

1 COOLEY LLP
WHITTY SOMVICHIAN (194463)
2 wsomvichian@cooley.com
REECE TREVOR (316685)
3 rtrevor@cooley.com
3 Embarcadero Center, 20th Floor
4 San Francisco, CA 94111-4004
Telephone: (415) 693-2000
5 Facsimile: (415) 693-2222

6 REBECCA GIVNER-FORBES (*pro hac vice forthcoming*)
rgf@cooley.com
7 1299 Pennsylvania Avenue, NW, Suite 700
Washington, DC 20004-2400
8 Telephone: (202) 842-7800
Facsimile: (202) 842 7899

9 Attorneys for Plaintiff
10 GOOGLE LLC

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 GOOGLE LLC, a Delaware limited liability
15 company,

16 Plaintiff,

17 v.

18 ETHAN QIQI HU, an individual; GMBEYE;
RAFADIGITAL LLC, a Mississippi limited
19 liability company; and DOES 1–20,

20 Defendants.

Case No.

COMPLAINT FOR:

I. BREACH OF CONTRACT

**II. VIOLATION OF CAL. BUS. &
PROF. CODE § 17200 et seq.**

**III. FALSE ADVERTISING UNDER
15 U.S.C. § 1125(a)(1)(B)**

JURY TRIAL DEMANDED

1 1. Plaintiff Google LLC (“Google”), by and through its attorneys of record, brings this
 2 action against Defendants Ethan QiQi Hu; GMBEye; Rafadigital, LLC (“Rafadigital”); and Does 1–
 3 20 to stop Defendants’ complex and misleading scheme to deceive consumers, business owners, and
 4 Google by unlawfully manipulating Google’s industry-leading business listing services.

5 2. Over the past two years, Defendants—led primarily by a single individual, Ethan Qiqi
 6 Hu—have abused Google products to create fake online listings for businesses that do not exist, and
 7 to bolster them with fake reviews from people who do not exist. Defendants sell these listings, and
 8 the inquiries from confused consumers who are lured in by them, to individuals and entities looking
 9 to promote their businesses on Google platforms. Defendants deceive these small business owners
 10 too, making unsubstantiated and impossible claims about their ability to guarantee a favorable position
 11 in Google’s search results and implying preferential treatment or access with respect to certain Google
 12 processes.

13 3. Google brings this action to put an end to Defendants’ fraudulent conduct and the
 14 ongoing harm Defendants are causing to Google, Google users, and business owners.

15 **PARTIES**

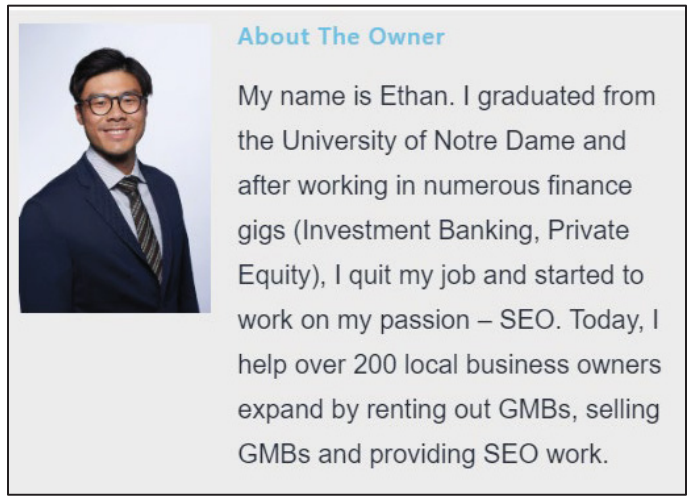
16 4. Google LLC is a limited liability company organized under the laws of the state of
 17 Delaware with its principal place of business located at 1600 Amphitheatre Parkway, Mountain View,
 18 California 94043.

19 5. Defendant Ethan QiQi Hu is an individual who resides in or near Los Angeles,
 20 California.

21 6. Defendant GMBEye is a business entity of unknown form. According to its website,
 22 www.gmbeye.com, GMBEye’s principal place of business is in Los Angeles, California, with ZIP
 23 code 90029. Google is informed and believes, and on that basis alleges, that GMBEye is not a resident
 24 of any other state within the United States. Mr. Hu is identified on GMBEye’s website as GMBEye’s
 25 “[o]wner,” and on information and belief, Mr. Hu is GMBEye’s principal or sole officer and employee
 26 and he operates GMBEye from its principal place of business in or near Los Angeles, California.

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About The Owner

My name is Ethan. I graduated from the University of Notre Dame and after working in numerous finance gigs (Investment Banking, Private Equity), I quit my job and started to work on my passion – SEO. Today, I help over 200 local business owners expand by renting out GMBs, selling GMBs and providing SEO work.

7. Defendant Rafadigital is a limited liability company organized under the laws of the state of Mississippi. Mr. Hu is listed as Rafadigital’s registered agent and manager in its filings with the Mississippi Secretary of State and as the “[o]wner” of Rafadigital on its website, Rafadigital.com.



About The Owner

Ethan Hu

Hi! After graduating from Notre Dame with a degree in Finance and PPE (Philosophy, Political Science and Economics) , I took the corporate route and spent 5 years in Investment Banking, Private Equity and Corporate Finance. Fortunately and Unfortunately (at the time), I was never had the type of passion my colleagues had in Finance. I only counted down the days until Friday. When the pandemic hit, I was living with my parents and doing a long distance relationship so I said why not to entrepreneurship and decided to start an SEO company. I started Rafadigital in April 2021. Rafa stands for “healing” in Hebrew and that’s what I want my business to be about: to help local businesses grow and compete with the larger companies.

On information and belief, Mr. Hu is Rafadigital’s principal officer and employee as well as its owner, and he operates Rafadigital from the company’s principal place of business in or near Los Angeles, California.

8. Google does not know the true names and capacities of those defendants sued as Does 1–20 (the “Doe Defendants”) and therefore sues them under fictitious names. On information and

1 belief, some or all of the Doe Defendants are individuals or entities that post fraudulent reviews using
2 Google products at the direction of other Defendants. Google will amend this Complaint to allege the
3 true names and capacities of these Doe Defendants if and when they are ascertained.

4 **JURISDICTION, VENUE, AND DIVISIONAL ASSIGNMENT**

5 9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 15 U.S.C.
6 § 1121, as this is a civil action arising under the federal Lanham Act, as amended, 15 U.S.C. § 1051
7 *et seq.* (the “Lanham Act”). The Court has supplemental jurisdiction over all other claims pursuant to
8 28 U.S.C. § 1367 because all claims herein form part of the same case or controversy under Article III
9 of the United States Constitution.

10 10. This Court has personal jurisdiction over Defendants because each Defendant is a
11 resident and citizen of California, where this Court is located, and further because each Defendant
12 consented to the jurisdiction of the federal or state courts of Santa Clara County, California, by
13 agreeing to Google’s Terms of Service and the choice of venue provision therein, as discussed in more
14 detail below.

