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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

H.K. and J.C., through their father and legal
guardian CLINTON FARWELL, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

GOOGLE, LLC,

Defendant.

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 On behalf of themselves and all others similarly situated, Plaintiffs H.K. and J.C., minor
2 children, by and through their father and legal guardian Clinton Farwell (collectively, “Plaintiffs”),
3 bring this Class Action Complaint against Google LLC (“Google”) for violation of Illinois’
4 Biometric Information Privacy Act (“BIPA”), 740 ILCS 14/1, *et seq.*, and violation of California’s
5 Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §17200, predicated on violation of the
6 federal Children’s Online Privacy Protection Act (“COPPA”), 15 U.S.C. § 501, *et seq.*, and allege
7 as follows based on personal knowledge as to themselves, on the investigation of their counsel and
8 the advice and consultation of certain third-party agents as to technical matters, and on information
9 and belief as to other matters, and demand trial by jury.

10 NATURE OF THE ACTION

11 1. Plaintiffs bring this action for damages and other legal and equitable remedies
12 resulting from the illegal actions of Google in collecting, storing, and using their and other
13 similarly situated childrens’ biometric identifiers¹ and biometric information² (referred to
14 collectively as “biometrics”), as well as numerous other forms of personally identifying
15 information, without their requisite consent of their legal guardians – in direct violation of both
16 BIPA and COPPA.

17 2. In 1999, to better protect the privacy of children under the age of 13, the United
18 States Congress enacted COPPA in response to a growing concern over the collection of children’s
19 data on the Internet. In passing COPPA, Congress specifically sought to increase parental
20 involvement in children’s online activities, ensure children’s safety during their participation in
21 online activities, and most importantly, protect children’s personal information. Ultimately,
22 Congress enacted COPPA with the specific goal of placing parents in control over what
23 information is collected from their young children online. To that end, COPPA requires, in
24 relevant part, that websites and online services fully and clearly disclose their data collection, use,
25 and disclosure practices, and obtain “verifiable parental consent” before collecting, using, or

26 ¹ A “biometric identifier” is any personal feature that is unique to an individual, including
27 fingerprints, iris scans, DNA and “face geometry,” among others.

28 ² “Biometric information” is any information captured, converted, stored, or shared based on
a person’s biometric identifier used to identify an individual.

1 disclosing personal information from children under 13. Further, COPPA requires websites and
2 online services to permit parents to review all personal information they collect and maintain from
3 children under 13, and to allow parents to refuse further use or maintenance of those data.

4 Similarly, websites and online services may not condition a child's use of a site or service on the
5 collection of more personal information than is reasonably necessary, and must take reasonable
6 steps to keep confidential and safe any personal information in their possession.

7 3. More recently, in 2008, the Illinois Legislature recognized the importance of
8 protecting the privacy of individuals' biometric data, finding that "[b]iometrics are unlike other
9 unique identifiers that are used to access finances or other sensitive information." 740 ILCS
10 14/5(c). "For example, social security numbers, when compromised, can be changed. Biometrics,
11 however, are biologically unique to the individual; therefore, once compromised, the individual has
12 no recourse, is at heightened risk for identity theft, and is likely to withdraw from biometric-
13 facilitated transactions." *Id.*

14 4. In recognition of these concerns over the security of individuals' biometrics, the
15 Illinois Legislature enacted BIPA, which provides, *inter alia*, that a private entity like Google may
16 not obtain and/or possess an individual's biometrics unless it: (1) informs that person in writing
17 that biometric identifiers or information will be collected or stored, *see id.*; (2) informs that person
18 in writing of the specific purpose and length of term for which such biometric identifiers or
19 biometric information is being collected, stored, and used, *see id.*; (3) receives a written release
20 from the person for the collection of her biometric identifiers or information, *see id.*; and (4)
21 publishes publicly available written retention schedules and guidelines for permanently destroying
22 biometric identifiers and biometric information, 740 ILCS 14/15(a).

23 5. Incredibly, Google has managed to violate both of these important consumer
24 protection statutes (COPPA and BIPA) at the same time, by collecting, storing, and using the
25 personally identifying biometric data of millions of school children throughout the country
26 (including thousands in Illinois), most of whom are under the age of 13, without seeking, much less
27 obtaining the requisite informed written consent from any of their parents or other legal guardians.
28

1 6. Google has infiltrated the primary and secondary school system in this country by
2 providing access to its “ChromeBook” laptops, which come pre-installed with its “G Suite for
3 Education” platform (formerly referred to as Google Apps for Education), to over half of the
4 nation’s school children, including those in Illinois, most of whom are under the age of 13. When
5 these children use Google’s “G Suite for Education” platform on the company’s ChromeBook
6 laptops at school, Google creates, collects, stores and uses their “face templates” (or “scans of face
7 geometry”) and “voiceprints” – highly sensitive and immutable biometric data – as well as various
8 other forms of personally identifying information pertaining to these children, including:

- 9 a. their physical locations;
- 10 b. the websites they visit;
- 11 c. every search term they use in Google’s search engine (and the results they
12 click on);
- 13 d. the videos they watch on YouTube;
- 14 e. personal contact lists;
- 15 f. voice recordings;
- 16 g. saved passwords; and
- 17 h. other behavioral information

18 7. Each voiceprint and face template that Google extracts from a child and catalogues
19 in its vast biometrics database is unique to that child, in the same way that a fingerprint uniquely
20 identifies one and only one person. Google supplements this biometric data with other personally
21 identifying information pertaining to each child, including the child’s e-mail address and name.

22 8. Thus, in direct violation of both BIPA and COPPA, Google has collected, stored,
23 and used (and continues to collect, store, and use) – without providing notice, obtaining informed
24 or verifiable parental consent, or publishing data retention policies – the biometrics and other
25 personally identifying information of millions of school children under the age of 13 across the
26 country, including tens of thousands of young children in Illinois.

27 9. Plaintiffs, individually and on behalf of other similarly situated children, by and
28 through their father and legal guardian Clinton Farwell, bring this action to stop Google from

1 further violating the BIPA-protected privacy rights of children in Illinois and the COPPA-protected
2 privacy rights of children under 13 all across the country in connection with their use of the “G
3 Suite for Education” platform, and to recover statutory damages for Google’s unauthorized
4 collection, storage, and use of Illinois students’ biometric data in violation of BIPA.

