

No. 09-1475

In The

Supreme Court of the United States

AARON C. BORING and CHRISTINE BORING,
husband and wife,
Petitioners,

vs.

GOOGLE, INC., a California corporation,
Respondent.

*On Petition for Certiorari to the United States
Court of Appeals for the Third Circuit*

PETITION FOR A WRIT OF CERTIORARI

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Z E G A R E L L I
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June 1, 2010

STATEMENT OF THE CASE
PREAMBLE

**“No one shall be subjected to arbitrary
interference with his privacy, family,
home or correspondence....”**

*United Nations Declaration of Human Rights,
Article 12, December 10, 1948*

“There isn’t any privacy, get over it.”

*Google’s Vint Cerf, May 9, 2008,
Seattle Post Intelligencer*

Freedom begins with the right to be left alone. Privacy is not an incidental right, it is a fundamental right — if not the seminal principle upon which the United States of America was founded.

Google intentionally entered onto Petitioners’ land, without permission, surveilling and collecting data for its profit purpose. If Google can do it, everyone can do it. That is the entire issue in this case. Petitioners and their counsel hold the point tightly, will not lose sight of it, and will not let it go. Google claims its acts are trivial. That is false. Google’s acts are seminal. There is a difference.

Google is a technological, economic and social phenomenon. We are vigilant to recognize Google’s control over the American infrastructure of technology, economy and social interaction, and our growing dependencies. If Google also controls our private property — the embodiment and reward of our time — there is nothing left, and we become Google’s slaves. That is how seeds grow. The intrusions of technology must yield to privacy, or privacy must yield to the intrusions of technology. With potential fully realized, both seeds cannot stand, as equals, in the same place at the same time. One must be first. We cannot serve two masters.

Petitioners did not accept Google's offer merely to remove the surveilled information from Google's mitigation website. Petitioners' time and personal pursuits are not trivial, and Petitioners are highly offended that Google should presume to be master over them. History teaches that a policy of appeasement is not a final solution.

It is proper to take alarm at the first experiment on our liberties. We hold this prudent jealousy to be the first duty of citizens and one of the noblest characteristics of the late Revolution. The freemen of America did not wait till usurped power had strengthened itself by exercise and entangled the question in precedents. ... We revere this lesson too much ... to forget it.”¹

I believe there are more instances of the abridgement of the freedom of the people by gradual and silent encroachments of those in power, than by violent and sudden usurpations....This danger ought to be wisely guarded against.²

We Americans are deeply charitable, and, yet, not so much so to forgive the King for quartering soldiers in our homes — even for a fleeting and trivial single night. On principle alone, it is highly offensive. Even with a spare bedroom. On principle alone, it is highly offensive. The greater the principle, the more jealous. The more jealous, the more offended. Privacy is the first cause of war.

Henry Ford, a great American entrepreneur, said: “The older I get, the less I listen to what people say, and the more I watch what they do.” A wise saying. The law may be thought old, but it has evolved well-beyond a brash child's clever arguments that the wallet was not buttoned in the person's pocket, so it is okay to take it.

¹ James Madison “Memorial and Remonstrance,” Rives and Fendall, Letters and Other Writings of James Madison, 1:163.

² James Madison. Jonathan Elliot, ed. The Debates in the Several State Conventions on the Adoption of the Federal Constitution, 5 vols. 3:87. Philadelphia: J.B. Lippincott Company, 1901.

Google argues that it is okay to enter Petitioners' private property, to pass by clearly marked "**Private Road No Trespassing**" signage, to surveil and to collect data. Google, the first of its kind, claims an easement on the World's property from "license" by "general custom." Even the common sense of seeing a swimming pool, where children customarily swim, is not enough to stop Google's continued spying, recording and publication. Google is a corporation — indeed, Google is a technology. It does not eat, it does not sleep, and it does not feel pain.

This is a nation of People. Freedom begins with the right to be left alone. Privacy is not an incidental right, it is a fundamental right — if not the seminal principle upon which the United States of America was founded. Now we test how this Nation, so conceived, will endure.

We pray that this Supreme Court accept this case, deeds caught at the first experiment and arguments untangled. The rulings below cannot stand, the only question is when they will fall. We pray now. And, yet, but for the full errors of the courts below, this case could not have so timely ascended to the final power and authority of this United States Supreme Court, so Providence must see some goodness in it. Amen.

*- Gregg Zegarelli
June 1, 2010*