15 11. Venue is proper in this District under 28 U.S.C. § 1391(b)(2) and a substantial part of
16 the events or omissions giving rise to the claims occurred in this District, including the harm that
17 Defendants caused Google and other individuals and entities in this District. In addition, Defendants
18 consented to venue in this District by agreeing to Google’s Terms of Service and the choice of venue
19 provision therein, as discussed in more detail below.

20 12. This action is properly assigned to the San Jose Division of this District under Civil
21 Local Rule 3-2(c) because Plaintiff Google is headquartered in Santa Clara County, which is served
22 by the San Jose Division.

23 **GOOGLE’S BUSINESS PROFILE AND GOOGLE MY BUSINESS SERVICES**

24 13. Among its other services, Google offers a search engine, Google Search, and a mapping
25 tool, Google Maps. Both Search and Maps contain “Business Profiles” with details of businesses,
26 service providers, and other places of interest. Business Profiles span an enormous variety of
27 businesses and professionals: restaurants, car mechanics, accountants, plumbers, dentists, hair salons,
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1 law firms, government agencies, contractors, retail stores, amusement parks, and many other kinds of
2 goods or service providers.

3 14. With Search and Maps, users can explore and search for businesses in a given area. The
4 resulting Business Profiles display certain information about a business, including its street address,
5 hours, website, phone number, and so on. Business Profiles also display user-submitted reviews of
6 the associated business. It is important to consumers that this information be authentic and
7 accurate. Likewise, because consumers often use Business Profiles and user-submitted reviews to
8 identify businesses and decide which ones to patronize, many business owners—and especially small
9 business owners—find Business Profiles important for attracting and maintaining customers.

10 15. For several years, Google has offered businesses a suite of free tools to manage their
11 Business Profiles. These tools were previously known as Google My Business, and some users
12 adopted that term to refer to individual Business Profiles as well (as in, for example, “Our business’s
13 phone number and website appear on our GMB.”). Google changed the Google My Business name
14 to Google Business Profile in late 2021, though many businesses and consumers continue to refer to
15 Google My Business or “GMB.”

16 16. New Business Profiles may be created by businesses themselves, automatically created
17 by Google, or suggested by members of the public. To create a new Business Profile or claim an
18 existing Business Profile, a person must verify basic details about the business and that they are the
19 business’s owner or other authorized representative. Following this verification process, the person
20 becomes the profile’s “owner” and may edit that Business Profile, grant other users access to do so,
21 and use various other tools and features. For instance, verified business owners and their authorized
22 representatives can update their hours, address, or website, and they can add photos or promotional
23 offers.

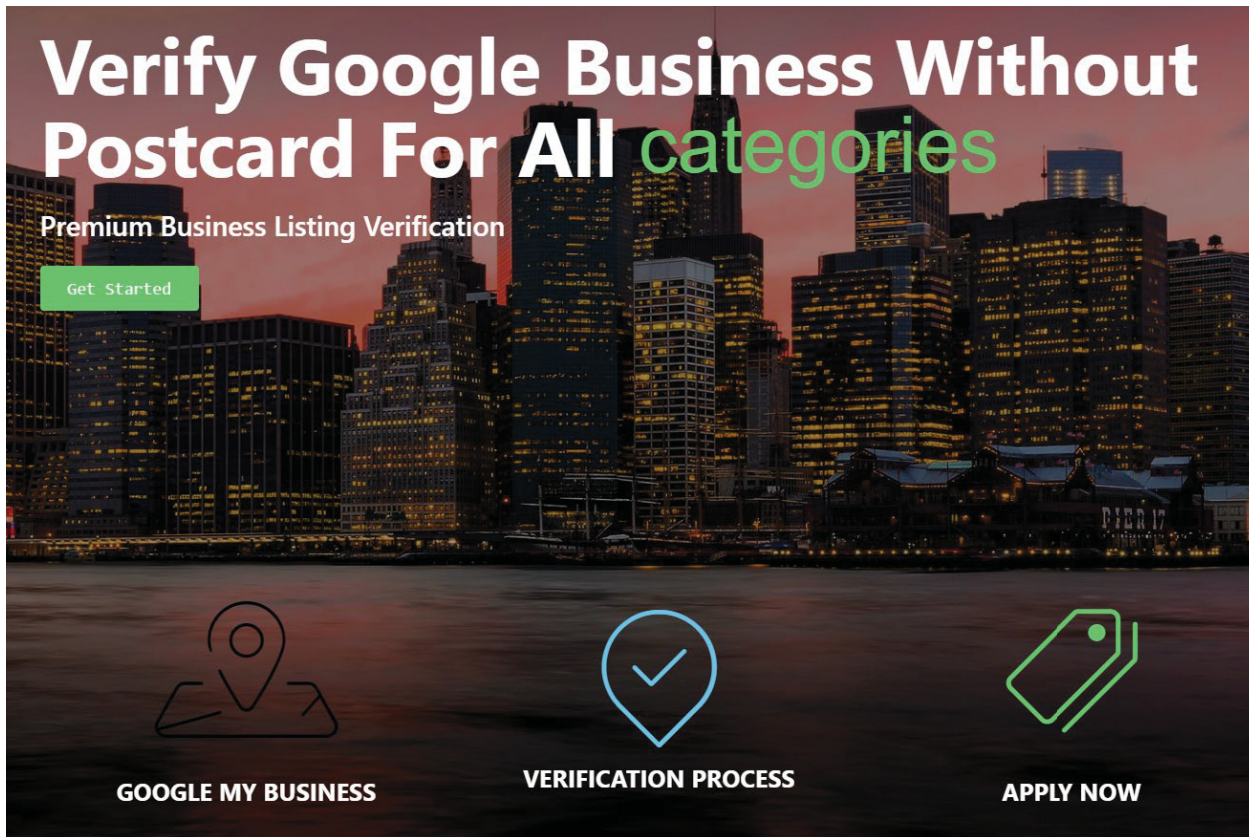
24 17. Google offers businesses and their owners a variety of options to complete the
25 verification process. Many businesses verify their addresses by requesting a postcard with a
26 verification code that Google sends to their physical location. Some merchants, including those that
27 operate within a given service area and not from a single physical location at which they can receive
28 a postcard, may be able to verify their listing through other methods. These include, for example,

1 receiving a phone call or conducting a video call with a Google employee, during which the business
2 can confirm its legitimacy by displaying identifying features like sales inventory, tools of the trade, or
3 a physical storefront.

4 **DEFENDANTS’ ADVERTISEMENTS AND FALSE CLAIMS**

5 18. On their websites and on social media, Defendants purport to offer various search
6 engine optimization and related services concerning Google Business Profile and Google My
7 Business.