5 **PARTIES**

6 10. Plaintiffs H.K. and J.C., and their father and natural legal guardian, Clinton Farwell
7 are, and at all relevant times have been, citizens of the State of Illinois residing in Bushnell,
8 Illinois. Plaintiffs H.K. and J.C. were under the age of 13 when they used Google’s “G Suite for
9 Education” platform at their elementary school in Bushnell, Illinois, which is within Prairie City
10 Community Unit School District #170, and they are still under the age of 13 today. Neither
11 Plaintiff H.K. nor Plaintiff J.C. was asked for verifiable or written parental consent authorizing
12 Google extraction, collection, storage, and use of their personally and uniquely identifying
13 “biometric identifiers” or “biometric information,” nor was Plaintiffs’ father, Clinton Farwell,
14 notified of or asked to provide his written authorization to permit Google’s collection, storage, or
15 use of such data.

16 11. Google, LLC is a Delaware corporation with its headquarters at 1600 Amphitheatre
17 Parkway, Mountain View, California 94043. Google is also registered to do business in Illinois
18 (No. 65161605).

19 **JURISDICTION AND VENUE**

20 12. The Court has original subject-matter jurisdiction over this action pursuant to the
21 Class Action Fairness Act, 28 U.S.C. § 1332(d) (“CAFA”), because: (i) the proposed BIPA Class
22 consists of at least tens of thousands of members; (ii) at least one member of the proposed BIPA
23 Class, including both of the Plaintiffs as well as their father, is a citizen of a state different from
24 Google; and (iii) the aggregate amount in controversy exceeds \$5,000,000.00, exclusive of interests
25 and costs. Google has extracted, collected, stored, and used thousands of minor school childrens’
26 voiceprints and scans of face geometry in connection with their use of Google’s “G Suite for
27 Education” platform on the company’s “ChromeBook” laptops at primary and secondary schools in
28 Illinois. The estimated number of children who have been impacted by Google’s conduct in

1 Illinois multiplied by the BIPA’s statutory liquidated damages figure (\$5,000.00 for each
2 intentional or reckless violation and \$1,000.00 for each negligent violation) easily exceeds CAFA’s
3 \$5,000,000.00 threshold. The Court also has supplemental jurisdiction over Plaintiffs’ UCL claim
4 for injunctive relief arising from Google’s violations of COPPA pursuant to 28 U.S.C. § 1367.

5 13. Personal jurisdiction and venue are proper in California and within this District
6 because Defendant maintains its corporate headquarters and principal place of business within this
7 District, in Mountain View, California.

8 **FACTUAL BACKGROUND**

9 **I. Biometric Technology Implicates Consumer Privacy Concerns**

10 14. “Biometrics” refers to unique physical characteristics used to identify an individual.
11 One of the most prevalent uses of biometrics is in facial recognition technology, which works by
12 scanning a human face or an image thereof, extracting facial feature data based on specific
13 “biometric identifiers” (*i.e.*, details about the face’s geometry as determined by facial points and
14 contours), and comparing the resulting “face template” (or “faceprint”) against the face templates
15 stored in a “face template database.” If a database match is found, an individual can be identified.

16 15. The use of facial recognition technology in the commercial context presents
17 numerous consumer privacy concerns. During a 2012 hearing before the United States Senate
18 Subcommittee on Privacy, Technology, and the Law, a member of the U.S. Senate stated that
19 “there is nothing inherently right or wrong with [facial recognition technology, but] if we do not
20 stop and carefully consider the way we use [it], it may also be abused in ways that could threaten
21 basic aspects of our privacy and civil liberties.”³ Senator Franken noted, for example, that facial
22 recognition technology could be “abused to not only identify protesters at political events and
23 rallies, but to target them for selective jailing and prosecution.”⁴

24
25
26 ³ *What Facial Recognition Technology Means for Privacy and Civil Liberties: Hearing*
27 *Before the Subcomm. on Privacy, Tech. & the Law of the S. Comm. on the Judiciary*, 112th Cong. 1
(2012), available at [https://www.eff.org/files/filenode/jenniferlynch_eff-senate-testimony-](https://www.eff.org/files/filenode/jenniferlynch_eff-senate-testimony-face_recognition.pdf)
28 [face_recognition.pdf](https://www.eff.org/files/filenode/jenniferlynch_eff-senate-testimony-face_recognition.pdf) (last visited Feb. 18, 2020).

⁴ *Id.*

1 16. The Federal Trade Commission (“FTC”) has raised similar concerns, and recently
2 released a “Best Practices” guide for companies using facial recognition technology.⁵ In the guide,
3 the Commission underscores the importance of companies’ obtaining affirmative consent from
4 consumers before extracting and collecting their biometric identifiers and biometric information
5 from digital photographs.

6 **II. The Illinois Biometric Information Privacy Act**

7 17. In 2008, Illinois enacted the BIPA due to the “very serious need [for] protections for
8 the citizens of Illinois when it [comes to their] biometric information.” Illinois House Transcript,
9 2008 Reg. Sess. No. 276. The BIPA makes it unlawful for a company to, *inter alia*, “collect,
10 capture, purchase, receive through trade, or otherwise obtain a person’s or a customer’s biometric
11 identifiers⁶ or biometric information, unless it first:

12 (1) informs the subject . . . in writing that a biometric identifier or
13 biometric information is being collected or stored;

14 (2) informs the subject . . . in writing of the specific purpose and
15 length of term for which a biometric identifier or biometric
16 information is being collected, stored, and used; and

17 (3) receives a written release executed by the subject of the biometric
18 identifier or biometric information or the subject’s legally authorized
19 representative.”

20 740 ILCS 14/15 (b).

21 18. Section 15(a) of the BIPA also provides:

22 A private entity in possession of biometric identifiers or biometric
23 information must develop a written policy, made available to the
24 public, establishing a retention schedule and guidelines for
25 permanently destroying biometric identifiers and biometric
26 information when the initial purpose for collecting or obtaining such
27 identifiers or information has been satisfied or within 3 years of the
28 individual’s last interaction with the private entity, whichever occurs
first.

740 ILCS 14/15(a).

⁵ *Facing Facts: Best Practices for Common Uses of Facial Recognition Technologies*, Federal Trade Commission (Oct. 2012), available at <http://www.ftc.gov/sites/default/files/documents/reports/facing-facts-best-practices-common-uses-facial-recognition-technologies/121022facialtechrpt.pdf> (last visited Feb. 18, 2020).

