

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 21-13289

INFORM INC.,

Plaintiff-Appellant,

versus

GOOGLE LLC,
ALPHABET INC.,
YOUTUBE, LLC,
JOHN DOES 1-100,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:19-cv-05362-JPB

Before JORDAN, ROSENBAUM, Circuit Judges, and STEELE,^{*} District Judge.

PER CURIAM:

Inform, a digital media advertising company, brought an antitrust lawsuit against Google; its parent company, Alphabet; Google's subsidiary, YouTube (collectively, we refer to these three defendants as the "Google defendants"); and John Does 1–100, for alleged violations of the Sherman Act and the Clayton Act, and for state-law tortious interference. The district court dismissed without prejudice Inform's original complaint as a shotgun pleading. It then dismissed Inform's new complaint on shotgun-pleading grounds again, this time with prejudice. It also concluded that Inform had not shown antitrust standing and that dismissal was appropriate on this ground as well. Inform now appeals.

^{*} The Honorable John Steele, United States District Judge for the Middle District of Florida, sitting by designation.

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Upon consideration, and with the benefit of oral argument, we reverse the district court's dismissal order and remand the case for further proceedings.

I.

A. The district court dismisses Inform's original complaint as a shotgun pleading.

Inform filed a complaint in the United States District Court for the Northern District of Georgia against Google LLC, Alphabet Inc., YouTube, and John Does 1–100. The complaint asserted federal antitrust claims and a Georgia state-law claim for tortious interference. The Google defendants moved to dismiss the complaint. They argued that the complaint failed to state a claim and that Inform lacks Article III and antitrust standing. Besides that, they characterized the complaint as an impermissible shotgun pleading.

Upon consideration, the district court granted in part and denied in part the motion to dismiss. It didn't rule on the merits of the Google defendants' motion but instead found that the complaint was a "quintessential shotgun pleading of the kind the Eleventh Circuit has condemned repeatedly." The district court identified the particular pleading deficiencies, dismissed the complaint without prejudice, instructed Inform what a proper complaint should look like, and ordered Inform to file an amended complaint in accordance with those instructions.

B. Inform files an amended complaint.

Two weeks after the district court issued that order, Inform filed its first amended complaint. It asserted the following seven causes of action: (1) violation of Section 1 of the Sherman Act (unreasonable restraints on trade); (2) violation of Section 2 of the Sherman Act (monopoly maintenance); (3) violation of § 2 of the Sherman Act (monopoly leveraging); (4) violation of § 2 of the Sherman Act (attempted monopolization); (5) violation of § 2 of the Sherman Act (exclusive dealing); (6) violation of § 3 of the Clayton Act (exclusive dealing and tying); and (7) tortious interference.

The amended complaint details a long history of Google's allegedly anticompetitive practices.¹ Inform says that Google is "the largest monopoly in the history of the U.S. antitrust laws" and claims that it enjoys monopoly power in at least seven markets: (1) "internet search" market; (2) "licensable mobile device operating system" market; (3) "ad server" market; (4) "web browser" market; (5) "online advertising" market; (6) "search advertising" market; and (7) "online video advertising" market. As it pertains to Inform, this case primarily involves the "online advertising" and "online video advertising" markets.

Online advertising consists of marketing advertisements, which are delivered through the internet on both computers and

¹ We view and recite these factual allegations in the light most favorable to Inform, as we must at this juncture in the proceedings. *See Palmyra Park Hosp. Inc. v. Phoebe Putney Mem'l Hosp.*, 604 F.3d 1291, 1295 (11th Cir. 2010). The actual facts may or may not be as alleged.

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mobile devices. When the internet first started to take off in the early 1990s, traditional print publishers created websites and began to publish their substantive content online. That online content earned (and continues to earn) the attention of many users' eyeballs. And the attention of those users' eyeballs opened the door to advertising profits through various forms of online advertising, including search advertising, display advertising, online video advertising, and social media advertising. Just like other advertising media, online advertising often involves (1) a publisher, who integrates advertisements into its online content; (2) an advertiser, who provides the advertisements to be displayed; and (3) advertising agencies, which help create and place the ads.

Inform is a digital media company that provides a platform of services to online publishers, content creators and online advertisers. It manages the distribution and delivery of video advertisements from content creators into articles on newspaper, magazine, radio, and television websites. Inform works with both publishers (*i.e.*, website operators for newspaper, magazine, radio, and television sites) and advertisers. Inform's platform enables publishers to pair corresponding video with their original text content to enhance the user's experience and understanding of the publisher's story. And for advertisers, Inform provides brands with an opportunity to deliver video advertisements to the audience most likely to consume their products.

At its peak, Inform had an inventory of ad space from a network of approximately 5,000 publishers. Inform says that this



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