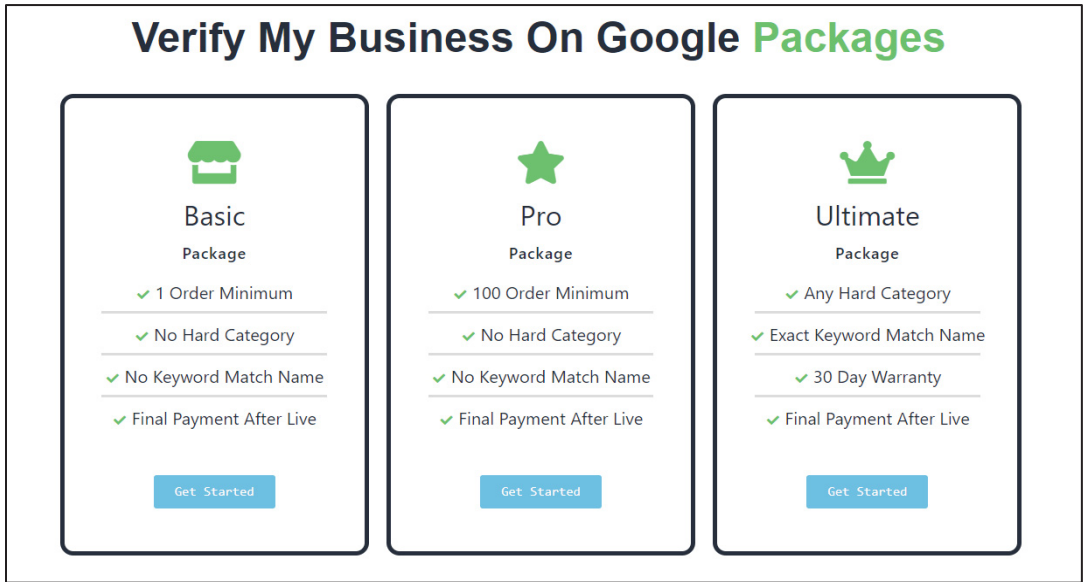
8 19. GMBEye’s website, GMBEye.com, advertises just one type of service: “Premium
9 Business Listing Verification” on Google. GMBEye.com’s homepage, shown below, prominently
10 displays such an advertisement.



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25 20. GMBEye expressly advertises that it can “[v]erify Google Business Without Postcard
26 For All services” and “categories.”¹ Through GMBEye’s website, Defendants solicit merchants and
27 collect their information, such as their names, email addresses, business names, business websites,

28 ¹ www.gmbeye.com

1 what each merchant “hop[es] to achieve with a new GMB,” and what the customer’s business goals
 2 are. GMBEye offers customers various packages of verification services, ranging from a “Basic”
 3 package to the “Ultimate” package.²



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 21. The packages—and GMBEye’s fees—appear subject to change depending on the
 14 number of Business Profiles a buyer seeks to verify and, presumably, the degree of effort involved for
 15 GMBEye to evade Google’s verification requirements. For example, the “Basic” and “Pro” packages
 16 encompass orders that are not in what Defendants term a “Hard Category.”³

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 22. GMBEye is replete with express and implied assurances that Defendants are able to
 23 bypass the verification procedures that Google requires of most merchants, and also to ensure a
 24 particular business listing is “at the top” of Google Search results—a misleading and false statement,
 25 for no business or entity can guarantee such placement by Google’s Search algorithm.

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 23. Much of Defendants’ messaging suggests that GMBEye has preferential access to
 Google or is otherwise uniquely positioned with respect to Google, allowing it to secure the “Premium
 Business Listing Verification” that is unavailable to those who verify their businesses through
 Google’s free processes. The implied message is that, due to this access or relationship, GMBEye can
 “Fast Track Your Business Verification on Google,” according to the call-to-action at the top of its

² *Id.*
³ *Id.*

1 homepage. The website also claims that GMBEye is the only service that “can [provide a] 30 day
2 guarantee [for verification in] all categories—including the notorious locksmith and garage repairs!”⁴

3 24. Some merchants are likely drawn to GMBEye’s promises of “[f]ast [t]rack,”
4 “[p]remier” verification in any category, unavailable to those who use Google’s free verification
5 procedures. GMBEye’s customers and prospective customers likely include both legitimate
6 merchants seeking a shortcut through Google’s procedures, as well as other scammers or bad actors
7 who abuse fake business listings; while the latter may quickly recognize GMBEye as a fellow
8 scammer, the former may not.

9 25. Elsewhere on the GMBEye website, in smaller chunks of narrative text, Defendants
10 explain that GMBEye’s unique position relies on “a proprietary process” through which it can
11 “immediately establish trust with Google, while other GMB methods try to ‘game the system.’” These
12 messages start to suggest that GMBEye has some special access to or knowledge of Google’s
13 procedures, rather than enjoying “fast track” permission or “premier” access granted by Google. But
14 the explanation nonetheless relies on GMBEye’s having a level of “trust with Google,” however
15 obtained, such that GMBEye does not need to “game the system.” Defendants do not, in fact, have
16 any preferential relationship with or access to Google to facilitate such services.

17 26. Further explanation on the GMBEye website boasts that Defendants can even verify
18 businesses “with [s]pammy names,” suggesting the service avoids Google’s measures to maintain
19 accurate and high-quality Business Profiles. Defendants similarly claim that “[m]ost verification
20 methods cant [*sic*] handle that because Google will suspend your listing but with our method you can
21 sustainability rank your GMBs with Spammy names helping you rank on Google in no time!”⁵

22 27. Other claims suggest, falsely, that GMBEye can assure a business top position in
23 Google Search. “Having your GMB name include the keyword you are ranking for it[i]s one of the
24 best way[s] to [be] on top of google rankings [O]ur method makes it possible to have the exact
25 keyword you are ranking for in the GMB name, which hits all the Google Algorithm for a top ranking
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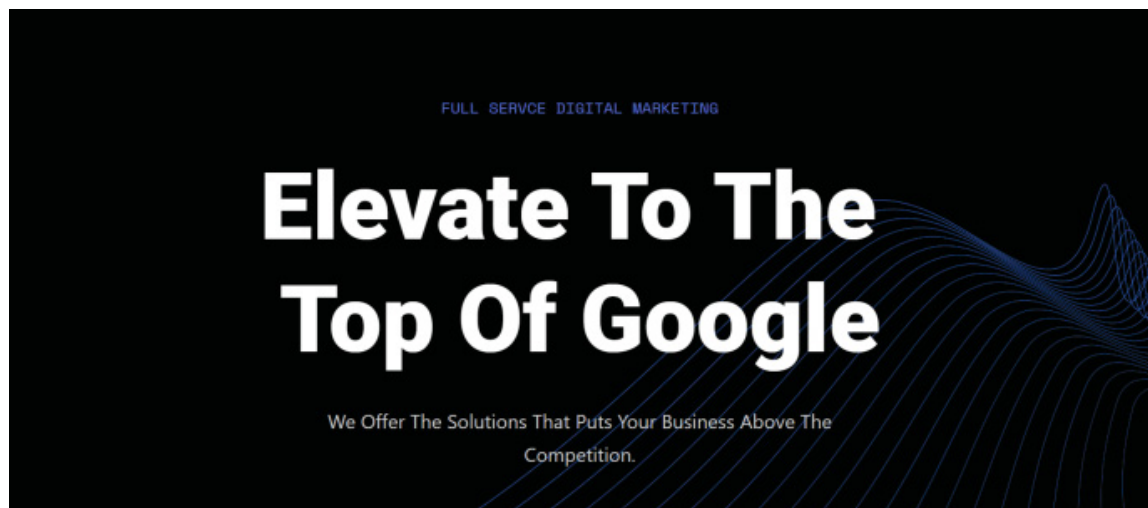
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28 ⁴ *Id.*