⁶ BIPA’s definition of “biometric identifier” expressly includes information collected about the geometry of the face (i.e., facial data obtained through facial recognition technology). See 740 ILCS 14/10.

1 19. As alleged below, Google’s practices of collecting, storing, and using biometric
2 identifiers and information from school children in Illinois without the requisite informed written
3 consent violate all three prongs of § 15(b) of the BIPA. Google’s failure to provide a publicly
4 available written policy regarding its schedule and guidelines for the retention and permanent
5 destruction of these childrens’ biometrics also violates § 15(a) of the BIPA.

6 **III. The Federal Children’s Online Privacy Protection Act**

7 20. In 1999, recognizing the vulnerability of children in the Internet age, Congress
8 enacted the Children’s Online Privacy Protection Act (COPPA). *See* 15 U.S.C. §§ 6501–6506.
9 COPPA’s express goal is to protect children’s privacy while they are connected to the internet.
10 Under COPPA, developers of child-focused applications like Google’s “G Suite for Education”
11 service cannot lawfully obtain the personally identifiable information of children under 13 years of
12 age without first obtaining verifiable consent from their parents.

13 21. COPPA applies to any operator of a commercial website or online service
14 (including an app) that is directed to children and that: (a) collects, uses, and/or discloses
15 personally identifiable information from children, or (b) on whose behalf such information is
16 collected or maintained. Under COPPA, personally identifiable information is “collected or
17 maintained on behalf of an operator when...[t]he operator benefits by allowing another person to
18 collect personally identifiable information directly from users of” an online service. 16 C.F.R. §
19 312.2. In addition, COPPA applies to any operator of a commercial website or online service that
20 has actual knowledge that it collects, uses, and/or discloses personally identifiable information
21 from children.

22 22. Under COPPA, “personally identifiable information” includes information like
23 names, email addresses, and social security numbers. COPPA’s broad definition of “personally
24 identifiable information” is as follows:

25 “individually identifiable information about an individual collected
26 online,” which includes (1) a first and last name; (2) a physical
27 address including street name and name of a city or town; (3) online
28 contact information (separately defined as “an email address or any
other substantially similar identifier that permits direct contact with a
person online”); (4) a screen name or user name; (5) telephone
number; (6) social security number; (7) a media file containing a

1 child’s image or voice; (8) geolocation information sufficient to
2 identify street name and name of a city or town; (9) a “persistent
3 identifier that can be used to recognize a user over time and across
4 different Web sites or online services” (including but not limited to
5 “a customer number held in a cookie, an Internet Protocol (IP)
address, a processor or device serial number, or unique device
6 identifier”); and (10) any information concerning the child or the
child’s parents that the operator collects then combines with an
7 identifier.

8 23. The FTC regards “persistent identifiers” as “personally identifiable” information
9 that can be reasonably linked to a particular child. The FTC amended COPPA’s definition of
10 “personally identifiable information” to clarify the inclusion of persistent identifiers.⁷

11 24. In order to lawfully collect, use, or disclose personally identifiable information,
12 COPPA requires that an operator meet specific requirements, including each of the following:

- 13 a. Posting a privacy policy on its website or online service providing clear,
14 understandable, and complete notice of its information practices, including
15 what information the website operator collects from children online, how it
16 uses such information, its disclosure practices for such information, and
17 other specific disclosures as set forth in the Rule;
- 18 b. Providing clear, understandable, and complete notice of its information
19 practices, including specific disclosures, directly to parents; and
- 20 c. Obtaining verifiable parental consent prior to collecting, using, and/or
21 disclosing personally identifiable information from children.

22 25. Under COPPA, “[o]btaining verifiable consent means making any reasonable effort
23 (taking into consideration available technology) to ensure that before personally identifiable
24 information is collected from a child, a parent of the child. . . [r]eceives notice of the operator’s
25 personally identifiable information collection, use, and disclosure practices; and [a]uthorizes any
26 collection, use, and/or disclosure of the personally identifiable information.” 16 C.F.R. § 312.2.

27 ⁷ See [https://www.ftc.gov/news-events/blogs/business-blog/2016/04/keeping-](https://www.ftc.gov/news-events/blogs/business-blog/2016/04/keeping-onlineadvertising-industry)
28 [onlineadvertising-industry](https://www.ftc.gov/news-events/blogs/business-blog/2016/04/keeping-onlineadvertising-industry) (2016 FTC Blog post from Director of the FTC Bureau of Consumer
Protection) (last visited November 22, 2019).

1 26. The FTC recently clarified acceptable methods for obtaining verifiable parental
2 consent, which include:

- 3 a. providing a consent form for parents to sign and return;
4 b. requiring the use of a credit card/online payment that provides notification of
5 each transaction;
6 c. connecting to trained personnel via video conference;
7 d. calling a staffed toll-free number;
8 e. emailing the parent soliciting a response email plus requesting follow-up
9 information from the parent;
10 f. asking knowledge-based questions; or
11 g. verifying a photo ID from the parent compared to a second photo using
12 facial recognition technology.⁸

13 27. As alleged below, Google’s practices of collecting, storing and using biometric
14 identifiers, biometric information, and other personally identifying information from school
15 children under 13, without the requisite verifiable parental consent, are in clear violation of
16 COPPA.

17 **IV. Google Violates Both the Illinois BIPA and the Federal COPPA**

18 28. In 2011, Google’s then-CEO Eric Schmidt discussed the company’s past
19 development of facial recognition technology, and explained that he had put the brakes on the
20 program due to the profound implications he believed the technology would have on individuals’
21 privacy rights. Characterizing facial recognition technology as “crossing the creepy line,” Mr.
22 Schmidt said at the time “that [Google] would not build a database capable of recognizing
23 individual faces even though it is increasingly possible.” Matt Warman, *Google Warns Against*
24 *Facial Recognition Database*, THE TELEGRAPH, May 18, 2011, available at
25 <http://www.telegraph.co.uk/technology/google/8522574/Google-warns-against-facial-recognition->
26

27 _____
28 ⁸ See <https://www.ftc.gov/tipsadvice/business-center/guidance/childrens-online-privacy-protection-rule-six-step-compliance> (last visited November 22, 2019).

