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2 through whom to place their ads, they would not continue to give their  
3 business to Google in the face of an overcharge. Google would have to  
4 choose between losing advertisers' business to rivals whose auctions were  
5 fair, or adopting an auction design that generated competitive (lower)  
6 prices for advertisers.

7 The decrease in competition caused by Google's conduct has thus harmed Plaintiffs and class members  
8 in their business and property because advertisers have paid more than they otherwise would have and  
9 publishers have been paid less than they otherwise would have.

## 10 **VIII. TOLLING OF THE STATUTE OF LIMITATIONS**

### 11 **A. The Statutes of Limitations Did Not Begin to Run Because Plaintiffs Did Not and** 12 **Could Not Discover Their Claims**

13 76. Plaintiffs and class members had no knowledge of Google's anticompetitive conduct, or  
14 of facts sufficient to place them on inquiry notice of the claims asserted herein, during the class period  
15 and continuing thereafter.

16 77. Plaintiffs and class members paid for digital advertising at artificially inflated prices or  
17 otherwise suffered economic loss as a result of Google's wrongful exercise of monopoly power in the  
18 relevant market. Other than dealing directly with Google when using its digital advertising services,  
19 Plaintiffs had no direct contact or interaction with Google and had no means from which they could  
20 have discovered its wrongful conduct.

21 78. Throughout the class period, and continuing thereafter, there was no information in the  
22 public domain sufficient to put Plaintiffs and class members on notice that Google had wrongfully  
23 acquired a digital advertising monopoly or was using its monopoly power to charge supra-competitive  
24 digital advertising prices.

25 79. It was reasonable for Plaintiffs and class members not to suspect that Google was  
26 engaging in any unlawful anticompetitive behavior.

27 80. Plaintiffs allege a continuing course of unlawful conduct by Google, including conduct  
28 within the applicable limitations periods. That conduct has inflicted continuing and accumulating harm  
within the applicable statutes of limitations.

81. For these reasons, the statutes of limitations applicable to Plaintiffs' and class members'

1 claims have been tolled with respect to the claims asserted herein.

2 **B. Google’s Fraudulent Concealment Tolled the Statute of Limitations**

3 82. Additionally or alternatively, application of the doctrine of fraudulent concealment  
4 tolled the statutes of limitations on Plaintiffs’ claims. Plaintiffs and class members had no knowledge  
5 of Google’s wrongful acquisition and maintenance of monopoly power in the relevant market, or of  
6 facts sufficient to place them on inquiry notice of their claims, during the class period and continuing  
7 thereafter. No information in the public domain or otherwise available to Plaintiffs and class members  
8 during the class period suggested that Google had wrongfully acquired a digital advertising monopoly  
9 or was using its monopoly power to charge supra-competitive digital advertising prices.

10 83. Google concealed its illicit conduct, both by failing to disclose its wrongful acquisition  
11 and maintenance of a digital advertising monopoly through exclusionary acts in the relevant market,  
12 and by affirmatively denying that it was engaged in such conduct. Google has (repeatedly) publicly  
13 denied allegations by U.S. and foreign regulators that it was abusing its market power in the digital  
14 advertising market. When the French Competition Authority fined Google \$166 million in late 2019,  
15 Google publicly defended its policies as purportedly needed to “protect[ people] from exploitative and  
16 abusive ads.” Similarly, in response to recent news reports of impending antitrust actions against it by  
17 federal and state officials for monopolization, Google stated publicly that “[c]ompetition is flourishing,  
18 and publishers and marketers have enormous choice” when that was plainly incorrect.

19 84. Further, Google’s anticompetitive monopoly conduct was inherently self-concealing  
20 because, as Google knew, its disclosure likely would have led to governmental enforcement activity or  
21 civil liability. Digital advertising is subject to antitrust regulation, so it was reasonable for Plaintiffs  
22 and class members to presume that digital advertising was sold in a competitive market. A reasonable  
23 person under the circumstances would not have had occasion to suspect digital advertising was being  
24 sold at supra-competitive prices at any time during the class period.