⁵ *Id.*

1 GMB.”⁶

2 28. Notwithstanding these other services it purports to offer, GMBEye’s advertisements
3 and representations emphasize its unique position with respect to verification: “We are the **only**
4 provider tha[t] can provide GMB listing for any US/CA location in **any category**.”⁷

5 29. Rafadigital advertises somewhat different services than GMBEye, focusing on search
6 engine optimization and lead generation, but still with a focus on Google Search and Maps. “Elevate
7 to the Top of Google” was, until recently, featured in large, prominent font in the center of its
8 homepage.



17 In a video embedded on Rafadigital’s website, Rafadigital describes itself as “an A-list SEO agency
18 that specializes in Google ranking.” As part of its services, Rafadigital claims to “improve your maps
19 listing by completing GMB profiles, claiming missing listings, encouraging reviews, and
20 standardizing NAP [*i.e.*, name, address, and phone number].”⁸ Rafadigital’s advertising makes
21 dramatic and unachievable promises, such as that Defendants will ensure that a website “shows up #1
22 on Google” and that “[w]e rank your business on Google My Business (GMB) to be #1 on map
23 searches so you can out-perform local competitors.”⁹

24 30. Rafadigital’s website also advertises the company as specializing in “lead generation,”
25 a marketing process that identifies and obtains contact information for potential customers, known as

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27 ⁶ *Id.*

28 ⁷ *Id.*

⁸ *Id.*

⁹ *Id.* (emphasis added).

1 “leads,” that a business can then pursue in hopes of making a sale. Rafadigital claims that it can “[g]et
2 high converting leads direct to your phone” “for all industries[.]”¹⁰

3 31. As recently as mid-2022, if a user clicked on a button on Rafadigital.com for more
4 information about “GMB Verification,” the site would redirect them to GMBEye.com, confirming
5 (along with Mr. Hu’s appearance on both websites) that Rafadigital and GMBEye are closely related.¹¹

6 32. Concerned by Defendants’ advertisements and apparent sale of fraudulent verification
7 services, Google began to investigate their practices. Upon information and belief, since mid-2021,
8 Defendants have been continuously misleading Google users, making impossible claims to their
9 clients, and engaging in conduct that violates state and federal law and the contractual obligations
10 found in Google’s Terms of Service.

11 33. Defendants’ offerings of Business Profile verification, preferred placement in Google
12 Search results, and lead sales violate their contracts with Google and the law. Their unlawful scheme
13 has three principal components: (1) fraudulent verification of nonexistent Business Profiles, (2)
14 posting fake reviews on Business Profiles, and (3) selling real businesses leads from unsuspecting
15 customers who seek services from the businesses listed on Defendants’ fake Business Profiles.

16 **DEFENDANTS’ FRAUDULENT BUSINESS PROFILE VERIFICATION SCHEME**

17 34. As noted above, Defendants advertise and sell fraudulently verified Business Profiles
18 for their own illicit gain by manipulating and abusing Google’s Business Profile tools and verification
19 services.

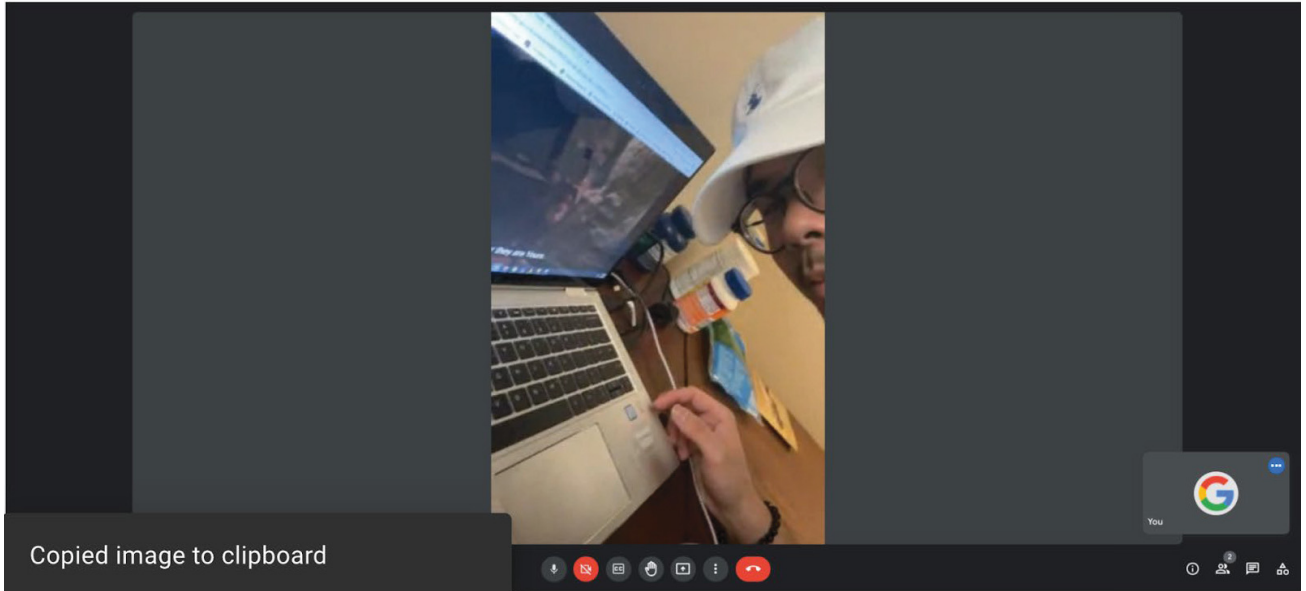
20 35. To do so, Defendants first create a Business Profile for a fake business, generally
21 accompanied by a fake website based on a simple template. Defendants typically associate these fake
22 businesses with Voice over Internet Protocol (“VoIP”) phone numbers whose area codes correspond
23 to the fake businesses’ supposed locations.

24 36. Upon information and belief, Defendants have been associated with over 350 fake
25 Business Profiles listings since mid-2021. Posing as a fake business’s owners, Defendants contact
26 Google, seeking verification. Defendants frequently verify their fake listings through video calls with
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28 ¹⁰ <https://rafadigital.com/>.

