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11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**

14 **ZACHARIA GAMBLE and**
 15 **NICHOLAS HESS**, individually and on
 behalf of all others similarly situated,

16 Plaintiffs,

17 v.

18 **GOOGLE LLC and ALPHABET INC.**,

19 Defendants.

Case No. 3:20-cv-7984

CLASS ACTION COMPLAINT FOR VIOLATIONS OF:

1. **MONOPOLIZATION UNDER THE SHERMAN ACT (15 U.S.C. § 2);**
2. **ATTEMPTED MONOPOLIZATION UNDER THE SHERMAN ACT (15 U.S.C. § 2); and**
3. **CALIFORNIA UNFAIR COMPETITION LAW (CAL. BUS. & PROF. CODE §§ 17200, ET SEQ.).**

DEMAND FOR JURY TRIAL

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1 Plaintiffs, individually and on behalf of all others similarly situated, allege the following
2 against Defendants Google LLC and Alphabet Inc. (collectively “Google” or “Defendants”).

3 **I. INTRODUCTION**

4 1. Since the dawn of the internet age, few companies have enjoyed such a prolific rise
5 as Google. What started as an upstart online search engine has grown into a ubiquitous tech
6 giant. For much of the past decade, Google has reported profit margins that are nearly triple the
7 average of other U.S.-based firms. Google’s platform has continued to grow to encompass dozens
8 of products, nine of which enjoy more than a billion users each.

9 2. Amid technological advances, as increasing numbers of people took web
10 connectivity on the go with mobile devices and tablets, Google identified exploitation and
11 monopolization of the mobile app market as necessary to maintain its search engine
12 dominance. Google acquired its own mobile operating system—Android—and released it as a free,
13 open-source code to encourage dissemination. Despite the appeal of a royalty-free operating
14 system, in practice Google requires device manufacturers and distributors to enter into onerous
15 agreements mandating Google applications be pre-installed and prominently displayed on devices,
16 and preventing customization (or “forking”) of the Android operating system.

17 3. For mobile device users running the Android operating system, content is most
18 accessible through apps—specially optimized software which allows users to access and share
19 content, play games, and make in-app transactions for goods and services—which may be pre-
20 installed on a device, downloaded from an app store, or accessed directly from the web through a
21 process called sideloading. Google takes significant, anticompetitive steps to ensure that its app
22 store—the Play Store—enjoys virtually unfettered power to control software distribution on the
23 Android platform.

24 4. The Play Store comes pre-installed on all Android devices. To access competitor
25 content, users must manually download alternative app stores through a complicated, multistep
26 sideloading process requiring users to voluntarily bypass warnings that the process poses a security
27 risk. Even if third-party apps are successfully downloaded, Google impairs their functionality by
28 making it more difficult for developers and consumers to update those apps on Android devices. As

1 consumer demand for the Android operating system grew, Google leveraged increasing interest in
2 development and distribution of compatible apps to eviscerate competitive constraints on the
3 Android mobile app market.

4 5. Google imposes on interested developers and distributors anticompetitive
5 agreements which, among other things, require increasing use of Google’s own in-app billing tool,
6 licensing of a suite of Google products, and prohibiting competition outside Google Play. Through
7 arbitrary enforcement of these contractual provisions and other policies, Google retains and
8 exercises the ability to retaliate and oust any would-be competition. Acting as a middleman
9 between consumers and app developers, Google exacts a supra-competitive 30% fee on sales of
10 paid apps and in-app purchases. With unfettered control over the Android mobile app market,
11 Google punishes rivals and stifles innovation—all to the detriment of competition and
12 consumers. Plaintiffs, on behalf of the class, seek an award of damages as well as injunctive and
13 other equitable relief.

14 **II. PARTIES**

15 **A. Plaintiffs**

16 6. Plaintiff Zacharia Gamble resides in the State of Illinois. Plaintiff Gamble purchased
17 an app and/or in-app content from the Google Play Store during the Class Period.

18 7. Plaintiff Nicholas Hess resides in the State of Virginia. Plaintiff Hess purchased an
19 app and/or in-app content from the Google Play Store during the Class Period.

20 **B. Defendants**

21 8. Alphabet Inc. is a Delaware corporation with its principal place of business in
22 Mountain View, California.

23 9. Google LLC is a Delaware limited liability company with its principal place of
24 business in Mountain View, California. Google LLC is a technology company providing a search
25 engine and other web-based products, including online advertising. It is a wholly-owned subsidiary
26 of Alphabet Inc.

27 10. Alphabet Inc. and Google LLC are collectively referred to herein as “Google” or
28 “Defendants.”