1 technology.html. Nonetheless, Mr. Schmidt predicted that “some company by the way is going to
2 cross that line.” *Id.*

3 29. In 2013, Mr. Schmidt wrote a piece for The Wall Street Journal, titled “The Dark
4 Side of the Digital Revolution,” in which he again cautioned against the collection of Americans’
5 biometric data and advocated in favor of regulating the collection and use of such data in this
6 country, writing in pertinent part:

7 Today’s facial-recognition systems use a camera to zoom in on an
8 individual’s eyes, mouth and nose, and extract a “feature vector,” a
9 set of numbers that describes key aspects of the image, such as the
10 precise distance between the eyes. (Remember, in the end, digital
11 images are just numbers.) Those numbers can be fed back into a
12 large database of faces in search of a match. The accuracy of this
13 software is limited today (by, among other things, pictures shot in
14 profile), but the progress in this field is remarkable. A team at
Carnegie Mellon demonstrated in a 2011 study that the combination
of “off-the-shelf” facial recognition software and publicly available
online data (such as social network profiles) can match a large
number of faces very quickly. With cloud computing, it takes just
seconds to compare millions of faces. The accuracy improves with
people who have many pictures of themselves available online—
which, in the age of Facebook, is practically everyone.

15 By indexing our biometric signatures, some governments will try to
16 track our every move and word, both physically and digitally. That’s
17 why we need to fight hard not just for our own privacy and security,
but also for those who are not equipped to do so themselves. We can
regulate biometric data at home in democratic countries, which helps.

18 Eric Schmidt, *The Dark Side of the Digital Revolution*, THE WALL STREET JOURNAL, Apr. 19, 2013,
19 available at <https://www.wsj.com/articles/SB10001424127887324030704578424650479285218>.

20 30. Ironically, the company that Google’s CEO predicted in 2011 would one day “cross
21 that line” by diving into the consumer biometrics-collection business turned out to be none other
22 than Google itself.

23 31. In May 2015, Google announced the release of its web- and mobile app-based photo
24 sharing and storage service called Google Photos. Users of Google Photos immediately began
25 uploading millions of photos per day through the service, and Google in turn began using its
26 “FaceNet”-powered facial recognition technology to extract, collect, store, and catalog the
27 biometric data of everyone whose faces appeared in all of those uploaded photographs, in real
28

1 time.⁹ Google has sold licenses to its Google Photos APIs, including APIs that enable the use of its
2 facial recognition technology, to various mobile application developers, and derives substantial
3 commercial profit from such sales. Thus, less than four years after warning of the immense
4 dangers posed by facial recognition technology, Google began using that very technology to collect
5 the immutable biometric data of hundreds of millions of its users worldwide.

6 32. But Google’s pursuit of the world’s biometric data didn’t end there. Most recently,
7 Google has unleashed its immensely powerful biometrics-collection technology on primary and
8 secondary school children throughout the country, including across the state of Illinois.

9 33. Specifically, Google provides its “ChromeBook” laptops to grade schools,
10 elementary schools, and high schools nationwide, who in turn make these computing devices
11 available for use by children who attend their schools. The ChromeBooks that Google provides to
12 schools come equipped with Google’s “G Suite for Education” platform, a cloud-based service
13 used by young students under the age of 13 all across the country, including the state of Illinois.

14 34. To drive adoption in more schools – and to alleviate legitimate concerns about its
15 history of privacy abuses – Google publicly assured parents, students, and educators alike that the
16 company takes student privacy seriously and that it only collects education-related data from
17 students using its “G Suite for Education” platform. Google also publicly promised never to mine
18 student data for its own commercial purposes. In particular, Google has stated that it recognizes
19 that “trust is earned through protecting teacher and student privacy” and has made a number of
20 public promises designed to convince parents, teachers, school districts, and students that it will
21 protect the privacy of students who use the “G Suite for Education” platform.¹⁰

22 35. To reaffirm the commitments it has made over the years to safeguard and protect
23 student privacy, including to school districts, Google signed the K-12 School Service Provider
24

25 ⁹ A research paper released by Google engineers at around the same time as the release of
26 Google Photos describes FaceNet as “a unified system for face verification (is this the same
27 person), recognition (who is this person) and clustering (find common people among these faces).”
Schroff, Florian, et al., “FaceNet: A Unified Embedding for Face Recognition and Clustering,”
June 7, 2015, available at <https://ieeexplore.ieee.org/document/7298682>.

28 ¹⁰ Privacy and Security, Google LLC, http://services.google.com/th/files/misc/gsuite_for_education_privacy_security.pdf (last visited March 26, 2020).

1 Pledge to Safeguard Student Privacy (the “Student Privacy Pledge”) in or around January 2015.
2 The Student Privacy Pledge is a set of principles and promises developed by the Future of Privacy
3 Forum and The Software & Information Industry Association regarding the collection, use, and
4 maintenance of student data.¹¹ Though not an original signatory, and hesitant to sign on (only
5 succumbing after public outrage), Googled eventually signed the Student Privacy Pledge¹² and
6 affirmatively and expressly committed to:

- 7 a. Not collect, maintain, use or share student personal information beyond that
8 needed for authorized educational/school purposes, or as authorized by the
9 parent/student;
- 10 b. Not use or disclose student information collected through an
11 educational/school service (whether personal information or otherwise) for
12 behavioral targeting of advertisements to students;
- 13 c. Not build a personal profile of a student other than for supporting authorized
14 educational/school purposes or as authorized by the parent/student;
- 15 d. Not knowingly retain student personal information beyond the time period
16 required to support the authorized educational/school purposes, or as
17 authorized by the parent/student;
- 18 e. Collect, use, share, and retain student personal information only for purposes
19 for which Google was authorized by the educational institution/agency,
20 teacher, or the parent/student; and
- 21 f. Disclose clearly in contracts or privacy policies, including in a manner easy
22 for parents to understand, what types of student personal information Google
23 collects, if any, and the purposes for which the information Google
24 maintains is used or shared with third parties.

25 ¹¹ Student Privacy Pledge Signatories, Future of Privacy Forum and The Software &
26 Information Industry Association, <https://studentprivacypledge.org/signatories/> (last visited March
26, 2020).

27 ¹² Google Changes Course, Signs Student Data Privacy Pledge, Wall Street Journal,
28 <https://blogs.wsj.com/digits/2015/01/20/google-changes-course-signs-student-data-privacypledge/> (last visited March 26, 2020).

1 36. Although Google publicly promoted its decision to sign the Student Privacy Pledge,
2 and received positive coverage in the press for having done so, Google quickly began breaking the
3 commitments it had made in the Pledge.

