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(additional counsel on signature page)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Laurie Braaten, individually and on behalf of all
others similarly situated,

Plaintiff,

- against -

Apple Inc.,

Defendant

Case No. 22-cv-4861

Class Action Complaint

Jury Trial Demanded

Plaintiff Laurie Braaten (“Plaintiff”), by her attorneys, alleges upon information and belief, except for allegations pertaining to Plaintiff, which are based on personal knowledge:

FACTUAL ALLEGATIONS

1. Apple Inc. (“Defendant”) manufactures, distributes, markets, labels, and sells the Apple Watch SE smart watch (“Product”) that Defendant represents to be “Swimproof”:



Apple Watch SE

Starting at \$279

44mm or 40mm

Swimproof¹

Apple Watch SE

Starting at \$279

44mm or 40mm

Swimproof¹

2. Unfortunately for consumers, as detailed below, the Product is not Swimproof as advertised.

I. THE IMPORTANCE OF WATER RESISTANCE FEATURES

3. Consumers have been increasingly concerned about protecting their smart watches from water damage.

4. For example, according to reports, the number of smart watches offering resistance against damage from water and other liquids has grown significantly since these devices were first introduced several years ago, while non-water-resistant smart watches have declined.

5. Consumers demand water resistant features because there are significant repair and replacement costs when a non-water-resistant smart watch is damaged or destroyed.

6. The costs are significant to users, who must repair or replace expensive smart watches, and to the environment, when a device is discarded.

7.

1 8. This “hidden tax” due to the inability to withstand even minimal contact and
2 immersion in water costs American consumers over \$10 billion each year.

3 9. Accidental damage is estimated as responsible for 95% of smart watch failures.

4 10. Reports indicate that approximately one-third of all smart watch failures are due to
5 liquid damage, such as accidental and temporary contact and/or immersion in water.

6 11. In 2016, the International Data Corporation (“IDC”) found that contact with water
7 was the second largest cause of damage to smart electronic devices in the world.

8 12. Aside from longer battery life and shatterproof screens, water resistance has become
9 a key smart watch feature in demand by consumers.

10 13. Thus, water-resistant features allow electronic companies to increase revenues by
11 obtaining a price premium and/or increased units sold.

12 14. Defendant provides that its watches have a water resistance of WR50.

13 15. The WR50 water resistance rating, under International Organization for
14 Standardization (“ISO”) standard 22810:2010, means that the Product has a water resistance to
15 withstand 50 meters/5 atmospheres/5 bars of pressure/165 feet.

16 16. More specifically, WR50 means that it can be used for water activities, like
17 swimming, showering, etc.

18 17. Defendant describes the Product as “swimproof” and its marketing suggests and
19 implies that this means “waterproof.”

20 18. Moreover, most consumers do not distinguish between “waterproof”, “swimproof”
21 or “water-resistant.”

22 19. A product is water-resistant if it can resist the penetration of water to some degree.

23 20. The term “waterproof” indicates that the enclosure of the device is completely
24 impervious to water.

25 21. Since only hermetically sealed products may be truly waterproof, and to avoid
26 disputes and ambiguities for watches, the term “waterproof” was replaced by the term “water-
27 resistant” in the ISO 2281:1990 standard.

28

22. Since then, only the term “water-resistant” has been used to describe electrical devices and the water resistance test standards set forth by the ISO.

23. The replacement of the term “waterproof” with the term “water-resistant” by the ISO, however, has not changed the reasonable consumers’ belief that the terms are synonymous.

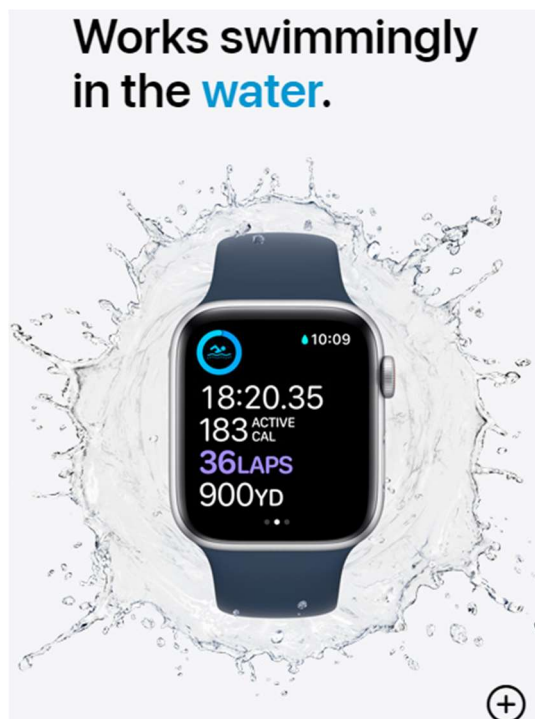
24. Defendant takes advantage of reasonable consumers’ inability to distinguish between the two terms through marketing practices that superimpose the term “water-resistant” against a backdrop of visuals and statements that imply the Product is waterproof.

25. Defendant attempts to substantiate its “water-resistance” claims, and disclaim any perceived “waterproof” claim, by referencing an ISO Standard that does not provide information relevant to the real-world use of the Product by consumers.

II. DEFENDANT PROMOTES THE WATER-RESISTANT FEATURES OF THE PRODUCT

26. Defendant’s advertising and marketing of the Product emphasizes its water resistance.

27. Defendant displays the Product surrounded by a splash of water, stating “Works swimmingly in the water,” with “water” written in blue text.



28. When the “+” in the lower right corner is clicked, Defendant further provides that the Product is “water resistant 50 meters.”

Works swimmingly in the water.

Apple Watch SE is water resistant 50 meters.² Dive right in and start tracking your splits and sets in the pool, or even map your route in open water.

Works swimmingly in the water.

Apple Watch SE is water resistant 50 meters.²
Dive right in and start tracking your splits and sets in the pool, or even map your route in open water.

29. Viewing footnote 2 provides further information regarding the water resistance, which is WR50 under ISO standard 22810:2010.

2. Apple Watch Series 7, Apple Watch SE, and Apple Watch Series 3 have a water resistance rating of 50 meters under ISO standard 22810:2010. This means that they may be used for shallow-water activities like swimming in a pool or ocean. However, they should not be used for scuba diving, waterskiing, or other activities involving high-velocity water or submersion below shallow depth. Series 7 is also rated IP6x dust resistant.

2. Apple Watch Series 7, Apple Watch SE, and Apple Watch Series 3 have a water resistance rating of 50 meters under ISO standard 22810:2010. This means that they may be used for shallow-water activities like swimming in a pool or ocean. However, they should not be used for scuba diving, waterskiing, or other activities involving high-velocity water or submersion below shallow depth. Series 7 is also rated IP6x dust resistant.

30. A water resistance rating of 50 meters (WR50) means that the Product will be water-resistant enough to withstand shallow-water activities, such as swimming in an ocean or pool, but not enough to withstand high-velocity water activities like scuba diving or waterskiing.

31. The Product is also advertised as able to track swimming activity and map swimming routes.

Works swimmingly in the water.

Apple Watch SE is water resistant 50 meters.² Dive right in and start tracking your splits and sets in the pool, or even map your route in open water.

Works swimmingly in the water.

Apple Watch SE is water resistant 50 meters.²

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