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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN JOSE DIVISION**

13 MAXIMILIAN KLEIN and SARAH
14 GRABERT, individually and on behalf of all)
others similarly situated,)

15 *Plaintiffs,*)

16 vs.)

17 FACEBOOK, INC., a Delaware corporation)
18 headquartered in California,)

19 *Defendant.*)

Case No. 20-8570

20 **CLASS ACTION COMPLAINT**

21 **(1) MONOPOLIZATION OF SOCIAL
NETWORK MARKET**

Violation of the Sherman Act
(15 U.S.C. § 2)

22 **(2) ATTEMPTED
MONOPOLIZATION OF SOCIAL
NETWORK MARKET**

Violation of the Sherman Act
(15 U.S.C. § 2)

23 **(3) MONOPOLIZATION OF SOCIAL
MEDIA MARKET**

Violation of the Sherman Act
(15 U.S.C. § 2)

24 **(4) ATTEMPTED
MONOPOLIZATION OF SOCIAL
MEDIA MARKET**

Violation of the Sherman Act
(15 U.S.C. § 2)

25 **(5) UNJUST ENRICHMENT**

26 **DEMAND FOR JURY TRIAL**

27
28

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1 1. Plaintiff(s), by their undersigned counsel, hereby bring(s) this action against
2 Defendant Facebook, Inc. (“Facebook”), individually and on behalf of a class of similarly situated
3 persons, and allege(s) as follows:

4 **PRELIMINARY STATEMENT**

5 2. Founded originally as a website that allowed college students to connect with
6 friends on campus, Facebook has since expanded exponentially and today is the largest social
7 network and also the largest social media platform in the world. In July 2020, for example,
8 Facebook reported 1.78 billion daily active users and 2.7 billion monthly active users for its
9 Facebook social network alone. Including *all* of Facebook’s primary product offerings—*e.g.*,
10 Facebook, Instagram, Facebook Messenger, WhatsApp, and Oculus—Facebook commands 2.47
11 billion daily active users and 3.14 billion monthly active users. But Facebook did not, as it would
12 have the public believe, obtain market dominance based on innovation and fair competition.
13 Instead, Facebook has used its behemoth-status as a weapon to clear the field of any and all
14 competitors that threaten to take away market share. Facebook has done so by engaging in a two-
15 part anticompetitive scheme that originated many years ago but continues to this day, and which
16 has the net effect of destroying competition and harming consumers.

17 3. First, set on utter domination, Facebook consistently and intentionally deceived
18 consumers about the data privacy protections it provided to its users. During the early days of
19 social media and social networks, Facebook recognized that promising users stringent privacy
20 protections was necessary for it to win the race for market dominance. Accordingly, many users
21 chose Facebook over other competing platforms due to Facebook’s stated commitment to its
22 users’ privacy. In reality, however, Facebook concealed the scope of the data it harvested from
23 consumers and the ways in which it used that data to squash competition. By the time
24 Facebook’s deception began to come to light in 2018, it was too late—Facebook had cheated its
25 way to market dominance. Facebook’s deceptions allowed the company to gain and then, over
26 the years, illegally maintain a stranglehold on the Social Network and Social Media Markets
27 (defined and discussed further below). And high barriers to entry, including strong network
28

1 effects and high switching costs, bolstered Facebook’s efforts to prevent actual and would-be
2 competitors alike from challenging its monopolistic grip.

3 4. Second, Facebook exploited the rich data it deceptively extracted from its users to
4 identify nascent competitors and then “acquire, copy, or kill” these firms. Rather than competing
5 on the merits, Facebook used the valuable consumer data that it was harvesting to identify
6 incipient competitors with the most likely path to meaningful market share gains. Equipped with
7 the valuable user data it led consumers to believe it was not gathering and would not use in this
8 way, Facebook targeted its users’ preferred alternatives for destruction. Facebook made clear that
9 it would copy incipient competitors’ innovations and discriminatorily shut off these firms’ access
10 to Facebook’s valuable user data if they did not sell their businesses to Facebook first. The
11 message to its competitors was explicit: sell at a bargain, or Facebook will go into “destroy
12 mode.” All of this was enabled by Facebook’s deception.

13 5. While Facebook’s scheme—bolstered by its deception and its serial acquisitions—
14 has allowed Facebook to evolve since Mark Zuckerberg founded the company in 2004, the
15 economic relationship between Facebook and its users has not. When users sign up for a
16 Facebook account, they agree to certain terms. Those terms lay out the economic exchange
17 between Facebook and its users. Consumers give Facebook personal data about themselves;
18 Facebook allows users to access its social media network and pledges to protect users’ privacy.
19 Facebook’s current Terms of Service state:

20 *Instead of paying to use Facebook and the other products and services we offer, by*
21 *using the Facebook Products covered by these Terms, you agree that we can show*
22 *you ads that businesses and organizations pay us to promote on and off the*
Facebook Company Products. We use your personal data, such as information
about your activity and interests, to show you ads that are more relevant to you.¹

23 Notably, Facebook suggests to the user (even to this day) that the extent to which it utilizes their
24 data is limited, and that the extent of the data collection is limited to Facebook’s services
25 themselves.

26
27 ¹ Facebook Terms of Service, <https://www.facebook.com/terms.php> (last accessed
28 December 3, 2020).

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