1 **III. JURISDICTION AND VENUE**

2 11. Plaintiffs bring this action under Sections 4, 12, and 16 of the Clayton Act (15 U.S.C.
3 §§ 15, 22, and 26) for treble damages, other relief, and reasonable attorneys’ fees and costs with
4 respect to the injuries sustained by Plaintiffs arising from violations by Defendants of the federal
5 antitrust laws, including Section 2 of the Sherman Antitrust Act (15 U.S.C. § 2).

6 12. This Court has jurisdiction over this action pursuant to Sections 1331, 1337(a) and
7 1367 of Title 28 of the United States Code (28 U.S.C. §§ 1331, 1337(a) and 1367).

8 13. This Court has *in personam* jurisdiction over Defendants because each, directly and/or
9 through its ownership or control of subsidiaries: (a) transacted business in the United States,
10 including in this District; (b) is registered to do business in the state of California; (c) had substantial
11 aggregate contacts with the United States, including this District; and/or (d) engaged in
12 anticompetitive acts that were directed at, and had a direct, substantial, and reasonably foreseeable
13 and intended effect of injuring the business or property of persons and entities residing in, located
14 in, or doing business throughout the United States, including in this District. Defendants conduct
15 business throughout the United States, including in this District, and have purposefully availed
16 themselves of the laws of the United States.

17 14. Venue is proper in this District pursuant to Sections 15 and 22 of Title 15 of the United
18 States Code (15 U.S.C. §§ 15 and 22) and Section 1391(b) and (c) of Title 28 of the United States
19 Code (28 U.S.C. § 1391(b) and (c)) because a substantial part of the events giving rise to Plaintiffs’
20 claims occurred in this District, a substantial portion of the affected interstate trade and commerce
21 was carried out in this District, and one or more of the Defendants reside in this District or is
22 licensed to do business in this District. Each Defendant has transacted business, maintained
23 substantial contacts, and/or committed overt acts in furtherance of the illegal restraint of trade
24 throughout this District. The anticompetitive conduct alleged herein has been directed at, and has
25 had the intended effect of, causing injury to persons residing in, located in, or doing business in this
26 District.

27 **IV. INTRA-DISTRICT ASSIGNMENT**

28 15. Pursuant to Civil Local Rule 3-2 and General Order 44, this antitrust class

1 action shall be assigned on a district-wide basis and is not subject to reassignment on the basis of
2 intra-district venue.

3 **V. FACTUAL ALLEGATIONS**

4 **A. Google's Rise to Prominence**

5 16. Google arrived on the emerging digital scene in 1998, initially as a general internet
6 search engine that served users web results in response to online queries. Google's Page Rank
7 algorithm catapulted it to the forefront. The algorithm, which ranked the relevancy of a webpage
8 based on the number of other pages linked to it, revolutionized internet search functionality. As
9 the internet rapidly grew, Google's PageRank innovation delivered users higher quality internet
10 searches and differentiated Google from its search engine rivals. By the dawn of the new
11 millennium, Google had become the world's largest search engine. Later that same year, Google
12 expanded its market footprint with the launch of Google AdWords, an online advertising service
13 that lets businesses purchase keyword advertising to appear on Google's search results page.

14 17. Google's growth has continued to scale over the past two decades—emerging as core
15 infrastructure for ubiquitous online products and services. Google has become the leading purveyor
16 of digital advertising, and a major provider of digital mapping, cloud computing, email and voice
17 assistant technology. It maintains a leading web browser and a prevalent mobile operating
18 system—Android. Nine of Google's products—Android, Chrome, Gmail, Google Search, Google
19 Photos, Google Drive, Google Play, Google Maps, and YouTube—each boast more than a billion
20 users. Its search engine prowess, too, endures with “Googling” becoming synonymous with an
21 online search. These services capture vast amounts of user data enabling Google to drive revenue
22 through online advertising and entrench dominance across markets.

23 18. Google is now one of the world's major corporations. Google has enjoyed strong and
24 stable profits, with profit margins greater than 20% for nine out of the last 10 years, close to three
25 times greater than the average for a U.S. firm. For 2019, Google reported total revenues of \$160.7
26 billion—up 45% from 2017—and more than \$33 billion in net income. Financial analysts predict
27 that Google is well positioned to maintain its control, noting that “Alphabet has established
28 unusually deep competitive moats around its business.”

1 **B. Android and the Mobile App Market**

2 19. In Google’s early years, internet searches were performed almost exclusively using
3 computer browsers. Over the past two decades, however, users have increasingly turned to mobile,
4 non-desktop devices, including phones and other devices, for access to the internet and other online
5 content. Google has made a conscious business decision to target manufacturers and users of
6 mobile electronic devices to ensure those mobile devices incorporate and operate versions of
7 Google’s products, technology, and operating systems.