4 37. Specifically, since signing the Student Privacy Pledge, Google has implemented
5 features on its “G Suite for Education” platform that instruct children to speak into the recording
6 device on the ChromeBook laptops utilized at their schools (whereupon Google records the
7 acoustic details and characteristics of their voices), and to look into the ChromeBook’s camera as
8 well (whereupon Google scans and images the geometry of their faces, including the contours of
9 their faces and the distances between certain localized facial points, such as the distances between
10 the eyes and noses and ears).

11 38. After Google has obtained the voice of a child using its “G Suite for Education”
12 platform on one of its “ChromeBook” laptops, Google extracts, collects, stores, and catalogs the
13 child’s “voiceprint”—a unique, immutable, and highly sensitive biometric identifier used to
14 identify a person—in its vast database of personally identifying biometric data. Likewise, after
15 Google has scanned and imaged the face of a child using its “G Suite for Education” platform on
16 one of its “ChromeBook” laptops, Google extracts, collects, stores, and catalogs the child’s “scan
17 of face geometry” (also known as a “face template”)—another unique, immutable, and highly
18 sensitive biometric identifier used to identify a person—in its vast database of personally
19 identifying biometric data. Accordingly, Google collects the “biometric identifiers” of children
20 whose voices are recorded and whose faces are scanned while using its “G Suite for Education”
21 platform in schools in Illinois and across the country, including of Plaintiffs and numerous other
22 children under the age of 13. *See* 740 ILCS 14/10.

23 39. Google uses the voiceprints and face templates it collects to, *inter alia*, identify and
24 track the children who use its ChromeBook laptops and the “G Suite for Education” platform that
25 comes installed on them. This technology works by comparing the voiceprints and face templates
26 of children whose voices are recorded and faces are scanned while using a ChromeBook with the
27 voiceprints and facial templates already saved in Google’s vast biometrics database. Specifically,
28 when a child’s face is scanned or voice is recorded using the “G Suite for Education” platform on a

1 ChromeBook laptop, Google’s sophisticated voice and facial recognition technology creates a
2 voiceprint for the child’s voice or a or a face template for the child’s face, and then compares the
3 generated voiceprint or face template against the voiceprints and face templates already stored in
4 its database. If there is a match, then Google is able to confirm the identity of the child using its
5 platform, enhancing the functionality of the various features available on the platform and enabling
6 Google to further improve the quality of the child’s voiceprint or face template stored in its
7 database.

8 40. The unique voiceprints and face templates that Google has collected from children
9 in Illinois and across the country are not only used by Google to identify children by name, they
10 are also used by Google to recognize childrens’ gender, age, and location. Accordingly, Google
11 collects the “biometric information” of children whose voices are recorded and whose faces are
12 scanned while using its “G Suite for Education” platform in schools in Illinois and across the
13 country. *See* 740 ILCS 14/10.

14 41. In direct violation of §§ 15(b)(2) and 15(b)(3) of the BIPA, Google never informed
15 the parents of the children in Illinois (or elsewhere in the country) whose voiceprints and face
16 templates it has collected of the specific purpose and length of term for which their children’s
17 biometric identifiers and information would be collected, stored, and used, nor did Google obtain a
18 written release from the parents of any of these children.

19 42. In direct violation of § 15(a) of the BIPA, Google does not have written, publicly
20 available policies identifying their retention schedules, or guidelines for permanently destroying
21 the biometric identifiers and biometric information of these children.

22 43. Moreover, the “biometric identifiers” and “biometric information” Google collected
23 (and continues to collect) from children who used (and continue to use) its “G Suite for Education”
24 platform, at schools in both Illinois and elsewhere throughout the country, also constitute
25 “personally identifiable information” within the meaning of COPPA. And Google, by making
26 commercially available and operating its online, cloud-based “G Suite for Education” service with
27 actual knowledge that it collects, uses, and/or discloses personally identifiable information from
28 children, constitutes an “operator” of such a service within the meaning of COPPA.

1 44. Google collected, stored, and used this “personally identifiable information”—
2 namely, the biometric identifiers and biometric information belonging to Plaintiffs and millions of
3 other children under age 13 across the United States, as well as the names and other personal
4 information capable of identifying the children to whom this sensitive biometric data belongs—
5 without first “[o]btaining verifiable consent” within the meaning of COPPA. Indeed, by engaging
6 in these practices as alleged herein, Google failed to “mak[e] any reasonable effort (taking into
7 consideration available technology) to ensure that before personally identifiable information is
8 collected from a child, a parent of the child. . . [r]eceive[s] notice of the operator’s personally
9 identifiable information collection, use, and disclosure practices; and [a]uthorizes any collection,
10 use, and/or disclosure of the personally identifiable information.” 16 C.F.R. § 312.2.

11 45. Thus, both BIPA and COPPA clearly prohibits what Google has done, Google has
12 known so since at least 2015, and yet Google has made no effort to come into compliance with
13 BIPA or COPPA at any point during that five-year period (be it by obtaining the requisite signed
14 written release or verifiable consent from the from the parents or legal guardians of the children
15 whose biometrics it collects in Illinois or by turning the technology off in Illinois’ schools
16 altogether).

17 **V. Plaintiffs’ Experiences**

18 46. Google provides “ChromeBook” laptops to grade schools, elementary schools, and
19 high schools nationwide, who in turn make these computing devices available for use by children
20 who attend their schools. These Google-manufactured and provided laptops come equipped with
21 Google’s “G Suite for Education” platform, which requires the children using it to speak into a
22 microphone on the laptop that records their voices and to look into a camera on the laptop that
23 scans their faces.

24 47. At all times during the time period relevant to this action, Plaintiffs have resided in
25 Illinois and attended a primary school in Illinois, where they were provided access to Google-
26 supplied “ChromeBook” laptops, pre-installed with Google’s “G Suite for Education” platform by
27 school officials. Using accounts linked to their names and other personal details that Google had
28 established for them on its ChromeBook laptops and “G Suite for Education” platform, Plaintiffs

1 frequently have logged into their accounts and used the “G Suite for Education” platform on these
2 ChromeBook laptops while attending school, including features of the platform that required
3 Plaintiffs to speak into the laptop’s audio recording device and look into the laptop’s camera, at
4 which point Google recorded Plaintiffs’ voices and imaged their faces.

