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11 Attorneys for Defendant  
 12 GOOGLE LLC

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA

15 JOHN COFFEE, MEI-LING MONTANEZ,  
 16 and S.M., a minor by MEI-LING  
 17 MONTANEZ, S.M.'s parent and guardian, on  
 18 behalf of themselves and all others similarly  
 19 situated,

20 Plaintiffs,

21 v.

22 GOOGLE LLC,

23 Defendant.

**Case No. 5:20-cv-03901-BLF**

**Date Action Filed: June 12, 2020**

**DEFENDANT GOOGLE LLC'S  
 ADMINISTRATIVE MOTION TO  
 CONSIDER WHETHER CASES  
 SHOULD BE RELATED**

**[LR 3-12(b) & 7-11]**

**Ctrm.: 3 - 5th Floor**

**Judge: Hon. Beth Labson Freeman**

**Robert F. Peckham Federal Building &  
 United States Courthouse  
 280 South 1st Street  
 San Jose, CA 95113**

**DEFENDANT'S ADMINISTRATIVE MOTION**

Pursuant to Civil Local Rules 3-12(b) and 7-11 of the United States District Court for the Northern District of California, Defendant Google LLC (“Google”) hereby moves the Court to consider whether the present case, *Coffee v. Google LLC*, Case No. 5:20-cv-03901-BLF (filed June 12, 2020) is related to any or all of the following class action cases under the local rules of this district:

Case Name	Case Number	Assigned Judge	Filing Date
<i>Sparks v. Google LLC, et al.</i>	5:21-cv-01516-NC	Judge Nathanael M. Cousins	03/03/2021
<i>Long v. Google LLC, et al.</i>	5:21-cv-01589-NC	Judge Nathanael M. Cousins	03/05/2021
<i>Lords v. Google LLC, et al.</i>	5:21-cv-01725-NC	Judge Nathanael M. Cousins	03/11/2021
<i>Bruschi v. Google LLC, et al.</i>	5:21-cv-01992-SVK	Judge Susan van Keulen	03/22/2021
<i>Andrews v. Google LLC</i>	3:21-cv-02100-WHO	Judge William H. Orrick III	03/25/2021

These matters are related because (1) they concern substantially the same parties, property, transaction or event, and (2) it appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges. Civil L.R. 3-12(a).

With regard to the *first* factor in the related case analysis, each of these cases is substantially similar to the *Coffee* action because the gravamen of each lawsuit is that certain video game content offered on the Google Play Store constitutes illegal gambling under various states’ laws. (See accompanying Declaration of Teresa H. Michaud In Support of the Administrative Motion (“Michaud Decl.”), at ¶ 3, **Ex. 1** (Amended Complaint in *Coffee* case, ECF 59 at ¶ 1); *Id.* at ¶ 4, **Ex. 2** (Complaint in *Sparks* case, ECF 1 at ¶ 1); *Id.* at ¶ 5, **Ex. 3** (Complaint in *Long* case, ECF 1 at ¶ 1); *Id.* at ¶ 6, **Ex. 4** (Complaint in *Lords* case, ECF 1 at ¶ 1); *Id.* at ¶ 7, **Ex. 5** (Complaint in *Bruschi* case, ECF 1 at ¶ 1); *Id.* at ¶ 8, **Ex. 6** (Complaint in *Andrews* case, ECF 1 ¶ 14.) Additional key similarities are as follows:

- 1 • Each names Google as the primary defendant.<sup>1</sup>
- 2 • Each alleges liability in connection with Google’s providing a content-neutral payment
- 3 tool allowing players to purchase virtual currency offered by videogame developers.
- 4 • Each seeks to impose liability on Google as the platform or publisher of allegedly illegal
- 5 video game content rather than on the respective developers who actually created such
- 6 content.

7 The Plaintiffs in the *Sparks, Long, Lords, and Bruschi* cases are each represented by the same  
8 attorneys.

9 As to the *second* related case factor, the cases present closely related or identical legal issues  
10 based on essentially the same core set of alleged facts. Therefore, having the cases conducted before  
11 different Judges presents a substantial likelihood of conflicting results on the following matters:

- 12 • Dispositive issue common to all cases: whether Section 230 of the Communications Decency  
13 Act, 47 U.S.C. § 230 *et seq.*, protects Google from state law liability for creating a platform  
14 to download video games and a payment tool to process purchases of virtual currency offered  
15 by third-party developers. This Court has already closely considered and resolved this issue  
16 in connection with Google’s motion to dismiss the initial complaint in the *Coffee* case, and is  
17 therefore familiar with both the relevant law and key alleged facts.
- 18 • Dispositive issue common to the *Coffee, Sparks, Long, Lords, and Bruschi* cases: whether  
19 Google’s processing payments for virtual currency on behalf of developers—in which  
20 consumers receive a set amount of such virtual currency in exchange for a set amount of U.S.  
21 dollars—can give rise to a common law claim for unjust enrichment.

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22  
23 <sup>1</sup> The *Sparks, Long, Lords, and Bruschi* cases also name Google Payment Corp. as a secondary  
24 defendant, but fail to make any specific allegations of wrongdoing against this entity. They instead  
25 make only *collective* allegations against both defendants. (*See, e.g., Michaud Decl., at ¶ 4, Ex. 2*  
26 (*Complaint in Sparks case*) ECF 1 at p. 2:1-3 (“Plaintiff John Sparks . . . alleges the following  
27 against Defendants Google, LLC (“Google LLC”) and Google Payment Corp. (“GPC”) (together,  
28 ‘Google’ or ‘Defendants’) . . . .).)

- 1 • Dispositive issue common to *Coffee* and *Andrews*: whether plaintiffs can establish standing  
2 under California’s Unfair Competition Law against Google. Counsel for the plaintiff in the  
3 *Andrews* case has also represented to the Judicial Panel on Multidistrict Litigation that a  
4 lawsuit substantially identical to the *Andrews* case bears significant factual overlap with a  
5 lawsuit substantially identical to the *Coffee* case (involving Apple’s App Store rather than  
6 Google’s Play Store). *See* Interested Party Response, CAN/5:21-cv-00553, *In re Apple Inc.*  
7 *App Store Simulated Casino-Style Games Litigation* (MDL Docket No. 2985), ECF 3 at 3.

8 Google also expects that the primary categories of discovery, including Google’s publishing  
9 of the games at issue and its content-neutral payment processing services, will substantially overlap  
10 across all cases, resulting in substantial cost and labor efficiencies if these matters all proceed before  
11 the same Court. This is especially so in the case of any discovery disputes that may arise.

12 For these reasons, the Court should determine that these actions are related and transfer the  
13 later filed case against Google LLC and Google Payment Corp. to this Court for further proceedings.

14 A courtesy copy of this motion will be lodged with the assigned Judge in each apparently  
15 related case under Civil L.R. 5-1(e).

16  
17 Dated: March 29, 2021

Respectfully submitted,

18 **BAKER & McKENZIE LLP**

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20 Bradford K. Newman  
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Anne K. Assayag

21 By: /s/ Teresa H. Michaud

22 Teresa H. Michaud  
23 Attorneys for Defendant  
GOOGLE LLC.