8 20. In this regard, Google acquired Android in July 2005 for an estimated \$50 million,
9 and released the Android mobile operating system. Google released Android as “a free, open-
10 source mobile operating system” available to anyone to download and modify, or “fork,” on a
11 royalty-free basis.

12 21. The open-source nature of the Android operating system was attractive to both device
13 manufacturers, like LG, Motorola and Samsung, and phone carriers, like AT&T, Sprint and
14 Verizon. The appeal of an open-source platform, where distributors—not Google—would
15 supposedly retain control over the device and its technical functioning, led many manufacturers
16 and carriers to choose Android over competing operating systems.

17 22. In reality, however, Google quickly looked to leverage the growing popularity of its
18 operating system by solidifying its market position and minimizing competition. Google requires
19 manufacturers to enter licensing agreements to use Google’s proprietary software like Gmail,
20 YouTube, Chrome and Google Maps, or face limited functionality. In order to make devices
21 desirable for consumers, manufacturers have little choice but to agree. In a direct effort to stifle
22 competition, Google also requires manufacturers to enter into anti-forking agreements, which
23 generally prohibit development of Android versions that do not comply with Google’s arduous
24 technical standards. These agreements prevent distribution of devices with Android forks and
25 marketing of forks on behalf of third parties—effectively rendering hollow Google’s offer of an
26 open-source code.

27 23. Although Google elected to forego profiting directly from distribution of the operating
28 system itself, wide dissemination of Android afforded Google greater opportunity to orchestrate,

1 control, and ultimately monetize, the mobile content.

2 24. On mobile or tablet devices, digital content and services are easily accessible by way
3 of mobile applications (“apps”). Popular apps allow users to share content, play games, and make
4 “in app” sale or purchase transactions for goods and services. Apps can be pre-installed on an
5 electronic device by the manufacturer as a component of the operating system itself, downloaded
6 from an app store, or otherwise loaded directly onto the electronic device from the internet using a
7 web browser—a process that Google refers to as “sideloading.”

8 25. Frequently, consumers access apps through an app store, which itself may be pre-
9 installed on the electronic device. An app store is a centralized, curated location where users can
10 search, review and buy apps. Google has established the Google Play Store (“Google Play” or “the
11 Play Store”) as the predominant distribution service for users to access and download other
12 applications available on the Android system. Apps are operating system-specific meaning there
13 is a separate market for apps developed for Apple iOS (which only work on Apple electronic
14 devices) and apps developed for Android (which only work on Android electronic devices). For
15 this reason, Apple’s App Store and the Google Play Store do not compete against one another.
16 Google unlawfully uses its Google Play Store to control the mobile app market for devices using
17 the Android operating system.

18 26. Google requires that manufacturers pre-install the Google Play Store on all
19 electronic devices, knowing that users infrequently change defaults. Google also refuses to allow
20 any rival app store to be downloaded from Google Play. Indeed, Google all but prohibits access to
21 competitor content by making third-party app stores accessible only by way of “sideloading”—a
22 complicated multi-step process where users must voluntarily proceed despite warnings that
23 sideloading is unsafe. Because of the hurdles Google imposes, few users succeed in accessing
24 alternative, third-party content.

25 27. For users who do persist in the sideloading process and successfully download third
26 party apps or app stores, Google takes further steps to limit the functionality of those programs.
27 For example, while applications downloaded from the Google Play Store update automatically on
28 the device background without user input, Google requires users to manually update non-Play Store

1 apps.

2 28. As Android’s popularity continued rising with manufacturers and distributors, app
3 developers looking for wide app distribution developed apps compatible with the Android operating
4 system, in accordance with Google’s incentives. As more Android apps entered the market, the
5 operating system became more appealing to consumers, leading to more developers interested in
6 designing for Android in a cycle that further entrenched Google’s market influence.

7 29. To solidify Android’s market dominance, Google “shared” its search advertising
8 and Play Store revenues with distributors. With an economic stake in Android’s proliferation,
9 distributors were further incentivized to relinquish control over the operating system and what apps
10 come preinstalled on electronic devices.

11 30. Because Google Play is the primary way users install applications on Android
12 devices, it effectively functions as a gatekeeper for software distribution on all devices equipped
13 with the Android operating system.

14 31. Google exerts its gatekeeping power over third-party app developers in numerous
15 ways. Many, including Amazon, Spotify, Netflix, Epic Games, Tinder, and Apple have all publicly
16 expressed concern about the substantial fees Google extracts from each transaction occurring on
17 the Play Store, as described below.