5 48. After Google obtained recordings of Plaintiffs’ voices while they used the “G Suite
6 for Education” platform on “ChromeBook” laptops, Google extracted, collected, stored, and
7 cataloged each of their “voiceprints”—a unique, immutable, and highly sensitive biometric
8 identifier used to identify them—in its vast database of personally identifying biometric data.
9 Likewise, after Google scanned and imaged Plaintiffs’ faces while they used the “G Suite for
10 Education” platform on “ChromeBook” laptops, Google extracted, collected, stored, and cataloged
11 their “scans of face geometry” (i.e., “face templates”)—another unique, immutable, and highly
12 sensitive biometric identifier used to identify them—in its vast database of personally identifying
13 biometric data. Accordingly, unbeknownst to Plaintiffs or their father, Clinton Farwell, Google
14 collected Plaintiffs’ “biometric identifiers” as they used the company’s “G Suite for Education”
15 platform at their school in Illinois. *See* 740 ILCS 14/10.

16 49. Google uses the voiceprints and face templates that it extracted from Plaintiffs’
17 voices and faces to, *inter alia*, identify them while using its ChromeBook laptops and “G Suite for
18 Education” platform. Specifically, each time either of the Plaintiffs’ faces is imaged or voices is
19 recorded while they are using the “G Suite for Education” platform on a ChromeBook laptop at
20 school, Google’s sophisticated voice or facial recognition technology creates a voiceprint of the
21 Plaintiff’s voice or a or a face template of the Plaintiff’s face, and then compares the newly
22 generated voiceprint or face template against the collection of voiceprints or face templates already
23 stored in its database, whereupon Google is able to match the newly collected voiceprint or face
24 template with the voiceprints or face templates previously collected from the Plaintiff that are
25 stored in its database and linked to the Plaintiff’s identity. If there is a match, Google is able to
26 confirm the identity of the child using its platform, and also uses the information derived from the
27 match to improve the quality and detail of the child’s voiceprint or face template saved in its
28

1 database and thus better train the functionality of the various features available on its platform—
2 enhancing the formidability of its brand in the process.

3 50. The unique voiceprints and face templates Google extracted from Plaintiffs' voices
4 and faces were not only collected and used by Google to identify Plaintiffs by name, they have also
5 been used by Google to recognize Plaintiffs' gender, age, and location. Accordingly, unbeknownst
6 to Plaintiffs or their father, Clinton Farwell, Google collected Plaintiffs' "biometric information" as
7 they used the company's "G Suite for Education" platform at their school in Illinois. *See* 740 ILCS
8 14/10.

9 51. In direct violation of §§ 15(b)(2) and 15(b)(3) of BIPA, Google never informed the
10 parents of the children in Illinois (or elsewhere in the country) whose voiceprints and face
11 templates it collected of the specific purpose and length of term for which their children's
12 biometric identifiers and information would be collected, stored, and used, nor did Google obtain a
13 written release from the parents of any of these children.

14 52. In direct violation of § 15(a) of BIPA, Google does not have written, publicly
15 available policies identifying their retention schedules, or guidelines for permanently destroying
16 the biometric identifiers and biometric information of these school children.

17 53. Neither Clinton Farwell (Plaintiffs' father, legal guardian, and authorized
18 representative) nor any other BIPA Class member's parent, legal guardian, or authorized
19 representative received a disclosure from Google that it would collect, capture, otherwise obtain, or
20 store unique biometric identifiers or biometric information extracted from their child's face or
21 voice, and neither Clinton Farwell nor any other Class member's parent, legal guardian, or
22 authorized representative ever consented, agreed or gave permission—via a written release or
23 otherwise—to authorize or permit Google to collect, capture, otherwise obtain, or store their child's
24 sensitive biometric data or in this way.

25 54. Likewise, Google never provided Clinton Farwell (Plaintiffs' father, legal guardian,
26 and authorized representative) or any other parent, legal guardian, or authorized representative of
27 any member of the Classes with an opportunity to prohibit or prevent the collection, storage, or use
28

1 of their child's unique biometric identifiers, biometric information, or other personally identifying
2 information.

3 55. Nevertheless, when Plaintiffs and the unnamed members of the BIPA Class spoke to
4 or had their faces imaged in connection with their use of Google's "G Suite for Education"
5 platform in Illinois, Google's sophisticated face and voice recognition technologies scanned the
6 recordings of their voices and the geometry of their faces that it had collected, and created unique
7 "voiceprints" and "face templates" corresponding to Plaintiffs and each member of the proposed
8 Classes, all in direct violation of BIPA and COPPA.

9 56. Additionally, in connection with Plaintiffs' and COPPA Class members' use of the
10 "G Suite for Education" platform at schools in Illinois and across the country, Google has also
11 collected and continues to collect, without first obtaining "verifiable parental consent," browsing
12 histories, contact lists, and audio notes and memos pertaining to Plaintiffs and the other COPPA
13 Class members under the age of 13 across the United States, including in Illinois, as well as the
14 Plaintiffs' and COPPA Class members' names and uniquely identifying school email addresses in
15 direct violation of COPPA, 16 C.F.R. § 31 2.4.

16 CLASS ALLEGATIONS

17 57. **Proposed Class Definition:** Plaintiffs, by and through their father and legal
18 guardian, bring this action pursuant to Federal Rules of Civil Procedure 23(b)(2) and 23(b)(3) on
19 behalf of two classes of similarly situated individuals. The first class Plaintiffs seek to represent is
20 defined as follows (the "BIPA Class"):

21 All persons who, while using the "G Suite for Education" platform at
22 a primary or secondary school in Illinois, had their voiceprint or face
template collected by Google after March 26, 2015.

23 The second class Plaintiffs seek to represent is defined as follows (the "COPPA Class"):

24 All persons under the age of 13 who, while using the "G Suite for
25 Education" platform at a primary or secondary school in the United
26 States, had their voiceprint, face template, or other personally
identifiable information collected by Google after March 26, 2016.

27 58. The BIPA Class and the COPPA Class are at times collectively referred to herein as
28 the "Classes."

1 59. **Numerosity:** The number of persons within each of the Classes is substantial,
2 believed to amount to millions of children for the COPPA Class and tens of thousands of children
3 for the BIPA Class. It is, therefore, impractical to join all members of the Classes as named
4 plaintiffs. Further, the size and relatively modest value of the claims of the individual members of
5 the BIPA Class, and the purely injunctive relief sought on behalf of the members of the COPPA
6 Class, renders joinder impractical. Accordingly, utilization of the class action mechanism is the
7 most economically feasible means of determining and adjudicating the merits of this litigation.

