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15

16   **UNITED STATES DISTRICT COURT**

17   **NORTHERN DISTRICT OF CALIFORNIA**

18

19   KONDOMAR HERRERA, on behalf of   Case No. 5:20-cv-07365
     herself and all others similarly situated,
20   **CLASS ACTION COMPLAINT**
                        Plaintiff,
21   **DEMAND FOR JURY TRIAL**
            v.
22
     GOOGLE LLC, a Delaware limited
23   liability company,

24   Defendant.

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TABLE OF CONTENTS

25

26

27

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Plaintiff Kondomar Herrera ("Plaintiff"), on behalf of herself and all others similarly situated, brings this Class Action Complaint for damages and injunctive relief against defendant Google LLC ("Google") for violations of Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1 and 2, and for violations of California's Cartwright Act, Cal. Bus. & Prof. Code § 16700, *et. seq.* All allegations other than those concerning the Plaintiff, are based on information and belief.

INTRODUCTION

1.   In the United States, nearly 90 percent of a user's on-screen time on a mobile device is spent on a mobile app. Mobile apps are most often downloaded from an app store, which centralizes and curates the distribution of mobile apps in a convenient, user-friendly manner.

2.   Google owns and operates the largest app store on earth, the Google Play Store. The Google Play Store is available to all mobile device users running Google's Android operating system ("OS"). The Google Play Store offers users the choice of more than 2.96 million apps, and, in 2019, users worldwide downloaded those apps more than 84.3 billion times.

3.   To build this prodigious marketplace, Google represented that the Android OS would be maintained as "open" source software whereby anyone could create Android-compatible products without undue restrictions. But, as the app store grew and as Google's Android OS became the "must-have" operating software for mobile device original-equipment manufacturers ("OEMs"), Google began to close its ecosystem through a series of restrictive agreements that were designed to (and did in fact) deter and eliminate competition in the market for Android mobile apps and in-app products, ("the Android Mobile App Distribution Market").

4.   Google's anticompetitive conduct, described below, allowed it to extract supracompetitive profits from consumers—like Plaintiff and Class Members—who paid Google directly for mobile apps purchased through the Google Play Store. Indeed, the Google Play Store contains more than 90 percent of Android mobile app downloads worldwide, which, through the 30 percent price Google extracts from Plaintiff and Class Members' mobile app and in-app purchases, helped Google to generate more than $21.5 billion in ill-gotten revenue.

5.   Plaintiff and Class Members have also been harmed by Google's anticompetitive scheme because: (1) developers set higher app prices due to the high costs imposed on developers by Google; and (2) app quality has been reduced as app developers generated lower returns.

6.   Plaintiff, on behalf of herself and the Class, seeks to recover the damages caused by Google's unlawful anticompetitive conduct and to obtain an order enjoining Google from continuing to engage in these unlawful practices.

JURISDICTION AND VENUE

7.   This Court has personal jurisdiction over defendant Google because it is headquartered in this district and because it has sufficient minimum contacts with the United States to have purposefully availed itself of the benefits and protections of the United States and California law such that the exercise of jurisdiction over it would comport with due process requirements.

8.   This Court has subject-matter jurisdiction over Plaintiff's federal antitrust claims pursuant to the Clayton Act § 16, 15 U.S.C. § 26, and 28 U.S.C. §§ 1331 and 1337.

9.   The Court has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367.

10.   Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because: (1) Google maintains its principal places of business in the State of California and in this district; and (2) a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this district.

11.   In the alternative, personal jurisdiction and venue are proper under Clayton Act § 12, 15 U.S.C. § 22, because defendant is found in and transacts business in this district.

INTRADISTRICT ASSIGNMENT

12.   Assignment of this case to the San Jose Division is proper pursuant to Civil Local Rule 3-2(c)(e) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in Santa Clara County, California.

PARTIES

13.   Plaintiff Kondomar Herrera is a natural person who resides in Queens County, New York. Plaintiff purchased and paid Google for one or more apps through the Google Play Store and

1   purchased and paid Google directly for in-app digital content through an app purchased on the

2   Google Play Store within the last four years.

3   14.   Google LLC is a Delaware limited liability company with its principal place of

4   business at 1600 Amphitheatre Way, Mountain View, California. Google LLC is a technology

5   company that provides internet-related services and products. Since 2005, Google has owned and

6   developed the Android OS for use in Android licensed mobile devices. Google LLC is also the

7   owner of the Google Play Store from and by which developers of Android mobile apps sell their

8   mobile app and in-app products to Android-operated mobile device owners.

9   **FACTUAL ALLEGATIONS**

10   **GOOGLE MAINTAINS AN UNLAWFUL MONOPOLY IN THE ANDROID MOBILE**
        APP DISTRIBUTION MARKET

11

12 **I.   The Android Mobile App Distribution Market is a Relevant Product Market**

13   15.   A mobile app is a standardized piece of software that is optimized for use on a

14 mobile device and provides access to digital content or services or otherwise allows users to share

15 content, play games, or make transactions for physical or digital goods and services (an "in-app

16 purchase").

17   16.   While mobile apps may be pre-installed on a mobile device as a component of the

18 OS by the OEM, or otherwise loaded directly onto the mobile device from the web using a web

19 browser (a process that Google refers to as "sideloading"), the predominant way—by far—that

20 consumers access mobile apps is through an app store, which itself may be pre-installed on the

21 mobile device.

22   17.   The app store is widely recognized as the starting point for accessing mobile apps,

23 making it critical to the user experience, because it centralizes and curates the distribution of mobile

24 apps in a convenient manner. Through an app store, a user may search, browse, find, review, buy,

25 compare, and remove a mobile app. The app store may also offer mobile app developers' tools and

26 services that support the building of mobile apps for that app store.

27   18.   The rules governing an app store are typically set forth by the app store proprietor—

28 here, Google—and concern things like: the types of mobile apps permitted in the app store; absence

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