18 32. Others have been subjected to Google’s arbitrary enforcement of its Play Store
19 policies, which protect the power of Google’s own services and stifles competitors. One app,
20 “Callsome,” for example, was banned from Google Play for “Ad Policy” violations only to learn
21 later that a fundamentally identical product was able to stay and thrive in Google Play. Callsome
22 believes it was banned because of its partnership with SmartApp, which at the time was widely
23 considered to be a nascent but rising rival to Google in the Russian market.

24 33. Through exercise of its gatekeeping power and monopoly conduct, Google has
25 extracted supra-competitive prices for its Android app distribution services and in-app purchases
26 made through Google Play, including a 30% commission on sales of paid apps and a 30% fee for
27 in-app purchases. Google collects and processes these commissions and fees directly from
28 Plaintiffs and Class Members, remitting the remainder of their payment to the app developer.

1 34. Google has used Android to entrench and extend its control in a variety of ways that
2 undermine competition. These include: (1) using contractual restrictions and exclusivity provisions
3 to extend Google’s search monopoly from desktop to mobile and to favor its own applications; and
4 (2) devising Android Lockbox, a covert effort to track real-time data on the usage and engagement
5 of third-party apps, some of which were Google’s competitors. Overall, Android’s business
6 practices reveal how Google has maintained its dominance through relying on various contractual
7 restrictions that blocked competition and through exploiting information asymmetries, rather than
8 by competing on its merits.

9 **C. Google Maintains a Monopoly in the Android Mobile App Market**

10 35. The Play Store’s dominance over app distribution on Android devices has enabled
11 Google to effectively become the middleman between app developers and their customers by
12 mandating use of its own in-app payment system—Google Pay—for transactions accomplished
13 using the Play Store. Google’s requirements in this regard have evolved over time to require more
14 app developers to use Google’s payment tool. In 2014, for example, only certain categories of
15 applications were required to use Google Pay. Recently, however, Google has begun insisting that
16 a broader category of apps will be required to use Google’s in-app payment tool exclusively, no
17 longer permitting the option of a third-party payment processor.

18 36. Similarly, Google uses a series of anticompetitive covenants in agreements to
19 maintain its monopoly in the Android Mobile App Market and charge supra-competitive prices for
20 apps and in-app purchases. Google’s Mobile Application Distribution Agreement (“Mobile App.
21 Agreement”) requires manufacturers seeking to license the Android operating system to agree to
22 preinstall select apps, including the Google Play Store, on the device, alongside other rotating apps
23 to be selected by Google. If a manufacturer refuses these restrictive terms and conditions, it loses
24 access to the Android operating system.

25 37. As a result of the Mobile App. Agreement’s terms and conditions, Google has
26 successfully prevented competition in the Android Mobile App Market, allowing it to charge supra-
27 competitive prices for apps and in-app purchases, and harming Plaintiffs and Class Members by
28 limiting consumer choice.

1 38. Similarly, Google uses its Developer Distribution Agreement (“Distribution
2 Agreement”) to contractually restrict competition in the Android Mobile App Market. Among
3 other terms, the Distribution Agreement mandates that developers comply with Google’s
4 Developer Program Policies, including using Google’s proprietary in-app billing for in-app game
5 payments, as well as certain other digital in-app purchases. The Distribution Agreement also
6 prevents developers from “us[ing] Google Play to distribute or make available any Product that has
7 a purpose that facilitates the distribution of software applications and games for use on Android
8 devices outside of Google Play.” Google has the power to simply eliminate any Android app it
9 believes has violated any portion of the Distribution Agreement.

10 39. Google therefore employs anticompetitive agreements and business practices to
11 control the Play Store in an effort to protect the dominance of its own services and stifle rivals,
12 harming Plaintiffs and Class Members.

13 **VI. RELEVANT MARKET**

14 40. For purposes of this action, the relevant product market is the market for Android
15 apps and in-app purchases. The relevant geographic market for purposes for this action is the
16 United States and its territories. Google has substantial and long-lasting power in this market. App
17 stores and apps are developed and distributed throughout the United States, and Google Play is
18 available to Android users throughout the United States.

19 **VII. ANTITRUST INJURY**

20 41. Plaintiffs and Class Members purchased Android apps and in-app digital content
21 directly from Google through Google Play. Without the unlawful restraints described above,
22 Plaintiffs and Class Members would not have to pay supra-competitive prices for apps and in-app
23 purchases. Google’s anticompetitive practices also stalled, limited or foreclosed competition and
24 innovation in the Android Mobile App Market.

25 **VIII. STATUTE OF LIMITATIONS TOLLING**

26 42. Plaintiffs and Class Members had no knowledge of Google’s anticompetitive
27 conduct, or of facts sufficient to place them on inquiry notice of the claims asserted herein, during
28 the Class period and continuing thereafter, until October 2020 when the United States House of

1 Representatives published its Investigation of Competition in Digital Markets and provided details
2 concerning Google and its conduct.

