

1 Mark N. Todzo (Bar No. 168389)  
Eric S. Somers (Bar No. 139050)  
2 **LEXINGTON LAW GROUP**  
503 Divisadero Street  
3 San Francisco, CA 94117  
Telephone: 415-913-7800  
4 Facsimile: 415-759-4112  
mtodzo@lexlawgroup.com

5 *Attorney for Plaintiffs*

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7 [Additional counsel on signature page.]

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9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**  
11 **SAN JOSE DIVISION**

12  
13 ASIF KUMANDAN, MELISSA SPURR, and  
14 MELISSA SPURR, as guardian of B.S., a minor,  
individually and on behalf of all others similarly  
situated,

15 **Plaintiffs,**

16 v.

17  
18 GOOGLE LLC, a Delaware limited liability  
company, and ALPHABET INC., a Delaware  
corporation,

19 **Defendants.**  
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Case No.: \_\_\_\_\_

**CLASS ACTION COMPLAINT AND  
DEMAND FOR JURY TRIAL**

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1 Plaintiffs Asif Kumandan, Melissa Spurr, and Melissa Spurr as guardian of B.S. (collectively  
2 “Plaintiffs”) complain upon knowledge as to themselves and their own actions and upon information  
3 and belief as to all other matters against Defendants Alphabet Inc. and Google LLC (collectively,  
4 “Google”), as follows:

5 **SUMMARY OF ALLEGATIONS**

6 1. This action arises from Defendants’ unlawful and intentional recording of  
7 individuals’ confidential communications without their consent from approximately May 18, 2016  
8 to the Present (the “Class Period”) in violation of the California Invasion of Privacy Act, Cal. Penal  
9 Code §632, California Consumer Legal Remedies Act, Cal. Civ. Code §1750, and California Unfair  
10 Competition Law, Cal. Bus. & Prof. Code §17200.

11 2. Google Assistant is a voice-recognition software program developed by Google that  
12 allows individuals to use their voice to ask questions and receive answers based on information  
13 available on the internet. Google preloads Google Assistant on devices, including its own smart  
14 home speakers, Google Home and Google Home Mini, and its Pixel smartphones. Google Assistant  
15 also comes pre-installed on most smartphones running Google’s Android operating system and  
16 many other electronics manufactured by third parties (“Google Assistant Enabled Devices”).

17 3. Google Assistant Enabled Devices are only supposed to record conversations  
18 preceded by the utterance “Okay, Google” or “Hey, Google” (“hot word(s)”) or the pressing of a  
19 button on the device. California law prohibits the recording of oral communications without the  
20 consent of all parties to the communication. California’s privacy laws recognize the unique privacy  
21 interest implicated by the recording of someone’s voice. That privacy interest has been heightened  
22 by companies exploiting consumers’ private data.

23 4. Individuals who have purchased or used Google Assistant Enabled Devices and  
24 interacted with Google Assistant have not consented to Google recording conversations where  
25 “Okay, Google” or “Hey, Google” were not uttered or where no button has been pressed. Similarly,  
26 minors with no Google account who did not set up Google Assistant Enabled Devices have not  
27 consented to these recordings.

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1           5.       On July 10, 2019, Belgian news outlet VRT NWS reported that Google was using  
2 Google Assistant Enabled Devices to record millions of individuals, including minors, without their  
3 consent.<sup>1</sup> According to the VRT NWS report, Google Assistant Enabled Devices record individuals’  
4 conversations where no hot word had been uttered or no button had been pressed and hires people  
5 to listen to them to improve the functionality of Google Assistant. Each recording is a violation of  
6 California law.

7           6.       Billions of Google Assistant Enabled Devices were sold to consumers during the  
8 Class Period. Many of these consumers would not have bought their Google Assistant Enabled  
9 Devices if they had known Google was recording their conversations without consent.

10          7.       Given the concealed and secretive nature of Defendants’ conduct, more evidence  
11 supporting the allegations in this Complaint will be uncovered after a reasonable opportunity for  
12 discovery.

13   **JURISDICTION AND VENUE**

14          8.       This Court also has jurisdiction over the subject matter of this action pursuant to 28  
15 U.S.C §1332(d), because the amount in controversy for the Class exceeds \$5,000,000 exclusive of  
16 interest and costs, there are more than 100 putative class members defined below and minimal  
17 diversity exists because the majority of putative class members are citizens of a state different than  
18 Defendants.

