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10
 11 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA

12
 13 Left Field Holdings, a Florida limited liability
 14 company, Left Field Holdings II, a Florida limited
 liability company, Left Field Holdings III, a Florida
 15 limited liability company, Left Field Holdings IV, a
 Florida limited liability company, Left Field
 16 Holdings V, a Florida limited liability company,
 and Left Field Holdings VI, a Florida limited
 17 liability company, on behalf of themselves and all
 others similarly situated,

18 Plaintiffs,

19 v.

20
 21 GOOGLE LLC, a Delaware limited liability
 company.

22 Defendant.

23 **Case No.** _____

24 **CLASS ACTION COMPLAINT**

25 **COMPLAINT FOR VIOLATION**
26 **OF THE LANHAM ACT**

27 **JURY TRIAL DEMANDED**

1 Plaintiffs Left Field Holdings LLC, Left Field Holdings II LLC, Left Field Holdings III LLC,
2 Left Field Holdings IV LLC, Left Field Holdings V LLC, and Left Field Holdings VI LLC (collectively,
3 “Plaintiffs”), individually and on behalf of all others similarly situated, bring this action against Google
4 LLC and allege as follows:

5 **I. NATURE OF ACTION**

6 1. Common law, and more recently federal law under the Lanham Act, have long
7 recognized that businesses have a proprietary interest in their tradenames, reputations, and goodwill;
8 and further, that businesses may not misrepresent the nature and characteristics of their businesses in
9 commercial advertising. If it were any other way, businesses would have little incentive to build a brand
10 name because unscrupulous second-comers could immediately steal, and exploit for themselves, the
11 good name and reputation of first-movers. This case is about Google’s disregard of these long-standing
12 principles, and its attempt to trade-off of the goodwill, reputations, and tradenames of thousands of
13 restaurants throughout the United States for its benefit and the restaurants’ detriment.

14 2. Consumers rarely remember a restaurant’s website, phone number, or address. So, when
15 they want to place an order with a restaurant, they usually turn to Google—the world’s leading search
16 engine.

17 3. Prior to 2019, when Google received a user’s search for a restaurant, Google responded
18 with a “search engine results page” that displayed three categories of information. These categories
19 included: (i) information particular to the restaurant the consumer was then searching for, including the
20 restaurant’s website, phone number, and address—which Google displayed on the right-hand side of
21 the screen; (ii) a list of “natural” search results, generated from Google’s proprietary “search
22 algorithm”—displayed on the left-hand side of the screen; and (iii) 2-3 paid advertisements of
23 companies wishing to promote their own websites, brands, and service offerings—which Google
24 displayed as “Ads” just above the “natural” search results. Google made money from this activity upon
25 a user clicking on an advertisement and visiting the advertiser’s website.

26 4. For much of the last decade, Google generated revenues from restaurant searches in this
27 usual fashion without incident; but in 2019, Google dramatically shifted its tactics, giving rise to this
28 complaint.

1 5. Specifically, in 2019, Google determined it could make even more money from its
2 position as the destination-of-choice for consumers looking up restaurants by directing the user into one
3 of two new environments that it dreamed up. The first was a website designed to capture an actual order
4 for the restaurant’s food items, which Google then sold to third party food-delivery companies (herein,
5 “Delivery Providers”), like Postmates, for fulfillment. In another scenario (when Google did not have
6 a relationship with a Delivery Provider willing to accept orders for the restaurant’s food items), Google
7 directed the user into yet another webpage it owned and controlled. Within this second page, Google
8 presented the user with even more targeted (and profitable) ads than it displayed within its search engine
9 results page and did so within a format even more likely to induce a paying click.

10 6. But Google’s newest business models were not, and are not, lawful. First, Google never
11 bothered to obtain permission from the restaurants to sell their products online, and the Delivery
12 Providers to whom Google passed orders were not (and are not) permitted, by contract, to license
13 Google’s conduct. Second, Google purposefully designed its websites to appear to the user to be offered,
14 sponsored, and approved by the restaurant, when they are not—a tactic, no doubt, employed by Google
15 to increase orders and clicks. Third, Google lures consumers into its websites (to the exclusion of the
16 restaurant’s actual website) through a classically deceptive practice, known as a “bait-and-switch.”
17 Specifically, Google added a large “Order Online” button just below the tradename of the restaurant on
18 its search engine results page so that consumers searching for the restaurant form the mistaken belief
19 that the button will direct them to the restaurant, when that is not what the button delivers. Rather, it
20 leads the consumer to Google’s new, unauthorized, and deceptively branded webpages.

21 7. At issue in the case is precisely this sort of deceptive and unfair conduct. In one scenario,
22 Google’s “Order Online” button leads to an unauthorized online storefront—one owned and controlled
23 by Google—wherein consumers can place orders for the restaurant’s products, all under the restaurant’s
24 tradename. Google prominently features the restaurant’s tradename at the top of the page, above the
25 restaurant’s address and menu, to give the user the distinct impression that the storefront and products
26 are authorized and sponsored by the restaurant, when they are not. And while it would be easy for
27 Google to label its service as “Google’s unauthorized buying service,” Google does not dare do so. It
28 knows that its website is more likely to generate orders when cloaked in the imprimatur of the restaurant.