3 43. Plaintiffs and Class Members suffered economic loss due to Google's wrongful
4 exercise of monopoly power. Plaintiffs interactions with Google were, however, insufficient to
5 discover Google's wrongful conduct.

6 44. Furthermore, no public information was available during the Class Period or
7 thereafter to suggest that Google's business activities were done to monopolize the Android Mobile
8 App Market until the House published its Investigation of Competition in Digital Markets.

9 45. Moreover, it was reasonable for Plaintiffs and Class Members not to suspect that
10 Defendants were engaging in any unlawful anticompetitive behavior. Plaintiffs and Class Members
11 are simply consumers of apps.

12 46. Plaintiffs allege a continuing course of unlawful conduct by Google, including
13 conduct within the applicable limitation periods. That conduct has inflicted continuing and
14 accumulating harm within the applicable statutes of limitation.

15 47. For these reasons, the statutes of limitations applicable to Plaintiffs' and Class
16 Members' claims have been tolled with respect to the claims asserted herein until the House Report
17 about Google became public.

18 48. Additionally, or alternatively, application of the doctrine of fraudulent concealment
19 tolled the statutes of limitation on Plaintiffs' claims. Plaintiffs and Class Members had no
20 knowledge of Google's wrongful acquisition and maintenance of monopoly power in the relevant
21 market, or of facts sufficient to place them on inquiry notice of their claims during the Class Period
22 and continuing thereafter. No information in the public domain or otherwise available to Plaintiffs
23 and Class Members during the Class Period suggested that Google had wrongfully acquired a
24 monopoly or was using its monopoly power to charge supra-competitive prices.

25 49. In failing to disclose its wrongful monopolization, in addition to denying it was
26 engaged in such conduct, Google was able to conceal its illegal conduct. In fact, Google has made
27 public denials to this effect in the United States and to foreign regulators.

28 50. After it was revealed that the House was investigating Google's monopoly, Google

1 denied such conduct. Similarly, in response to recent news reports of impending antitrust actions
2 against it by federal and state officials for monopolization, Google stated publicly that competition
3 is flourishing, and publishers and marketers have enormous choice when that was not correct.

4 51. Further, Google's anticompetitive monopoly conduct was inherently self-
5 concealing because, as Google knew, its disclosure likely would have led to governmental
6 enforcement activity or civil liability. Google's conduct is subject to antitrust regulation, so it was
7 reasonable for Plaintiffs and Class Members to presume that they were purchasing apps in a
8 competitive market. A reasonable person under the circumstances would not have had reason to
9 suspect that apps were being sold at supra-competitive prices at any time during the Class Period.

10 **IX. CLASS ACTION ALLEGATIONS**

11 52. Plaintiffs bring this action both individually and as a class action pursuant to Federal
12 Rule of Civil Procedure 23(b)(2) and (b)(3) on behalf of the following Class:

13 All persons and entities in the United States that paid Google for an app on the
14 Google Play Store, subscription fees for an app obtained on the Google Play Store,
15 or app content from an app downloaded from the Google Play Store, during the
16 relevant limitations period ("Class Period").

17 53. This definition specifically excludes any of the Defendants named herein, any of the
18 Defendants' parent companies, subsidiaries, and affiliates, and any of the Defendants' officers,
19 directors, management, employees, subsidiaries, affiliates or agents. Plaintiffs reserve the right to
20 expand, modify, or alter the class definition in response to information learned during discovery.

21 54. This action is properly brought as a class action under Federal Rule of Civil
22 Procedure 23(a) for the following reasons:

- 23 a. **Numerosity (Fed. R. Civ. P. 23(a)(1)):** The proposed Class is so numerous
24 and geographically dispersed that the joinder of all Class Members is
25 impracticable. While Plaintiffs do not know the exact number and identity
26 of all Class Members, Plaintiffs are informed and believe that there are
27 millions of Class Members. The precise number of Class Members can be
28 ascertained through discovery;

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- b. **Commonality and Predominance (Fed. R. Civ. P. 23(a)(2) and 23(b)(3)):** There are questions of law and fact common to the proposed class which predominate over any questions that may affect individual Class Members. Such common questions of law and fact include, but are not limited to:
- i. Whether Google unlawfully acquired and maintained monopoly power in the relevant market;
 - ii. Whether Google monopolized the market for Android apps at any time during the Class Period;
 - iii. Whether Google’s alleged conduct violated California’s antitrust and unfair competition laws;
 - iv. Whether the alleged conduct violated the Sherman Act;
 - v. Whether Plaintiffs and the other members of the Class were injured by Defendants’ conduct and, if so, the determination of the appropriate Class-wide measure of damages;
 - vi. Whether Defendants unjustly enriched themselves to the detriment of the Plaintiffs and the members of the Class, thereby entitling Plaintiffs and the members of the Class to disgorgement of all benefits derived by Defendants;
 - vii. Whether Plaintiffs and other members of the Class are entitled to, among other things, equitable relief, and, if so, the nature and extent of such relief;
 - viii. Whether Plaintiffs and members of the Class had any reason to know or suspect the monopoly, or any means to discover the monopoly; and
 - ix. Whether the Defendants fraudulently concealed the monopoly’s existence from Plaintiffs and the members of the Class;
- c. **Typicality (Fed. R. Civ. P. 23(a)(3)):** Plaintiffs’ claims are typical of the