¹¹ See <https://web.archive.org/web/20220420112607/https://rafadigital.com/>.

1 Google, as shown in the image below, taken from a June 23, 2021 video call with Google during which
2 Mr. Hu purported to be associated with a nonexistent chiropractor, Wilmington Chiro Health.



14 37. Defendants come to these calls armed with an elaborate set of props, which they use to
15 pass off their fake listings as real small businesses.

16 38. For example, on March 14, 2022, Defendants contacted Google to verify “Western Los
17 Angeles Garage Door Repair.” The individual masquerading as the business owner, who supposedly
18 serviced Los Angeles, California, showed the Google agent a tool bench area to mislead Google into
19 believing they were at their business location, a portion of which appears below:

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39. When Defendants sought to verify “Pro Tree Service” in Houston, Texas, on March 22, 2022, they presented the same tool bench to Google to verify that fake listing:



1 40. The same area appeared again for “AS Budget Plumbers,” purportedly based in Davis,
2 California, when Defendants contacted Google to verify that fake listing on March 29, 2022:



15 41. As another example, Defendants have presented to Google what appears to be the same
16 set of essential oils below in order to verify multiple aromatherapy and reiki therapy listings.



25 42. Once Defendants successfully verify these dummy Business Profiles, they proceed to
26 either sell the listing or modify the fake business’s information to make the Business Profile more
27 desirable to potential buyers. At times, Defendants transfer control of fraudulently-verified Business
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1 Profiles, updated to include an unverified real-world business’s business information, to their buyers.

2 43. Google has detected over a hundred such fraudulent revisions to the content of
3 Defendants’ fake Business Profiles. To give just a few illustrative examples:

4 a. Using the props above, Defendants verified the Business Profile for “Envy Hot
5 Stone Reikeist,” a fake reiki provider supposedly located in Davis, California.
6 Twenty-two days later, they modified the listing to reflect a completely different
7 business: “Rapid Plumber,” also in Davis.

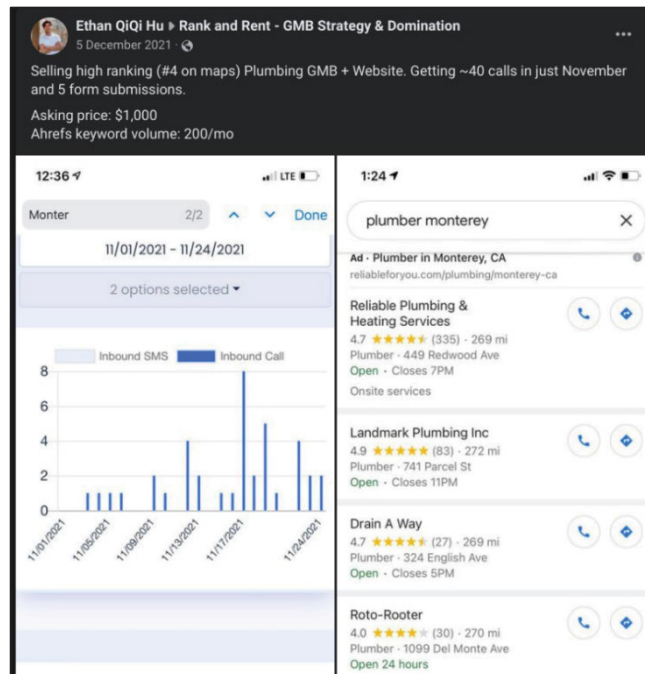
8 b. Defendants created a Business Profile for “Santa Barbara Maid Service & House
9 Cleaners,” a fake housekeeping service in Santa Barbara, California, and 42 days
10 later changed it to “Gold Garage Door Repair,” also supposedly located in Santa
11 Barbara.

12 c. Defendants created a Business Profile for “Baltimore Spa Paradise,” a nonexistent
13 massage spa in Baltimore, Maryland. After verifying this listing, Defendants
14 transferred it to a new business, “1st Painters in Baltimore,” 30 days later,
15 preserving the Business Profile associated with Baltimore Spa Paradise but with a
16 new name and website, 1stpaintersinbaltimore.com.

17 d. Defendants transformed a fake chiropractor in Wilmington, North Carolina, into
18 “Pro Painters Wilmington NC,” whose website, propainterswilmingtonnc.com, is
19 virtually identical to the website for 1st Painters in Baltimore. Just eleven days
20 elapsed before this supposed chiropractor became a painter instead.

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1 44. In addition to selling these fake listings to GMBEye’s clients, Defendants sell them to
 2 other parties by other means. For example, Mr. Hu posted the below offer to sell a Business Listing
 3 in a Facebook group called “Rank and Rent – GMB Strategy & Domination,” claiming that his listing
 4 for a “Plumbing GMB + Website” in Monterey, California, had received “~40 calls and 5 form
 5 submissions” in the prior month—presumably from residents of the Monterey area who were seeking
 6 assistance with a plumbing issue.



18 Mr. Hu—who admits in his biography on GMBEye.com to “renting out GMBs” and “selling
 19 GMBs”—sought \$1,000 for this nonexistent business’s Business Profile.

20 **DEFENDANTS’ FRAUDULENT BUSINESS PROFILE REVIEW SCHEME**

21 45. To further bolster their fake listings’ illusions of legitimacy and credibility, and as an
 22 added service to their buyers, Defendants cause fake reviews to be posted to their fraudulent Business
 23 Profiles and those transferred to their clients.

24 46. Upon information and belief, Defendants are connected to a network of over 350
 25 fraudulent Business Profiles that involve at least 14,000 fake reviews. While these reviews were
 26 purportedly authored by individual consumers who visited the businesses associated with these
 27 Business Profiles, that is clearly not the case. Nearly all of the listings had their name, website, or
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1 phone number modified within weeks of verification, as described above. Nearly all of the reviews
2 awarded five out of a potential five stars. And a majority of these reviews—including the at least
3 14,000 reviews noted above—were posted by two actors located in Bangladesh and Vietnam, an ocean
4 away from the many purported U.S. businesses for which these accounts posted reviews.

5 47. On information and belief, Defendants engaged the unknown person or persons
6 associated with these two Google accounts and others to post these fake reviews. Defendants stood to
7 gain from such reviews, which make their false Business Profiles more attractive to users and their
8 potential customers.

9 48. On information and belief, Defendants sell similar fake review posting services to their
10 clients. In addition to obtaining reviews of their own fake businesses, Defendants will, for a fee,
11 arrange for Defendants' agents or other third parties to post fake positive reviews of their clients' real
12 businesses. Google is informed and believes, and based thereon alleges, that the persons who post
13 these reviews have never patronized the businesses in question and that their reviews are not based on
14 any real experiences.

