

Brian C. Rocca, Bar No. 221576
 brian.rocca@morganlewis.com
 Sujal J. Shah, Bar No. 215230
 sujal.shah@morganlewis.com
 Michelle Park Chiu, Bar No. 248421
 michelle.chiu@morganlewis.com
 Geoffrey T. Holtz, Bar No. 191370
 geoffrey.holtz@morganlewis.com
 Minna Lo Naranjo, Bar No. 259005
 minna.naranjo@morganlewis.com
 Rishi P. Satia, Bar No. 301958
 rishi.satia@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
 One Market, Spear Street Tower
 San Francisco, CA 94105-1596
 Telephone: (415) 442-1000
 Facsimile: (415) 442-1001

Ian Simmons, pro hac vice
 isimmons@omm.com
 Benjamin G. Bradshaw, S.B. #189925
 bbradshaw@omm.com
O'MELVENY & MYERS LLP
 1625 Eye Street, NW
 Washington, DC 20006
 Telephone: (202) 383-5300

Daniel M. Petrocelli, S.B. #97802
 dpetrocelli@omm.com
 Stephen J. McIntyre, S.B. #274481
 smcintyre@omm.com
O'MELVENY & MYERS LLP
 1999 Avenue of the Stars
 Los Angeles, California 90067
 Telephone: (310) 553-6700

Attorneys for Defendants
 Google LLC, Google Ireland Ltd., Google
 Commerce Ltd., Google Asia Pacific Pte. Ltd., and
 Google Payment Corp.

John C. Hueston, Bar No. 164921
 jhueston@hueston.com
 Douglas J. Dixon, Bar No. 275389
 ddixon@hueston.com
HUESTON HENNIGAN LLP
 620 Newport Center Drive, Suite 1300
 Newport Beach, CA 92660
 Telephone: (949) 229-8640

Joseph A. Reiter, Bar No. 294976
 jreiter@hueston.com
 Michael K. Acquah, Bar No. 313955
 macquah@hueston.com
 William M. Larsen, Bar No. 314091
 wlarsen@hueston.com
 Julia L. Haines, Bar No. 321607
 jhaines@hueston.com
HUESTON HENNIGAN LLP
 523 West 6th Street, Suite 400
 Los Angeles, CA 90014
 Telephone: (213) 788-4340

Attorneys for Plaintiffs
 Match Group, LLC; Humor Rainbow, Inc.;
 PlentyofFish Media ULC; and People
 Media, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MATCH GROUP, LLC, a Delaware corporation; HUMOR RAINBOW, INC., a New York corporation; PLENTYOFFISH MEDIA ULC, a Canadian corporation; and PEOPLE MEDIA, INC., a Delaware corporation,

Plaintiffs,

v.

GOOGLE LLC; GOOGLE IRELAND LIMITED; GOOGLE COMMERCE LIMITED; GOOGLE ASIA PACIFIC PTE. LIMITED; and GOOGLE PAYMENT CORP.,

Defendants.

Case No. 3:22-cv-02746-JD

**STIPULATION AND [PROPOSED]
ORDER ON MATCH'S MOTION FOR
TEMPORARY RESTRAINING
ORDER**

Judge: Hon. James Donato

1 Plaintiffs Match Group, LLC; Humor Rainbow, Inc.; Plentyoffish Media ULC; and People
 2 Media, Inc. (“Match”) and Defendants Google LLC; Google Ireland Limited; Google Commerce
 3 Limited; Google Asia Pacific Pte. Ltd.; and Google Payment Corp. (“Google,” and together with
 4 Match, the “Stipulating Parties”), through their respective attorneys of record and without waiving
 5 any arguments, rights, claims, or defenses except as expressly provided below, hereby stipulate to
 6 the following:

7 On May 9, 2022, Match filed a Complaint against Google (ECF No. 1), and on May 10,
 8 2022, Match filed a Motion For Temporary Restraining Order (ECF No. 12).

9 Consistent with the Court’s guidance at the May 12, 2022, status conference, the Stipulating
 10 Parties have met and conferred on the issues presented by the Motion For Temporary Restraining
 11 Order (ECF No. 19).

12 NOW, THEREFORE, in order to avoid proceeding with the Motion For Temporary
 13 Restraining Order, the Stipulating Parties agree as follows (the “Agreement”):

14 1. Google agrees that, so long as this Agreement remains in effect and effective
 15 immediately, it will not remove, de-list, refuse to list, or otherwise make unavailable Match apps
 16 that were available in Google Play as of May 9, 2022 (*see* Exhibit A),¹ including, but not limited
 17 to, rejecting, unreasonably delaying, or refusing to distribute updates of such apps, from the Google
 18 Play Store on the basis that (i) the Match apps or updates offer in-app purchases of digital good or
 19 services through means other than Google Play’s billing system or (ii) Match is not paying fees to
 20 Google on in-app purchases made through means other than Google Play’s billing system. For the
 21 avoidance of doubt, Google reserves the right to enforce all other provisions of the Google Play
 22 Developer Distribution Agreement (DDA) and Google Play Developer Program Policies, and
 23 Match reserves all rights and defenses against such provisions and enforcement of the same.