8 60. **Commonality and Predominance:** There are well-defined common questions of
9 fact and law that exist as to all members of the Classes and that predominate over any questions
10 affecting only individual members of the Classes. With respect to the BIPA Class, these common
11 legal and factual questions, which do not vary from member to member, and which may be
12 determined without reference to the individual circumstances of any individual member, include
13 but are not limited to the following:

- 14 a. whether Google collected, captured, or otherwise obtained Plaintiffs' and
15 other Illinois school children's "biometric identifiers" or "biometric
16 information" in connection with their use of the "G Suite for Education"
17 platform at primary and secondary schools in Illinois during the preceding
18 five years;
- 19 b. whether Google stored Plaintiffs' and the BIPA Class's "biometric
20 identifiers" or "biometric information";
- 21 c. whether Google informed Plaintiffs and the BIPA Class that it would collect,
22 capture, otherwise obtain and then store their "biometric identifiers" or
23 "biometric information";
- 24 d. whether Google obtained a written release (as defined in 740 ILCS 14/10)
25 prior to collecting, capturing, or otherwise obtaining, and then storing,
26 Plaintiffs' and the BIPA Class's "biometric identifiers" or "biometric
27 information";

- e. whether Google developed a written policy, made available to the public, establishing a retention schedule and guidelines for permanently destroying “biometric identifiers” and “biometric information” when the initial purpose for collecting, capturing, or otherwise obtaining these “biometric identifiers” and “biometric information” has been satisfied or within 3 years of their last interaction with Plaintiffs and members of the BIPA Class, whichever occurs first;
- f. whether Google used Plaintiffs’ and the BIPA Class’s “biometric information” to identify them;
- g. whether Google’s violations of the BIPA were committed negligently; and
- h. whether Google’s violations of the BIPA were committed intentionally or recklessly.

61. With respect to the COPPA Class, these common legal and factual questions, which do not vary from member to member, and which may be determined without reference to the individual circumstances of any individual member, include but are not limited to the following:

- a. whether Google collected, captured, or otherwise obtained “biometric identifiers” or “biometric information” from Plaintiffs and other children under the age of 13 in connection with their use of the “G Suite for Education” platform at primary and secondary schools in the United States during the preceding four years;
- b. whether “biometric identifiers” and “biometric information” constitute “personally identifiable information” within the meaning of COPPA;
- c. whether Google collected, captured, or otherwise obtained the “biometric identifiers,” “biometric information,” or other personally identifiable information from COPPA Class members in connection with their use of the “G Suite for Education” platform at primary and secondary schools;
- d. whether Google properly informed COPPA Class members’ parents or legal guardians and the BIPA Class that it would collect, capture, otherwise obtain

1 and then store their “biometric identifiers”, “biometric information”, or other
2 collected personally identifiable information within the meaning of COPPA;
3 and

- 4 e. whether Google obtained “verifiable parental consent” before collecting,
5 using, or disclosing “biometric identifiers”, “biometric information”, or
6 other collected personal information from COPPA Class members.

7 62. **Adequate Representation:** Plaintiffs have retained and are represented by qualified
8 and competent counsel who are highly experienced in complex consumer class action litigation.
9 Plaintiffs and their counsel are committed to vigorously prosecuting this class action. Neither of
10 the Plaintiffs, nor any of their counsel, have any interest adverse to, or in conflict with, the interests
11 of the absent members of the Classes. Plaintiffs are able to fairly and adequately represent and
12 protect the interests of the Classes. Plaintiffs have raised viable statutory claims of the type
13 reasonably expected to be raised by members of the Classes, and will vigorously pursue those
14 claims. If necessary, Plaintiffs may seek leave of this Court to amend this Complaint to include
15 additional representatives to represent the Classes or to add additional claims or classes as may be
16 appropriate.

17 63. **Superiority:** A class action is superior to other available methods for the fair and
18 efficient adjudication of this controversy because individual litigation of the claims of all members
19 of the Classes is impracticable. Even if every member of the Classes could afford to pursue
20 individual litigation, the Court system could not. It would be unduly burdensome to the courts in
21 which individual litigation of numerous cases would proceed. Individualized litigation would also
22 present the potential for varying, inconsistent or contradictory judgments, and would magnify the
23 delay and expense to all parties and to the court system resulting from multiple trials of the same
24 factual issues. By contrast, the maintenance of this action as a class action, with respect to some or
25 all of the issues presented herein, presents few management difficulties, conserves the resources of
26 the parties and of the court system and protects the rights of each member of the Classes. Plaintiffs
27 anticipate no difficulty in the management of this action as a class action. Class-wide relief is
28 essential to compel compliance with BIPA and COPPA.

FIRST CAUSE OF ACTION
Violation of 740 ILCS 14/1, *et seq.*
(On Behalf of Plaintiffs and the BIPA Class)

64. Plaintiffs incorporate the foregoing allegations as if fully set forth herein.

65. BIPA makes it unlawful for any private entity to, among other things, “collect, capture, purchase, receive through trade, or otherwise obtain a person’s or a customer’s biometric identifiers or biometric information, unless it first: (1) informs the subject . . . in writing that a biometric identifier or biometric information is being collected or stored; (2) informs the subject . . . in writing of the specific purpose and length of term for which a biometric identifier or biometric information is being collected, stored, and used; and (3) receives a written release executed by the subject of the biometric identifier or biometric information or the subject’s legally authorized representative.” 740 ILCS 14/15(b).

66. Plaintiffs’ father and legal guardian, Clinton Farwell, is Plaintiffs’ “legally authorized representative” within the meaning of BIPA, and served in such capacity at all times relevant to this action. *See* 740 ILCS 14/15 (b).

67. Google is a corporation and thus qualifies as a “private entity” under the BIPA. *See* 740 ILCS 14/10.

68. Plaintiffs and the BIPA Class members are minor children who had their “biometric identifiers,” including their voiceprints and scans of face geometry, collected, captured, received, or otherwise obtained by Google in connection with their use of Google’s “G Suite for Education” platform at a primary school in Illinois after March 26, 2015. *See* 740 ILCS 14/10.

69. Plaintiffs and all members of the BIPA Class are minor children who had their “biometric information” collected by Google (in the form of their gender, age, and location) through Google’s collection and use of personally identifying information derived from their “biometric identifiers” that Google has used to identify them.