25 85. Because Google’s antitrust violations were self-concealing and affirmatively concealed  
26 by Google, Plaintiffs and class members had no knowledge of Google’s antitrust violations or of any  
27 facts or information that would have caused a reasonably diligent person to suspect Google of having  
28 wrongfully acquired and maintained monopoly power during the class period.

1 86. Therefore, by operation of Google's fraudulent concealment, the statutes of limitations  
2 applicable to Plaintiffs' and class members' claims were tolled throughout the class period.

3 **IX. CLASS ACTION ALLEGATIONS**

4 87. Plaintiffs bring this action on behalf of themselves and, under Federal Rules of Civil  
5 Procedure 23(a), (b)(2), (b)(3) and/or (c)(4), as representatives of the following class:

6 All persons and entities in the United States that, from January 1, 2016 to  
7 the present, used Google's digital advertising services to (1) place an ad  
8 on a website operated by another entity (advertisers) or (2) place an ad  
9 from a third party on their own website (publishers).

10 88. The following persons and entities are excluded from the proposed classes: Defendants,  
11 their employees, co-conspirators, officers, directors, legal representatives, heirs, successors and wholly  
12 or partly owned subsidiaries or affiliated companies; class counsel and their employees; and the judicial  
13 officers and their immediate family members and associated court staff assigned to this case.

14 89. The proposed class meets the requirements of Federal Rules of Civil Procedure 23(a),  
15 (b)(2), (b)(3) and/or (c)(4).

16 90. The members of the class are so numerous that joinder is impracticable. The class  
17 includes at least hundreds of thousands of members that are widely dispersed throughout the country.

18 91. Plaintiffs' claims are typical of the claims of all class members. Plaintiffs' claims arise  
19 out of a common course of conduct that gives rise to the claims of all other class members. Plaintiffs  
20 and all class members were and will continue to be damaged by the same wrongful conduct, namely  
21 Google's unfair business practices and monopolization of digital advertising services markets.

22 92. Plaintiffs will fairly and adequately protect and represent the interests of the class.  
23 Plaintiffs' interests are coincident with, and not antagonistic to, those of the class.

24 93. Plaintiffs are represented by counsel who are experienced and competent in the  
25 prosecution of class action litigation and have particular expertise with antitrust litigation.

26 94. Questions of law and fact common to the classes include:

- 27 a. Whether Google holds monopoly power in digital advertising services markets;  
28 b. Whether Google unlawfully acquired and maintained monopoly power in digital

1 advertising services markets;

2 c. Whether Google engaged in unfair business practices that reduced competition in  
3 digital advertising services markets;

4 d. The amount of damages owed the class as a result of Google's illegal activity;

5 e. The form and content of injunctive relief.

6 95. Questions of law and fact common to members of the class will predominate over any  
7 questions that may affect only individual class members because Google acted on grounds generally  
8 applicable to the class as a whole. For the same reason, class certification for purposes of adjudicating  
9 Plaintiffs' claims for injunctive relief is appropriate.

10 96. Class treatment is a superior method for the fair and efficient adjudication of the  
11 controversy because, among other things, class treatment will permit a large number of similarly  
12 situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and  
13 without the unnecessary duplication of evidence, effort, and expense that numerous individual actions  
14 would engender. The benefits of proceeding through the class mechanism, including providing injured  
15 persons and entities with a means of obtaining redress on claims that might not be practicable to pursue  
16 individually, substantially outweigh any difficulties that may arise in the management of a class action.  
17 Class treatment is manageable, and Plaintiffs know of no management difficulties that would preclude  
18 class certification in this matter.

19 97. Plaintiffs reserve the right to seek class certification with respect to common issues,  
20 including issues related to Google's duties or conduct.

21 **X. CAUSES OF ACTION**

22 **FIRST CAUSE OF ACTION**  
23 **VIOLATIONS OF SECTION 2 OF THE SHERMAN ACT**  
24 **15 U.S.C. § 2**

25 98. Plaintiffs incorporate the allegations set forth above as if fully set forth herein.