15 **DEFENDANTS' FRAUDULENT BUSINESS PROFILE LEAD GENERATION SCHEME**

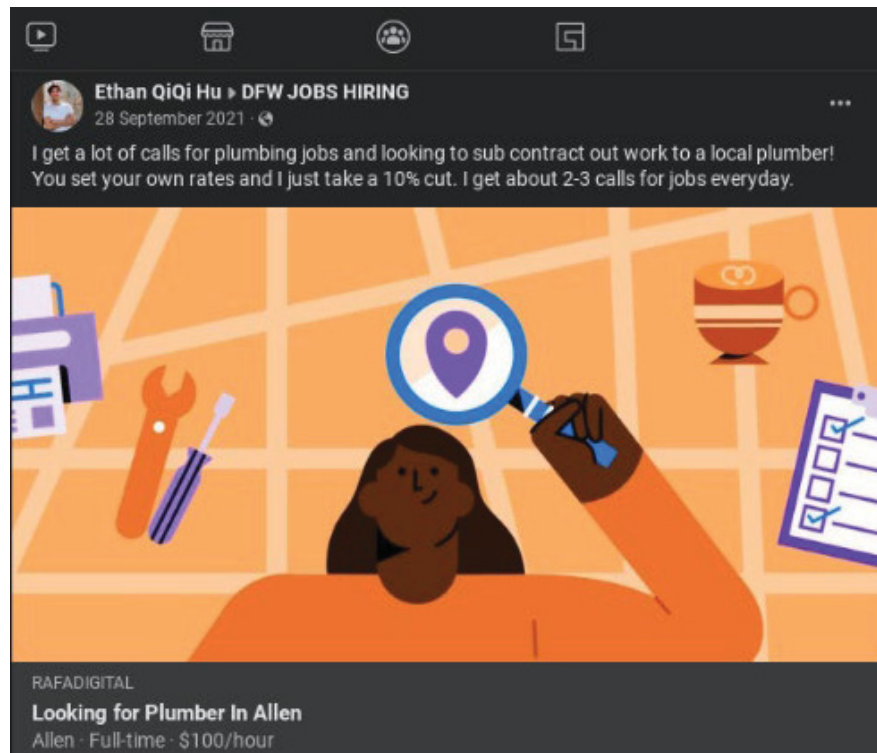
16 49. While Defendants are waiting to sell or transfer their fraudulently verified and well-
17 reviewed Business Profiles, those profiles remain live on Google, luring in unsuspecting consumers.
18 Google users searching for businesses that suit their needs on Search or Maps find these Business
19 Profiles and their websites, and—likely relying on Defendants' fake reviews—call the VoIP phone
20 numbers or submit online inquiries with their contact information.

21 50. Defendants then sell information about these potential consumers as “leads” to real-
22 world businesses that actually provide the services the consumers were seeking. The consumers
23 believe that they are contacting a particular business that they have chosen based on its Business
24 Profile, reviews, website, proximity to their location, or other features. But they end up being sent to
25 a different business altogether—one they did not choose and by whom they did not consent to be
26 contacted. This behavior misleads consumers and is likely to erode their trust in Business Profiles on
27 Google as a reliable and safe way to find and contact local businesses.

28 51. An example provides a helpful illustration of how Defendants' scheme plays out in

1 practice to misleading consumers and harm Google’s reputation. Imagine a resident of Los Angeles
 2 who arrives home to find that her garage door will not open. She searches for a nearby garage repair
 3 service on Google. She finds the fake listing discussed above, “Western Los Angeles Garage Door
 4 Repair.” Due to Defendants’ scheme, the listing is verified, so it contains photographs, a link to a
 5 website, and information about the business’s hours and service area. Seeing the strong five-star
 6 reviews by others for Western Los Angeles Garage Door Repair—and growing increasingly frustrated
 7 with sitting in her driveway—the user calls the phone number on the Business Profile, whose “213”
 8 Los Angeles area code provides further assurance that the business is located nearby. But when she
 9 places the call, she is not connected to the business she reasonably believes she thought she was calling
 10 (which, of course, does not exist) but to a different repair service that has agreed to pay Defendants a
 11 kickback for redirecting consumers their way.

12 52. Defendants make no secret of this scheme. In addition to proudly offering “lead
 13 generation” services through Rafadigital, Defendants have solicited businesses through other
 14 channels. For example, Mr. Hu authored the below post in a Facebook group for people seeking work
 15 in the Dallas-Fort Worth area, claiming to “get a lot of calls for plumbing jobs” and offering to “sub
 16 contract” that work to a “local plumber” in exchange for “a 10% cut”:



DEFENDANTS' VIOLATIONS OF GOOGLE'S TERMS OF SERVICE

53. In order to create or claim a Business Profile on Google, users must either create or use an existing Google account. By creating an account on Google, each user expressly agrees to Google's Terms of Service ("TOS").¹²

54. The TOS provides that "all disputes arising out of or relating to these terms . . . will be resolved will be resolved exclusively in the federal or state courts of Santa Clara County, California, USA, and [the user] and Google consent to personal jurisdiction in those courts."

55. The TOS incorporates "service-specific additional terms." These "services" include Google Business Profile and Maps, each of which has a separate set of terms of service. As relevant here, the Google Business Profile Additional Terms of Service ("GBP TOS"), Google Business Profile policies and guidelines (the "GBP Policies"), and Google Maps Policies are all incorporated by reference into the TOS. To use Google Business Profile as a merchant, as Defendants do when creating, verifying, or editing a Business Profile, a user must reconfirm acceptance of the GBP TOS by proceeding through an enrollment process that states "[b]y clicking proceed you accept Google Business Profile Additional Terms of Service."

56. By exploiting Google's verification process to create, verify, and post reviews on fake Business Profiles, Defendants violate the GBP TOS, the GBP Policies, and the Google Maps Policies.¹³

57. At all relevant times, the GBP TOS has provided that, in order "[t]o qualify for a Business Profile on Google, a business must make in-person contact with customers during its stated hours" and that "lead generation agents or companies" may not create Business Profiles.¹⁴ The GBP Policies further mandate that users "be upfront and honest about the information provided" and "not provide inaccurate or false information about [their] business or the services and products offered."¹⁵ Business Profile users must also "accurately represent their business name . . . as used consistently on

¹² See Google, Google Terms of Service, <https://policies.google.com/terms>.

¹³ Google, *Maps user-generated content policy*, <https://support.google.com/contributionpolicy/answer/7422880>.

¹⁴ Google Business Profile Help, *Guidelines for representing your business on Google*, <https://support.google.com/business/answer/3038177#zippy=%2Celigible-businesses>.

¹⁵ *Id.*

1 [their] storefront, website, stationery, and as known to customers.”¹⁶

2 58. More generally, the GBP Policies reiterate that “[f]raudulent or illegal activities aren’t
3 tolerated on Google[.]”¹⁷ Equivalent terms, with slightly different phrasing, appeared in the versions
4 of these policies that governed Google My Business during all relevant periods.