24 2. Match shall:

25 a) pay into a mutually acceptable escrow account up to forty million US dollars
 26 (\$40,000,000.00) according to a funding schedule and agreement to be

27 _____
 28 ¹ If Match seeks to modify Exhibit A, it shall provide reasonable notice to Google, and the
 Stipulating Parties agree to meet and confer in good faith to address the request.

1 negotiated between Match and Google over the next 14 days;

- 2 b) beginning July 1, 2022, and on a monthly basis thereafter until this
3 Agreement is terminated, provide Google with a monthly accounting of all
4 in-app digital goods and services² purchased in the prior month using
5 Match's alternative billing system on Match apps installed through Google
6 Play sufficient to permit Google to verify the fees Google claims it would
7 have charged on transactions through Google Play's billing system in a
8 format to be mutually agreed to by the Stipulating Parties for purchases
9 starting April 1, 2022; and
- 10 c) maintain Google Play's billing system as an option on all Match apps on
11 which it was available as of May 9, 2022, subject to the same service fees
12 applicable as of that date unless Google reduces those fees.

13 3. Match agrees to work in good faith on further enabling Google's Play's billing
14 system as an option for users of its apps so long as Google agrees to work in good faith to continue
15 to develop additional billing system features that are important to Match.

16 4. Match reserves and does not waive any claims or requests for relief asserted in its
17 Complaint, including, but not limited to, its entitlement to the funds it places in escrow (as referred
18 to in 2(a) above) or any defenses it may have to any claims or remedies Google could or may assert,
19 including, but not limited to, those contemplated in Paragraph 5.

20 5. Google reserves and does not waive any defenses, rights or claims for relief in
21 response to the Complaint. Google also reserves and does not waive any of the terms of the DDA
22 or any rights under or related to that agreement. Google expressly reserves the right to pursue any
23 claims and remedies available under law or equity, including, but not limited to, for breaches of the
24 DDA and to establish its entitlement to damages including, but not limited to, funds placed by
25 Match in escrow (as referenced in 2(a) above).

26 _____
27 ² As asserted in its Complaint (ECF No. 1), Match disputes that its in-app purchases are "digital
28 goods and services" as defined in the DDA. Notwithstanding and without waiving that argument,
Match agrees that the accounting required under 2(b) will reflect purchases consistent with
Google's interpretation of that phrase.

1 6. If, in any final judgment, Google's recovery on its claims or remedies, if any,
2 exceeds Match's recovery on its claims or remedies, if any, and such difference is equal to or greater
3 than the amount placed in escrow by Match, then Match shall consent to the release of the funds in
4 escrow to Google and, if applicable, pay Google the difference between the funds in escrow and
5 the amount awarded to Google in the final judgment pursuant to the Federal Rules of Civil
6 Procedure and any Court orders related thereto. If, in any final judgment, Google's recovery on its
7 claims or remedies, if any, exceeds Match's recovery on its claims or remedies, if any, and such
8 difference is less than the amount placed in escrow, then Match shall consent to release to Google
9 the amount awarded to Google in the final judgment pursuant to the Federal Rules of Civil
10 Procedure and any Court orders related thereto, and the remaining funds in the escrow account shall
11 be returned to Match. If, in any final judgment, Match prevails and Google has no recovery on its
12 claims or remedies or Google's recovery on its claims or remedies, if any, is less than Match's
13 recovery on its claims or remedies, then Google shall consent to the release of all funds in the
14 escrow account to Match.

15 7. This Agreement terminates on the earlier of:

- 16 a) The date of a final judgment or other disposition of this action (Case No.
17 3:22-cv-02746) at the trial court level.
- 18 b) Sixty days after Google or Match notifies the other party that it is terminating
19 this Agreement.

20 8. Pursuant to this stipulation, the Stipulating Parties agree that the Motion for
21 Temporary Restraining Order shall be deemed provisionally denied as moot without prejudice in
22 light of the Agreement set forth herein. Match reserves and does not waive the right to pursue the
23 relief sought in the Motion for Temporary Restraining Order in the event the Agreement is breached
24 by Google or terminated for any reason, and Google reserves any defenses thereto.

25 9. The Stipulating Parties reserve all other claims, rights and defenses.
26
27
28

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