1 claims of the members of the proposed Class. Plaintiffs and the Class have
2 been injured by the same wrongful practices of Defendants. Plaintiffs'
3 claims arise from the same practices and conduct that give rise to the claims
4 of the Class and are based on the same legal theories; and

5 d. **Adequacy of Representation (Fed. R. Civ. P. 23(a)(4)):** Plaintiffs will
6 fairly and adequately protect the interests of the Class in that they have no
7 interests antagonistic to those of the other members of the Class, and
8 Plaintiffs have retained attorneys experienced in antitrust class actions and
9 complex litigation as counsel.

10 55. This action is properly brought as a class action under Federal Rule of Civil
11 Procedure 23(b) for the following reasons:

12 a. **Superiority (Fed. R. Civ. P. 23(b)(3)):** Certification under Rule 23(b)(3) is
13 appropriate because questions of law or fact common to members of the Class
14 predominate over any questions affecting only individual members, and class
15 action treatment is superior to the other available methods for the fair and
16 efficient adjudication of this controversy.

17 b. **Declaratory and Injunctive Relief (Fed. R. Civ. P. 23(b)(2)):** Certification
18 under Rule 23(b)(2) is warranted because Defendants acted or refused to act on
19 grounds generally applicable to the Class, thereby making appropriate final
20 equitable, declaratory, or other appropriate equitable relief with respect to the
21 Class as a whole.

22 c. The proposed Class is ascertainable and there is a well-defined community of
23 interest in the questions of law or fact alleged herein since the rights of each
24 proposed Class Member were infringed or violated in the same fashion.

25 56. A class action is superior to other available methods for the fair and efficient
26 adjudication of this controversy for at least the following reasons:

27 a. Given the size of individual Class Member's claims and the expense of
28 litigating those claims, few, if any, Class Members could afford to or would

1 seek legal redress individually for the wrongs Defendants committed against
2 them and absent Class Members have no substantial interest in individually
3 controlling the prosecution of individual actions;

4 b. Without a class action, Class Members will suffer damages, and Defendants'
5 violations of law will proceed without remedy while Defendants reaped and
6 retained the substantial proceeds of their wrongful conduct;

7 c. This action will promote an orderly and expeditious administration and
8 adjudication of the proposed Class claims, fostering economies of time, effort
9 and resources, and ensuring uniformity of decisions; and

10 d. Plaintiffs know of no difficulty that will be encountered in the management of
11 this litigation which would preclude its maintenance as a class action.

12 **X. CAUSES OF ACTION**

13 **FIRST CAUSE OF ACTION**

14 **Monopolization Under the Sherman Act (15 U.S.C. § 2)**

15 57. Plaintiffs hereby repeat and incorporate by reference each preceding paragraph as if
16 fully stated herein.

17 58. Plaintiffs bring this claim individually and on behalf of each member of the Class
18 described above.

19 59. The relevant market is the U.S. market for apps and in-app purchases sold in the
20 Android Mobile App Market.

21 60. Google has gained and maintains monopoly power in the relevant market by
22 improper and unlawful means. More specifically, Google has willfully acquired and maintained
23 such power by coercing the purchase of Android apps and in-app products and services at
24 artificially high prices and by its patently exclusionary conduct, including by refusing to allow rival
25 app stores to be accessed through the Google Play Store and by implementing significant frictions
26 designed to steer consumers away from sideloading third-party app stores. Consumers must use
27 the Android Mobile App Market to obtain Android apps and in-app purchases.

28 61. For the reasons stated herein, substantial barriers to entry exist in the relevant

1 market.

2 62. Google has the power to exclude competition in the relevant market, and it has used
3 that power, including by way of its unlawful practices in restraint of trade as described herein, to
4 maintain and expand its monopoly power in that market.

5 63. Google's conduct as described herein, including its unlawful practices in restraint
6 of trade, is exclusionary vis-à-vis its rival app stores in the U.S. market for Android mobile apps
7 and in-app purchases.