5 59. Defendants’ business models and practices violate all of these provisions. Defendants
6 create and verify dummy Business Profiles for businesses that do not actually exist, much less “make
7 in-person contact with customers.” Defendants thus “provide inaccurate or false information” and are
8 not “upfront and honest about the information provided.”

9 60. Indeed, the primary purpose of these Business Profiles is to verify *other* businesses,
10 and such fake verifications constitute “fraudulent” conduct in violation of the GBP Policies.
11 Defendants’ business model thus violates the GBP Policies for “representing your business on
12 Google,” which state that “[o]nly business owners or authorized representatives may verify and
13 manage their business information on a Business Profile.”¹⁸

14 61. Defendants also flout the requirement in the GBP Policies that a Business Profile reflect
15 a business’s real name, claiming that GMBEye can circumvent Google’s protections against including
16 keywords in a customer’s business name:

17 Having your GMB name include the keyword you are ranking for is one
18 of the best way to on the top of google rankings. [sic] ***That is exactly***
19 ***why it [is] against Google’s policy to have a keyword embedded name!***
20 ***However, our method makes it possible to have the exact keyword you***
21 ***are ranking for in the GMB name, which hits all the Google***
22 ***Algorithm for a top ranking GMB.*** For example, if you are ranking for
23 Roofing in Houston, you will want the words “Roofing Houston TX” in
24 your GMB name. Most verification methods can[’]t handle that because
25 Google will suspend your listing but ***with our method you can***
26 ***sustainability rank your GMBs with Spammy names helping you rank***
27 ***on Google in no time!***¹⁹

28 62. Defendants have also breached provisions in the GBP Policies that regulate the
behavior of third parties who, like Defendants, administer or purport to administer Business Profiles

26 ¹⁶ *Id.*

27 ¹⁷ *Id.*

28 ¹⁸ Google Business Profile Help, *Guidelines for representing your business on Google*,
<https://support.google.com/business/answer/3038177?hl=en#zippy=%2Cownership>.

¹⁹ <https://www.gmbeye.com/> (emphasis added).

1 that they do not own. For example, the GBP Policies prohibit “[d]eceptive behavior,” such as claims
 2 “[g]uaranteeing placement on Google.”²⁰ Indeed, Google is explicit that “[i]t’s not possible for third
 3 parties to influence the order in which your business appears on Google Search or Maps.”²¹ Despite
 4 this, GMBEye’s website makes multiple claims to this effect, including statements such as: “[O]ur
 5 method makes it possible to have the exact keyword you are ranking for in the GMB name, which hits
 6 all the Google Algorithm for a top ranking GMB.”²² GMBEye also claims that the “GMBEye Instant
 7 Verification” method has a “100% success rate.”²³ Rafadigital similarly makes impossible claims,
 8 such as that it will “rank your business on Google My Business (GMB) to be #1 on map searches” and
 9 ensure that a website “shows up #1 on Google Search.”²⁴ Until recently, Rafadigital’s website made
 10 another, similar claim: “We Will Make Your Store #1 on Google.”

11 63. The GBP Policies further require entities that provide Business Profile administration
 12 services to “share the ‘Working with a third party’ disclosure notice with all of their customers,”²⁵
 13 including in a prominent location on their websites, but that notice does not appear on either
 14 GMBEye.com or Rafadigital.com.

15 64. To the extent Defendants’ Business Profiles are associated with any kind of legitimate
 16 businesses, they serve as “lead generation agents,” who are not permitted to use Google Business
 17 Profile, and are therefore in violation of the GBP TOS.²⁶

18 65. Additionally, Defendants violate the Google Maps User Contributed Content Policy
 19 (the “Maps UGC Policy”), which is incorporated by reference into Google’s TOS. The Maps UGC
 20 Policy expressly prohibits posting fake reviews by proscribing “[f]ake engagement,” defined as
 21 “content that does not represent a genuine experience,” and including “[c]ontent that is not based on a
 22

23 ²⁰ Google Business Profile, *Work with third parties*,
https://support.google.com/business/answer/7163406?hl=en&ref_topic=4540086.

24 ²¹ *Id.*

25 ²² <https://www.gmbeye.com/>.

26 ²³ *Id.*

27 ²⁴ See <https://rafadigital.com/>; Ethan Hu, *Rafadigital*, YOUTUBE (July 17, 2021),
<https://www.youtube.com/watch?v=LaatuyTb4w4>.

28 ²⁵ Google Business Profile, *Business Profile third-party policies*,
<https://support.google.com/business/answer/7353941> (setting forth policies “[t]o help maintain
 positive experiences when businesses use third parties to manage their Business Profile on Google”).

²⁶ Google Business Profile, *Guidelines for representing your business on Google*,
<https://support.google.com/business/answer/3038177?hl=en#zippy=%2Cineligible-businesses>.

1 real experience and does not accurately represent the location or product in question.”²⁷ These policies
 2 reflect that Google “go[es] to great lengths to make sure content published by our users is helpful and
 3 reflects the real world.”²⁸

4 66. Defendants post or arrange for the posting of this kind of fake engagement on their
 5 dummy Business Profiles and sell fake reviews in direct communications with their clients to build
 6 Business Profiles’ credibility. Accordingly, Defendants breached the Maps UGC Policy by posting,
 7 directly or through their agents, deliberately fake content, not based on real experiences and
 8 information, on Google Maps.

9 67. Due to Defendants’ actions, Google is forced to expend substantial time and resources
 10 conducting investigations to identify and disable accounts and Business Profiles implicated in
 11 Defendants’ scheme.

12 68. On information and belief, many consumers and businesses believe that Google is not
 13 doing enough to prevent Defendants’ fraudulent conduct, and that Google profits from such conduct.
 14 As a result, they blame Google for allowing Defendants’ fraudulent conduct, causing harm to Google
 15 and its business.

16 69. On information and belief, by disrupting Business Profiles, Search, and Maps with false
 17 and misleading information, Defendants’ conduct has undermined Google’s credibility and caused
 18 some consumers and businesses to avoid using Google’s mapping services, all to the detriment of
 19 Google and its business.

20 **COUNT I: BREACH OF CONTRACT**

21 70. Google realleges and incorporates by reference the allegations of each and every one
 22 of the preceding paragraphs as though fully set forth herein.

23 71. Defendants entered into binding and enforceable contracts with Google by expressly
 24 agreeing to Google’s TOS, as set forth above.

25
 26 ²⁷ Google Maps, Maps User Contributed Content Policy, *Prohibited and restricted content*,
 27 [https://support.google.com/contributionpolicy/answer/7400114?hl=en&ref_topic=7422769#zippy=](https://support.google.com/contributionpolicy/answer/7400114?hl=en&ref_topic=7422769#zippy=%2Cfake-engagement)
 28 [https://support.google.com/contributionpolicy/answer/7400114?hl=en&ref_topic=7422769#zippy=](https://support.google.com/contributionpolicy/answer/7400114?hl=en&ref_topic=7422769#zippy=%2Cfake-engagement)

²⁸ Google Maps, Maps User Contributed Content Policy, *Maps user-generated content policy*,
https://support.google.com/contributionpolicy/answer/7422880?hl=en&ref_topic=7422769.