26 99. Google wrongfully acquired and unlawfully maintained monopoly power in the relevant  
27 markets through the conduct alleged herein, including by leveraging its monopoly power in the online  
28 search and other markets to coerce the purchase and use of its display advertising services (an unlawful

1 tying arrangement), acquiring rivals, denying interoperability on several technological fronts,  
2 restricting competing firms' access to information, and rigging auctions that it controlled to its own  
3 advantage.

4 100. As a direct and proximate cause of Google's conduct, Plaintiffs and members of the  
5 class have suffered antitrust injury. Plaintiffs and the class members paid significantly higher prices  
6 than they would have but for Google's unlawful conduct. That conduct also deprived Plaintiffs and  
7 class members of improved quality and innovation in the relevant markets.

8 101. Plaintiffs and members of the class are entitled to damages, including treble damages,  
9 sustained as a result of Google's monopolistic acts and practices.

10 102. Plaintiffs and members of the class are entitled to equitable relief as appropriate to cure  
11 Google's monopoly conduct and restore competition in the relevant markets. Members of the class are  
12 regular users of digital advertising services and will continue to purchase such services and suffer  
13 further injury if Google's monopoly in digital advertising is not ended.

14 **SECOND CAUSE OF ACTION**  
15 **VIOLATIONS OF THE UNFAIR COMPETITION LAW**  
16 **Cal. Bus. & Prof. Code § 17200 *et seq.* (UCL)**

17 103. Plaintiffs incorporate the allegations set forth above as if fully set forth herein.

18 104. Google's conduct is unlawful in violation of the UCL because it violates Section 2 of the  
19 Sherman Act, 15 U.S.C. § 2.

20 105. Google has engaged in unfair business practices through the conduct alleged herein,  
21 which has restrained competition. Google's conduct is unfair, in violation of the UCL, because it  
22 violates California's clearly established public policy forbidding monopolistic acts. Google wrongfully  
23 acquired and unlawfully maintained monopoly power in the relevant markets through the conduct  
24 alleged herein, including by leveraging its monopoly power in the online search and other markets to  
25 coerce the purchase and use of its display advertising services (an unlawful tying arrangement),  
26 acquiring rivals, denying interoperability on several technological fronts, restricting competing firms'  
27 access to information, and rigging auctions that it controlled to its own advantage.

28 106. Google's practices also are unlawful in violation of the UCL because they offend public

1 policy; are immoral, unethical, oppressive, outrageous, unscrupulous, and substantially injurious; and  
2 caused substantial harm, including in the form of artificially inflated prices, that greatly outweighs any  
3 possible utility from the practices.

4 107. Google's conduct actually and proximately caused Plaintiffs and class members to lose  
5 money or property. On behalf of the class, Plaintiffs seek restitution, injunctive relief, and reasonable  
6 attorneys' fees, as well as any other relief the Court may deem just or proper.

7 **XI. PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs, on behalf of themselves and the class, pray that this Court:

- 9 A. Determine that this action may be maintained as a class action pursuant to Fed.  
10 R. Civ. P. 23(a), (b)(2), and (b)(3), direct that reasonable notice of this action be given to the class,  
11 appoint Plaintiffs as named representatives of the class, and appoint the undersigned Plaintiffs' counsel  
12 as class counsel;
- 13 B. Enter judgment against Google and in favor of Plaintiffs and the class;
- 14 C. Award damages (including treble damages, as provided by law) and restitution to  
15 the class in an amount to be determined at trial, plus interest in accordance with law;
- 16 D. Enter injunctive relief to restore competition in the relevant markets;
- 17 E. Award Plaintiffs and the class their costs of suit, including reasonable attorneys'  
18 fees, as provided by law; and
- 19 F. Award such further and additional relief as is necessary to redress the harm  
20 caused by Google's unlawful conduct and as the Court may deem just and proper under the  
21 circumstances.

22 **XII. DEMAND FOR JURY TRIAL**

23 Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs demand a trial by jury on all issues so  
24 triable.

25  
26 Dated: May 27, 2020

Respectfully submitted,

27 By: /s/ Christina C. Sharp

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