19          9.       This Court has general personal jurisdiction over Defendants because their principal  
20 place of business is in California. Additionally, Defendants are subject to specific personal  
21 jurisdiction in this State because a substantial part of the events and conduct giving rise to Plaintiffs’  
22 claims occurred in this State.

23          10.       Venue is proper in this District pursuant to 28 U.S.C. §1391(b) because a substantial  
24 portion of the conduct described in this Complaint was carried out in this District. Furthermore,  
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27 \_\_\_\_\_  
28 <sup>1</sup>       <https://www.vrt.be/vrtnws/en/2019/07/10/google-employees-are-eavesdropping-even-in-flemish-living-rooms/> (last accessed July 25, 2019).

1 Defendants Alphabet Inc. and Google LLC are headquartered in this District and subject to personal  
2 jurisdiction in this District.

3 11. **Intradistrict Assignment (L.R. 3-2(c) and (e) and 3-5(b))**: This action arises in  
4 Santa Clara County, in that a substantial part of the events which give rise to the claims asserted  
5 herein occurred in Santa Clara County. Pursuant to L.R. 3-2(e), all civil actions which arise in Santa  
6 Clara County shall be assigned to the San Jose Division.

7 **PARTIES**

8 **A. Plaintiffs**

9 12. Plaintiff Asif Kumandan is a natural person and citizen of the State of New York and  
10 a resident of Kings County.

11 13. Plaintiff Melissa Spurr is a natural person and citizen of the State of New Jersey and  
12 a resident of Union County.

13 14. Plaintiff B.S. is a minor and brings this suit by and through her legal guardian,  
14 Plaintiff Melissa Spurr. Plaintiff B.S. is a natural person and citizen of the State of New Jersey and  
15 a resident of Union County.

16 **B. Defendants**

17 15. Defendant Alphabet Inc. (“Alphabet”) is a Delaware corporation, organized and  
18 existing under the laws of the State of Delaware, with its principal place of business at 1600  
19 Amphitheatre Parkway, Mountain View, California 94043-1351. Alphabet is the successor issuer  
20 to, and parent holding company of, Google LLC. Alphabet owns all the equity interests in Google  
21 LLC. The reorganization of Google LLC into Alphabet was completed in 2015.

22 16. Defendant Google LLC (“Google”) is a limited liability company existing under the  
23 laws of the State of Delaware, with its principal place of business located at 1600 Amphitheatre  
24 Parkway, Mountain View, California 94043.

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**SUBSTANTIVE ALLEGATIONS**

**I. GOOGLE AND GOOGLE ASSISTANT**

17. Google’s unofficial motto has always been “don’t be evil.” Google was founded in 1998 by Larry Page and Sergey Brin as a search engine website. Google’s success led to it launching numerous other products.

18. One of these products is Google Assistant. Google Assistant is a computer program developed by Google that is pre-installed on numerous electronic devices, including phones, speakers, displays, cars, tv’s, laptops, and tablets, manufactured by Google and other companies (“Google Assistant Enabled Devices”).

19. Google Assistant is intended to provide its users with easy access to information available on the internet and/or control over other internet-connected devices using their voice. To facilitate this process, Google Assistant listens for two sets of “hot words” – “Hey Google” and “Okay Google.” These phrases indicate the start of a user command.

20. Google Assistant Enabled Devices listen for these hot words by recording and analyzing short snippets of audio from their surroundings. This audio is stored locally in the Google Assistant Enabled Device’s random-access memory (“RAM”). Audio stored in a Google Assistant Enabled Device’s RAM is continuously overwritten as new audio is recorded and analyzed until a hot word is detected.

21. When a Google Assistant Enabled Device detects a hot word, it switches into “active listening” mode. At this point, the Google Assistant Enabled Device begins transmitting audio to Google for analysis. The purpose of this analysis is to allow the Google Assistant Enabled Device to respond to the user commands issued after one of the hot words. For example, if a user asks Google Assistant “Hey Google, what is the weather in Los Angeles?” the Google Assistant will transmit that audio to Google for analysis and to provide a response. Users can also ask Google Assistant to, among other things, provide reminders (“Remind me to pick up groceries at 5 P.M.”), set timers (“Set a timer for 20 minutes”), or control other internet-connected “smart devices” such as a television or music player.

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