1 72. Google has fully performed its obligations under the TOS.

2 73. Defendants breached their contractual obligations under the TOS in a number of ways,
3 including by creating Business Profiles for businesses that do not exist, attaching phone numbers to
4 Business Profiles that are not associated with those businesses, providing false information to Google
5 in connection with Business Profiles, using Business Profiles to generate leads and selling said leads
6 to third parties, failing to comply with Google’s rules for working with third parties, and posting or
7 causing to be posted on Google services deliberately fake reviews not based on real experiences.

8 74. As set forth above, as a result of Defendants’ breach of the TOS, Defendants have
9 caused Google to be damaged in an amount to be determined at trial, including by forcing Google to
10 incur expenses to investigate and address Defendants’ breach.

11 **COUNT II: VIOLATION OF CAL. BUS. & PROF. CODE § 17200, et seq.**

12 75. Google realleges and incorporates by reference all preceding paragraphs as if fully set
13 forth herein.

14 76. Defendants’ sale and authorship of fake Google Maps reviews is contrary to the Federal
15 Trade Commission’s (“FTC”) regulations governing the use of endorsements and testimonials. Those
16 rules require that endorsements “reflect the honest opinions, findings, beliefs, or experience of the
17 endorser” and prohibit “any express or implied representation that would be deceptive if made directly
18 by the advertiser.” 16 C.F.R. § 255.1(a). Defendants violate this provision by posting and causing to
19 be posted reviews of businesses they have never patronized and whose products and services they have
20 never experienced, all while falsely and deceptively implying to readers that they have.

21 77. Violation of FTC regulations is an unlawful business practice under California’s Unfair
22 Competition Law (“UCL”), Cal. Civ. Code § 17200.

23 78. Defendants’ unlawful business practices have directly resulted in economic harm to
24 Google, including the costs of Google’s investigation into those practices.

25 79. Absent an injunction prohibiting these unlawful business practices, Defendants are
26 likely to continue posting fake reviews in violation of FTC regulations and the UCL, including by
27 creating or using new and different Google accounts to evade Google’s attempts to detect and prohibit
28 Defendants’ fake reviews. Google faces irreparable harm from the ongoing impact of such fake

1 reviews on Google’s credibility, goodwill, and user experience.

2 **COUNT III: FALSE ADVERTISING (15 U.S.C. § 1125(a)(1)(B))**

3 80. Google realleges and incorporates by reference all preceding paragraphs as if fully set
4 forth herein.

5 81. Defendants have made material, false and misleading representations of fact in
6 commercial advertisements about the nature, characteristics, and qualities of Defendants’ services and
7 Google’s products and services, including statements such as those described above that Defendants
8 can “guarantee” “GMB listing for any US/CA location in any category,” that “We Will Make Your
9 Store #1 on Google,” and that they enable Business Profiles “to have the exact keyword you are
10 ranking for in the GMB name, which hits all the Google Algorithm for a top ranking GMB.” These
11 false and misleading statements have deceived and/or are likely to deceive a substantive segment of
12 the buying public.

13 82. Defendants also claim that their process “immediately establish[es] trust,” and made
14 similar express or implied statements outlined in Paragraphs 22-28. Such statements undermine
15 Google’s measures to ensure the integrity of its platform and are also likely to lead merchants to use
16 Defendants’ verification services rather than verify with Google in accordance with its terms.

17 83. Defendants’ fake reviews are also misleading, as they purport to represent the actual
18 experiences of consumers with a reviewed business, and imply that each reviewed business is a real
19 business.

20 84. Because businesses and users rely on accurate Google Business Profile information,
21 including reviews to attract and patronize businesses, such fake reviews and verification claims are
22 likely to harm goodwill in and the reputation of Google’s services.

23 85. Defendants have made such statements in commercial advertising or promotion in
24 interstate commerce, namely, on Defendants’ websites and in Business Profiles.

25 86. Defendants’ false and misleading claims are material to consumers because the claims
26 are likely to induce consumers to purchase Defendants’ services by causing consumers to believe that
27 Defendants are capable of guaranteeing verification, positive search engine placement, and other
28

1 outcomes.

2 87. Defendants’ conduct constitutes false advertisement and unfair competition in violation
3 of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(B).

4 88. Defendants’ deceptive conduct has injured and continues to injure consumers, and is
5 likely to cause and has caused harm to Google. Unless Defendants are enjoined by this Court pursuant
6 to 15 U.S.C. § 1116, Defendants will continue to mislead the public and cause harm to Google.

7 89. Defendants’ false and misleading claims are deliberate, willful, fraudulent, and without
8 extenuating circumstances. Defendants’ conduct is thus an “exceptional case” within the meaning of
9 section 35(a) of the Lanham Act, 15 U.S.C. § 1117(a). Google is therefore entitled to recover three
10 times the amount of its actual damages and the attorneys’ fees and costs incurred in this action, as well
11 as prejudgment interest.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Google respectfully requests the following relief:

- 14 A. That Defendants are adjudged to have breached Google’s TOS;
- 15 B. That Defendants are adjudged to have engaged in unlawful business acts or practices
16 in violation of California’s Unfair Competition Law;
- 17 C. That Defendants are adjudged to have violated 15 U.S.C. § 1125(a)(1)(B) by making
18 material, false, and misleading representations of fact in commercial advertisements
19 about the nature and qualities of Defendants’ products and services;
- 20 D. That Defendants be permanently enjoined from advertising or selling Business Profile
21 verification services, from creating or causing to be created fake Business Profiles; and
22 from posting or causing to be posted on any Google service fake reviews not based on
23 a user’s actual experience of the associated business’s goods or services;
- 24 E. That Google be awarded damages in an amount sufficient to compensate it for damages
25 caused by Defendants’ acts;
- 26 F. That Google be awarded pre-judgement and post-judgment interest; and
- 27 G. That Google be granted such further relief as the Court may deem just and equitable.
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JURY TRIAL DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Google respectfully demands a jury trial of all issues so triable.

Dated: June 16, 2023

Respectfully submitted,

By: /s/ Whitty Somvichian
Whitty Somvichian (194463)

WHITTY SOMVICHIAN (194463)
wsomvichian@cooley.com
REECE TREVOR (316685)
rtrevor@cooley.com
3 Embarcadero Center, 20th Floor
San Francisco, CA 94111-4004
Telephone: (415) 693-2000
Facsimile: (415) 693-2222

REBECCA GIVNER-FORBES (*pro hac vice forthcoming*)
rgf@cooley.com
1299 Pennsylvania Avenue, NW, Suite 700
Washington, DC 20004-2400
Telephone: (202) 842-7800
Facsimile: (202) 842 7899

Attorneys for Plaintiff
GOOGLE LLC

282603991