8 64. Google has attempted to obtain a monopoly in the U.S. market for Android mobile
9 apps and in-app purchases, effectively foreclosing competition, stifling innovation, and gravely
10 diminishing consumer choice. Additionally, Google has abused its market power by charging
11 supra-competitive 30% commission on sales of paid apps and a 30% fee for in-app purchases.

12 65. There is no business necessity or other pro-competitive justification for Google's
13 conduct.

14 66. As a direct and proximate cause of Google's conduct, Plaintiffs and members of the
15 Class have suffered antitrust injury. Plaintiffs and the Class Members paid significantly higher
16 prices for Android apps and in-app purchases than they would have but for Google's unlawful
17 conduct. That conduct also deprived Plaintiffs and Class Members of improved quality and
18 innovation in the relevant markets.

19 67. Plaintiffs are inclined to continue to purchase Android apps and in-app purchases in
20 the future because of their investment in the electronic device containing the Android operating
21 system.

22 68. Plaintiffs and members of the Class are entitled to damages, including treble
23 damages, sustained because of Google's monopolistic acts and practices.

24 69. Plaintiffs and members of the Class are entitled to equitable relief as appropriate to
25 remedy Google's monopoly conduct and restore competition in the relevant market. Members of
26 the Class are regular users of the Android Mobile App Market and will continue to purchase such
27 apps and in-app products and services and suffer further injury if Google's monopoly is not
28 terminated.

1 70. Plaintiffs and the Class also are entitled to equitable relief to prevent Google from
2 persisting in its unlawful, inequitable, and unjustified behavior to their detriment, with such an
3 injunction at a minimum prohibiting Google from continuing to charge supra-competitive
4 commission on sales of paid apps and a supra-competitive percent fee for in-app purchases. *See,*
5 *e.g.*, 15 U.S.C. § 26.

6 **SECOND CAUSE OF ACTION**

7 **Attempted Monopolization Under the Sherman Act (15 U.S.C. § 2)**

8 71. Plaintiffs hereby repeat and incorporate by reference each preceding paragraph as if
9 fully stated herein.

10 72. Plaintiffs bring this claim individually and on behalf of each member of the Class
11 described above.

12 73. The relevant market is the U.S. market for apps and in-app purchases sold in the
13 Android Mobile App Market.

14 74. Google has attempted to monopolize the U.S. market for Android apps. More
15 specifically, Google has willfully acquired and maintained market power by its patently
16 exclusionary conduct, including its refusal to allow rival app stores to be accessed through the
17 Google Play Store and by implementing significant frictions designed to steer consumers away
18 from sideloading third-party app stores. Consumers must use the Android Mobile App Market to
19 obtain Android apps and in-app purchases.

20 75. Google's anticompetitive conduct has created a dangerous likelihood that it will
21 attain monopoly power in the U.S. market for Android apps and in-app purchases.

22 76. By virtue of the conduct alleged herein, including imposition of anti-forking
23 provisions and coercive licensing agreements designed to prioritize Google products to the
24 exclusion of competitors, creation of significant constraints on user access to third-party content,
25 and enforcement of anticompetitive covenants in agreements and policies, Google has a specific
26 intent to attain monopoly power in the U.S. market for Android mobile apps and in-app purchases.
27 Now, and if its unlawful restraints are not checked, Google has a dangerous likelihood of success
28 in the relevant market as defined by the Plaintiffs.

1 77. Google has the power to exclude competition in the U.S. market for Android mobile
2 apps and in-app purchases, and it has used that power, including by way of its unlawful practices
3 in restraint of trade as described herein, in an attempt to monopolize that relevant market.

4 78. Google's conduct as described herein, including its unlawful practices in restraint
5 of trade, is exclusionary vis-à-vis its rival app stores in the U.S. market for Android mobile apps
6 and in-app purchases.

7 79. Google has behaved as alleged herein in an attempt to obtain a monopoly in the U.S.
8 market for Android mobile apps and in-app purchases, effectively foreclosing competition, stifling
9 innovation, and gravely diminishing consumer choice. Additionally, Google has abused its market
10 power by charging supra-competitive 30% commission on sales of paid apps and a 30% fee for in-
11 app purchases. Further, Google's actions have depressed output and stifled innovation and options
12 for consumers as alleged herein.

13 80. There is no business necessity or other pro-competitive justification for Google's
14 conduct.

15 81. Plaintiffs and the Class have been injured, and will continue to be injured, in their
16 property as a result of Google's conduct, including by way of overpaying for Android mobile apps
17 and in-app purchases.

18 82. Plaintiffs are inclined to continue to purchase Android mobile apps and in-app
19 purchases in the future because of their investment in the electronic device containing the Android
20 operating system.

