ftc-v-ftc-v-meta-platforms-inc>.

¹³⁴ “FTC Says It Will Appeal Meta Antitrust Decision,” Associated Press, January 20, 2026, <https://apnews.com/article/ftc-meta-appeal-antitrust-752463c7783ba14b00b686fe0c933f88>.

¹³⁵ Federal Trade Commission, “Statement of the Federal Trade Commission Regarding Google’s Search Practices,” January 3, 2013, <https://www.ftc.gov/news-events/news/press-releases/2013/01/google-agrees-change-its-business-practices-resolve-ftc-competition-concerns>; *United States v. Google LLC*, 747 F. Supp. 3d 1 (bench trial held September–November 2023).

therefore cheaper twice over: it preserves a competitive market that would otherwise have to be rebuilt, and it preserves it with lighter-touch tools.

Today the US economy is moving quickly from Web 2.0 to an AI based economy. It is precisely antitrust enforcement during times of transition that can protect pathways for entrants. In *United States v. Microsoft*, internet “middleware” threatened to erode the applications barrier that protected Windows, and Microsoft moved to extinguish that threat; the incumbent was checked not by the shift itself but by enforcement that acted while the shift was underway.¹³⁶ AI is the open window now. Google is positioned to capture rather than be displaced by it. That is exactly why the abundance of present AI competition should be read not as a reason to wait, but a reason to move ahead. The window will close.

IX. Conclusion

The emergence of generative AI has been widely understood as an opportunity for competition to displace Google’s dominance over search and information retrieval more generally. This paper argues that the opposite outcome is increasingly likely. Google enters the AI transition with ecosystem advantages that no rival possesses: an existing (and illegally maintained) search monopoly, control over Android, an unparalleled ecosystem delivering consumer applications, vast access to data, integration across the full AI stack, and an almost complete distribution monopoly through both Android and its agreement with Apple. These advantages do not merely make Google a strong competitor. They allow Google to channel the transition to a search AI experience through infrastructure it already controls and to foreclose rivals when they are nascent.

Nor is Google an ordinary defendant asking courts to speculate about future competitive harm. It is a recidivist monopolist that has repeatedly employed defaults, exclusive distribution, and control over bottlenecks to maintain or extend monopoly power. The central claim of this paper is that Google is repeating the same exclusionary strategy that previously secured its dominance in search. Through its pervasive ecosystem influence, control of interoperability, demonstrated strategy of antitrust violations, Google is well-prepared for its newest bride.

We have argued that Google’s conduct supports multiple theories of liability. Google is maintaining its monopoly in search by using its ecosystem, proprietary data, and distribution advantages to prevent rival AI assistants from competing and by co-opting the creative disruption to search. At the same time, it is attempting to monopolize AI assistants through defaults, privileged operating-system integration, tying, and agreements that foreclose rivals from the most important channels of distribution. These practices threaten not only competing AI developers but also publishers, content creators, application developers, and ultimately consumers, who risk losing the creativity, innovation, quality, and price competition that competition in AI assistants could otherwise produce.

Perhaps the strongest objection to intervention is that AI remains a rapidly evolving market with vigorous competition among firms such as OpenAI, Anthropic, and others. However, the recent

¹³⁶ *Microsoft*, 253 F.3d at 53–56 (middleware—Netscape Navigator and Java—as a threat to the applications barrier to entry).

history of antitrust enforcement against platforms demonstrates that once network effects, defaults, scale, and data feedback loops have entrenched a monopolist, courts possess remarkably few effective remedies. The *Google Search* litigation illustrates the point. Liability arrived only after Google's monopoly had become deeply embedded, and the resulting remedies left intact many of the structural advantages that now underpin Google's position in AI. The competitive harm is compounded because Google's effort to monopolize AI assistants rests upon the distribution, data, and ecosystem advantages generated by an unlawfully maintained search monopoly. Left unchecked, Google will have succeeded in converting the fruits of one illegal monopoly into the foundation of another. By contrast, early action is both more likely to be effective at protecting the market and less intrusive to the ecosystem not yet ensnared and distorted by a monopolist.

The lesson of the last two decades is straightforward. In digital markets characterized by self-reinforcing feedback loops, early enforcement is often the only enforcement capable of preserving competition. If courts and agencies wait until Google's position in AI assistants resembles its position in search, they may once again establish an overwhelming antitrust case but find that no meaningful remedy remains available. With prompt action, enforcers have a good chance to keep this bride out of the tub.