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9 Attorneys for Plaintiffs

10 **UNITED STATES DISTRICT COURT**

11 **NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION**

12 JOHN COFFEE, MEI-LING MONTANEZ,
13 and S.M., a minor by MEI-LING
MONTANEZ, S.M.'s parent and guardian, on
14 behalf of themselves and all others similarly
situated,

15 Plaintiffs,

16 v.

17 GOOGLE LLC,

18 Defendant.
19

Case No.

CLASS ACTION COMPLAINT

CLASS ACTION

JURY TRIAL DEMANDED

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1 “We should be very reticent of creating an experience where the outcome can be
2 influenced by spending money. ***Loot boxes play on all the mechanics of gambling except
3 for the ability to get more money out in the end.***”

4 “Do we want to be like Las Vegas, with slot machines or do we want to be widely
5 respected as creators of products that customers can trust?”

6 “***We have businesses that profit by doing their customers harm.***”

7
8 - Tim Sweeney, Co-Founder of Epic Games

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1 Plaintiffs JOHN COFFEE, MEI-LING MONTANEZ, and S.M., a minor by MEI-LING
2 MONTANEZ, S.M.'s parent and legal guardian ("Plaintiffs"), file this Class Action Complaint
3 against Google LLC ("Google" or "the Company"). Plaintiffs bring this action based upon personal
4 knowledge of the facts pertaining to themselves, and on information and belief as to all other matters,
5 by and through undersigned counsel.

6 **NATURE OF THE ACTION**

7 1. The California legislature has declared: "Gambling can become addictive and is not
8 an activity to be promoted or legitimized as entertainment for children and families." Cal. B & P
9 Code § 19801(c). Through the games it sells and offers for free to consumers through its "Google
10 Play" store, Google engages in predatory practices enticing consumers, including children to engage
11 in gambling and similar addictive conduct in violation of this and other laws designed to protect
12 consumers and to prohibit such practices.

13 2. Not unlike Big Tobacco's "Joe Camel" advertising campaign, Google relies on
14 creating addictive behaviors in kids to generate huge profits for the Company. Over the last four
15 years Defendant's Google Play store games have brought in billions of dollars, even though the vast
16 majority of the games are free to download.

17 3. A large percentage of Google's revenues from Google Play store games come from
18 the in-game purchases of what are known in the gaming industry as "loot boxes" or "loot crates."
19 Dozens (if not hundreds) of Google Play store games rely on some form of Loot Box or similar
20 gambling mechanism to generate billions of dollars, much of it from kids.

21 4. Loot Boxes are purchased using real money, but are simply randomized chances
22 within the game to obtain important or better weapons, costumes or player appearance (called
23 "skins"), or some other in-game item or feature that is designed to enhance game-play. If obtained,
24 these weapons, skins, and other items can help the player advance in the game and enhance the game
25 playing experience. But buying a Loot Box is a gamble, because the player does not know what the
26 Loot Box actually contains until it is opened.

27 5. Unsurprisingly, the perceived best "loot" in the game is also the most difficult to
28 obtain, and least likely to be received via Loot Box. Conversely, most items in the Loot Boxes tend

1 to be “common” or undesirable to the player – either because it is easily obtained or because the
2 player already possesses the item.

3 6. Some of these specific high-demand items in the game can be so difficult (and costly)
4 to obtain that a “gray market” has sprung up on the internet – websites where the game accounts
5 and in some cases individual items can be (and are) bought and sold for real money outside of the
6 game itself. Numerous websites have been created to broker these transactions, bringing buyer and
7 seller together to sell these items and accounts, for real money outside of the game.

8 7. Loot Boxes have all the hallmarks of a Las Vegas-style slot machine, including the
9 psychological aspects to encourage and create addiction – especially among adolescents. Moreover,
10 under California law they constitute illegal “slot machines or devices” when played on a mobile
11 phone, tablet, computer, or other similar device. California Penal Code § 330(d) broadly defines an
12 unlawful “slot machine or device” as,

13 a machine, apparatus, or device that is adapted, or may readily be converted, for use
14 in a way that, as a result of the insertion of any piece of money or coin or other object,
15 or by any other means, the machine or device is caused to operate or may be operated,
16 and by reason of any element of hazard or chance or of other outcome of operation
17 unpredictable by him or her, the user may receive or become entitled to receive any
18 piece of money, credit, allowance, or thing of value, or additional chance or right to
19 use the slot machine or device, or any check, slug, token, or memorandum, whether
20 of value or otherwise, which may be exchanged for any money, credit, allowance, or
thing of value, or which may be given in trade, irrespective of whether it may, apart
from any element of hazard or chance or unpredictable outcome of operation, also
sell, deliver, or present some merchandise, indication of weight, entertainment, or
other thing of value.

21 Cal. Pen. Code § 330(b)(d).

22 8. Governments, regulators, and psychologists all agree that Loot Boxes, like the ones
23 in games Defendant offers through its Google Play store, operate as gambling devices for those that
24 play the game, including minors, and that they create and reinforce addictive behaviors.

25 9. For instance, the Government of Belgium examined the use of Loot Boxes in various
26 videogames and determined that they violated that country’s gambling laws, specifically finding,

27 The paid loot boxes in the examined games Overwatch, FIFA 18 and Counter-Strike:
28 Global Offensive fit the description of a game of chance because all of the
constitutive elements of gambling are present (game, wager, chance, win/loss).

1 10. Likewise, in September 2019 Great Britain Parliament’s Digital, Culture, Media and
2 Sport Committee issued a report to Parliament determining that Loot Boxes constitute gambling and
3 encourage addictive behavior, and recommending that the sale of Loot Boxes to children should be
4 banned. Committee Chair Damian Collins MP said:

5 Loot boxes are particularly lucrative for games companies but come at a high cost,
6 particularly for problem gamblers, while exposing children to potential harm. Buying
7 a loot box is playing a game of chance and it is high time the gambling laws caught
8 up. We challenge the Government to explain why loot boxes should be exempt from
9 the Gambling Act.

10 11. Similarly, psychologists who have studied the issue agree that Loot Boxes correlate
11 with problem gambling, especially among adolescents. For example, one such survey analysis of
12 current studies concluded,

13 [T]he findings are very consistent that there is an association between problem
14 gambling and loot box buying among both adolescents and adults (and that the
15 association may be even stronger among adolescents).

16 12. Even Google implicitly concedes the Loot Boxes in its Google Play store games are
17 a form of gambling. Like the California state lottery, Google requires its App Developers to disclose
18 the “odds of winning” particular items in the Loot Boxes for the games it distributes. Google’s
19 “Developer Program Policies” for App Developers states:

20 *Apps offering mechanisms to receive randomized virtual items from a purchase*
21 *(i.e. "loot boxes") must clearly disclose the odds of receiving those items in advance*
22 *of purchase.*¹

23 13. While Google does not itself create these games and the Loot Box mechanism used
24 to entice children to gamble, Google profits handsomely by 1) marketing, selling, and/or distributing
25 the games to kids on Google products and through its Google Play store platform; 2) acting as the
26 agent for the developer in selling the Loot Boxes; and 3) handling the money in all of the transactions
27 – taking a 30% cut of all money spent by players before transferring the remainder to the developer.
28

¹ Available at <https://play.google.com/about/developer-content-policy-print/>. Google apparently does not regulate the method of *how* those odds are disclosed, as they are frequently difficult to find or simply not available until the player has already decided to purchase the Loot Box

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