21 83. Plaintiffs and the Class also are entitled to equitable relief to prevent Google from
22 continuing in its unlawful, inequitable, and unjustified behavior to their detriment, with such an
23 injunction at a minimum prohibiting Google from continuing to: charge supra-competitive
24 commission on sales of paid apps and a supra-competitive percent fee for in-app purchases. *See,*
25 *e.g.*, 15 U.S.C. § 26.

THIRD CAUSE OF ACTION

Violation of the California Unfair Competition Law

(Cal. Bus. and Prof. Code §§ 17200, *et seq.*)

84. Plaintiffs hereby repeat and incorporate by reference each preceding paragraph as if fully stated herein.

85. Google’s conduct is unlawful in violation of California’s Unfair Competition Law (“UCL”) because it violates Section 2 of the Sherman Act, 15 U.S.C. § 2.

86. Google has engaged in unfair business practices through the conduct alleged herein, which has restrained competition. Google’s conduct is unfair and in violation of the UCL because it violates California’s clearly established public policy forbidding monopolistic acts. *See, e.g.* Cal. Bus. & Prof. Code § 17001. Google wrongfully acquired and unlawfully maintained monopoly power in the relevant market through the conduct alleged herein, including by leveraging its monopoly power in the Android Mobile App Market to coerce the purchase of Android mobile apps and in-app products and services at artificial prices.

87. Google’s practices also are unlawful in violation of the UCL because they offend public policy; are immoral, unethical, oppressive, outrageous, unscrupulous, and substantially injurious; and caused substantial harm, including in the form of artificially inflated prices, that greatly outweighs any possible utility from the practices. Because Google’s unlawful conduct is ongoing and there is continuing risk of future harm, Plaintiffs have no adequate remedy at law.

88. Google’s conduct actually and proximately caused Plaintiffs and Class Members to lose money or property. On behalf of the Class, Plaintiffs seek damages, other relief, and reasonable attorneys’ fees and costs, as well as any other relief the Court may deem just or proper.

XI. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that the Court enter judgment on their behalf and on behalf of the Class defined herein, by adjudging and decreeing:

1. That the Court determine that this action may be maintained as a class action under Federal Rule of Civil Procedure 23(b)(2), (b)(3), and (c)(4), that Plaintiffs be certified as Class representatives, and Plaintiffs’ counsel be appointed as counsel for the Class;

1 2. That the unlawful contract, combination, or conspiracy alleged be adjudged and
2 decreed to be an unreasonable restraint of trade or commerce in violation of Section 2 of the
3 Sherman Act;

4 3. That Defendants have violated the UCL by engaging in conduct that constitutes
5 unlawful and unfair and business practices;

6 4. That Defendants, their subsidiaries, affiliates, successors, transferees, assignees
7 and the respective officers, directors, partners, agents, and employees thereof and all other persons
8 acting or claiming to act on their behalf be permanently enjoined and restrained from continuing
9 and maintaining the combination, conspiracy, or agreement alleged herein;

10 5. That Plaintiffs and the Class are entitled to equitable relief appropriate to remedy
11 Defendants' past and ongoing restraint of trade, including:

12 i. A judicial determination declaring the rights of Plaintiffs and the Class, and
13 the corresponding responsibilities of Defendants; and

14 ii. Issuance of a permanent injunction against Defendants and their parents,
15 subsidiaries, affiliates, successors, transferees, assignees and the respective
16 officers, directors, partners, agents, and employees thereof and all other
17 persons acting or claiming to act on their behalf from violations of the law
18 as alleged herein.

19 6. That Plaintiffs and the Class have been injured in their business and property as a
20 result of Defendants' violations;

21 7. That Plaintiffs and the Class recover damages, as provided by law, determined to
22 have been sustained as to each of them, in an amount to be trebled in accordance with the antitrust
23 laws, and that judgment be entered against Defendants on behalf of Plaintiffs and the Class;

24 8. Plaintiffs and the Class recover their costs of suit, including reasonable attorneys'
25 fees, costs, and expenses of the lawsuit, as provided by law;

26 9. That Plaintiffs and the Class be awarded pre-judgment and post-judgment interest,
27 and that such interest be awarded at the highest legal rate from and after the date of service of the
28 initial complaint in this action;

1 10. That Defendants are to be jointly and severally responsible financially for the costs
2 and expenses of a Court-approved notice program through post and media designed to give
3 immediate notification to the Class; and

4 11. For such other and further relief as is just under the circumstances.

5 **XII. DEMAND FOR JURY TRIAL**

6 Plaintiffs and the Class demand a trial by jury of all the claims asserted in this complaint
7 that are so triable pursuant to Federal Rule of Civil Procedure 38(b).

8
9 Dated: November 12, 2020

Respectfully Submitted,

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