1 8. Upon capturing an order from its illicit storefront, Google routes the order, unbeknownst
2 to the restaurant, to a Delivery Provider with whom the restaurant otherwise has a relationship. The
3 Delivery Provider sends the order to the restaurant, and charges the restaurant its typical substantial fee,
4 just as if the order originated from the Delivery Provider’s own website or mobile application (when it
5 did not). And then, of course, Google demands a cut-of-the-action, which the Delivery Provider happily
6 pays to Google. But, as mentioned previously, Google never obtained permission from the restaurant
7 to sell the restaurant’s products and services, or to use the restaurant’s tradename within its website.
8 Google’s conduct damages the restaurant, because, among other reasons, had the restaurant received
9 the order directly, it would have avoided the Delivery Provider’s hefty fees altogether.

10 9. In yet another scenario—when Google does not have a Delivery Provider willing to
11 accept its illicit orders—Google’s software causes its “Order Online” button to link into another
12 deceptive webpage owned and controlled by Google. This second webpage includes links to competing
13 Delivery Providers—such as Doordash, Grubhub, and Postmates—all of whom pay Google a fee upon
14 the customer being diverted away from the restaurant and into their websites. But, like the storefront,
15 Google deliberately misbrands the webpage so that the user forms the mistaken belief that the webpage
16 and services are sponsored and approved by the restaurant, when nothing could be further from the
17 truth. The restaurant never approved of Google’s website, nor agreed to sponsor any of the Delivery
18 Providers in a dedicated webpage branded as the restaurant. The Delivery Providers, after all, are the
19 restaurant’s competitors.

20 10. In either case, Google’s motive is simple: increase orders and clicks by deliberately
21 confusing consumers into entering and interacting with its websites by prominently featuring Plaintiffs’
22 and class members’ tradenames next to its button and within its webpages. But, like everyone else,
23 Google cannot use the restaurant-class members’ hard-earned tradenames without their approval, much
24 less to suggest associations and sponsorships that do not exist; nor can it engage in false advertising by
25 misrepresenting the nature and characteristics of its own commercial activities and those of its
26 advertisers.

27 11. Google’s use of Plaintiffs’ and class members’ tradenames in connection with its
28 unauthorized button and webpages violates Section 43(a) of the Lanham Act. The Section provides, in

1 relevant part, “[a]ny person who...uses in commerce any word, term, name, [or] symbol, or any
2 combination thereof...which (A) is likely to cause confusion...or to deceive as to the affiliation,
3 connection, or association of such person with another person, or as to...sponsorship, or approval of his
4 or her goods, services, or commercial activities by another person, or (B) in commercial advertising or
5 promotion, misrepresents the nature, characteristics, qualities or geographic origin of his or her or
6 another person’s goods, services or commercial activities...shall be liable in a civil action by any person
7 who believes that he or she is or is likely to be damaged by such act.” 15 U.S.C § 1125(a)(1)(A) and
8 (B).

9 12. On behalf of a nationwide class of restaurants subjected to Google’s deceptive practices
10 and misappropriation of their goodwill and tradenames in connection with Google’s button and
11 webpages, Plaintiffs bring this action to enjoin Google and to seek redress for Google’s deceptive and
12 unlawful conduct.

13 II. PARTIES

14 13. Plaintiff Left Field Holdings LLC is a Florida limited liability company which operates
15 a Lime Fresh franchise at a restaurant located at 9005 SW 72nd Place, Miami, FL, 33156 (“Lime Fresh
16 Dadeland”). Lime Fresh Dadeland opened in 2010. Lime Fresh Dadeland operates under the
17 tradenames: Lime Fresh, and Lime Fresh Mexican Grill.

18 14. Plaintiff Left Field Holdings II LLC is a Florida limited liability company which
19 operates a Lime Fresh franchise at a restaurant located at 12516 SW 88th Street, Miami, FL, 33186
20 (“Lime Fresh West Kendall”). Lime Fresh West Kendall opened in 2012. Lime Fresh West Kendall
21 operates under the tradenames: Lime Fresh, and Lime Fresh Mexican Grill.

22 15. Plaintiff Left Field Holdings III LLC is a Florida limited liability company which
23 operates a Lime Fresh franchise at a restaurant located at 8484 NW 36th Street, Miami, FL, 33166 (“Lime
24 Fresh Doral”). Lime Fresh Doral opened in 2014. Lime Fresh Doral operates under the tradenames:
25 Lime Fresh, and Lime Fresh Mexican Grill.

26 16. Plaintiff Left Field Holdings IV LLC is a Florida limited liability company which
27 operates a Lime Fresh franchise at a restaurant located at 3275 NE 1st Avenue, Miami, FL, 33137 (“Lime
28

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