70. Google systematically collected, captured, or otherwise obtained Plaintiffs’ and the BIPA Class members’ “biometric identifiers” and “biometric information” without first obtaining signed written releases, as required by 740 ILCS 14/15(b)(3), from any of them or their “legally authorized representatives,” i.e., their parents or legal guardians.

1 71. In fact, Google failed to properly inform Plaintiffs or members of the BIPA Class,
2 or any of the foregoing's parents, legal guardians, or other "legally authorized representatives," in
3 writing that Plaintiffs' or the BIPA Class members' "biometric identifiers" and "biometric
4 information" were being "collected or stored" by Google, nor did Google inform Plaintiffs or
5 members of the BIPA Class, or any of the foregoing's parents, legal guardians, or other "legally
6 authorized representatives," in writing of the specific purpose and length of term for which
7 Plaintiffs' or the BIPA Class members' "biometric identifiers" and "biometric information" were
8 being "collected, stored and used" as required by 740 ILCS 14/15(b)(1)-(2).

9 72. In addition, Google does not publicly provide a retention schedule or guidelines for
10 permanently destroying the "biometric identifiers" and "biometric information" of Plaintiffs or the
11 BIPA Class members, as required by the BIPA. *See* 740 ILCS 14/15(a).

12 73. Google has denied BIPA's promise of privacy to those who need it most. By
13 collecting, storing, and using Plaintiffs' and the other BIPA Class members' "biometric identifiers"
14 and "biometric information" as described herein, Google recklessly or intentionally violated each
15 of BIPA's requirements, and infringed Plaintiffs' and the other Class members' rights to keep their
16 sensitive, immutable, and uniquely identifying biometric data private.

17 74. On behalf of themselves and the proposed BIPA Class members, by and through
18 their father and natural legal guardian, Clinton Farwell, Plaintiffs seek: (1) injunctive and equitable
19 relief as is necessary to protect the interests of Plaintiffs and the other members of the BIPA Class
20 by requiring Google to comply with the BIPA's requirements for the collection, capture, and
21 storage of "biometric identifiers" and "biometric information" as described herein, including to
22 permanently destroy the biometric data it has collected from minor children in Illinois to date and
23 to refrain from collecting such data in the future absent the requisite prior informed written
24 authorization of their legally authorized representatives; (2) statutory damages of \$1,000.00 to
25 Plaintiff H.K., Plaintiff J.C., and each Class member pursuant to 740 ILCS 14/20 for each
26 negligent violation of BIPA committed by Google; (3) statutory damages of \$5,000.00 to Plaintiff
27 H.K., Plaintiff J.C., and each Class member pursuant to 740 ILCS 14/20 for each intentional or
28 reckless violation of BIPA committed by Google; and (4) reasonable attorneys' fees and costs and

1 other litigation expenses to Plaintiffs' counsel and proposed Class counsel pursuant to 740 ILCS
2 14/20(3).

3 **SECOND CAUSE OF ACTION**
4 **Violation of Cal. Bus. & Prof. Code § 17200, et seq.**
5 **(On Behalf of Plaintiffs and the COPPA Class)**

6 75. Plaintiffs incorporate the allegations of paragraphs 1-63 as if fully set forth herein.

7 76. Google engaged in business acts and practices deemed "unlawful" under the UCL,
8 because, as alleged above, Google unlawfully collected, stored, and used the biometric identifiers,
9 biometric information, and other personally identifying information of Plaintiffs and the other
10 COPPA Class members without first obtaining the requisite parental consent in violation of
11 COPPA and Federal Trade Commission regulations.

12 77. Under COPPA, an operator of a website or online service that collects personal
13 information from children must provide notice to the child's parent about its data collection
14 practices and obtain verifiable parental consent prior to any collection or use of personal
15 information from children. A violation of this regulation is deemed unlawful. 16 C.F.R. § 312.3.

16 78. COPPA defines a "child" as "an individual under the age of 13." 16 C.F.R. §312.2.

17 79. Google is required to comply with the requirements set out in COPPA because it has
18 specifically developed the Google Education platform for use by students in grades K-12 at schools
19 across the United States, including in Illinois, and has actual knowledge that children under the age
20 of 13 use its apps and services.

21 80. Plaintiffs and the COPPA Class members are minor children under the age of 13
22 who had their "biometric identifiers," "biometric information," and other personally identifying
23 information including their names and e-mail addresses collected, captured, received, or otherwise
24 obtained by Google in connection with their use of Google's "G Suite for Education" platform at a
25 school in the United States after March 26, 2016.

26 81. Google's "G Suite for Education" service utilized by Plaintiffs and members of the
27 COPPA Class features "subject matter, visual content, use of animated characters or child-oriented
28 activities and incentives, music or other audio content, age of models, presence of child celebrities

1 or celebrities who appeal to children, language or other characteristics of the Web site or online
2 service, as well as . . . advertising promoting or appearing on the Web site or online service [that] is
3 directed to children.” *See* 16 C.F.R. § 312.2.

4 82. Google is an “operator” as contemplated by 16 C.F.R. § 312.2 because it operates a
5 “Web site located on the Internet or an online service and who collects or maintains personal
6 information from or about the users of or visitors to such Web site or online service . . . where such
7 Web site or online service is operated for commercial purposes involving commerce among the
8 several States or with 1 or more foreign nations.” Indeed, students can access Google’s services
9 online and Google provides its Google Education platform to schools in Illinois and throughout the
10 country.

11 83. Google “collects” personal information from children under the age of 13 across the
12 United States, including in Illinois, because it requests, prompts, or encourages a child to submit
13 personal information online and it passively collects highly sensitive biometric data (as alleged
14 above) from children online as they use the “G Suite for Education” platform at school.

15 84. Specifically, Google collects and has collected, on information and belief, browsing
16 histories, contact lists, and audio notes and memos of Plaintiffs and the other COPPA Class
17 members under the age of 13 across the United States, including in Illinois, in the form of audio
18 files containing the child’s voice and digitized images of the child’s facial geometry, as well as
19 biometric identifiers and biometric information derived therefrom. Google attributed, and continues
20 to attribute, all data it collects from children to their Google accounts with the child’s name and
21 uniquely identifying school email address.

22 85. Pursuant to 16 C.F.R. § 31 2.4(a), “[i]t shall be the obligation of the operator to
23 provide notice and obtain verifiable parental consent prior to collecting, using, or disclosing
24 personal information from children. Such notice must be clearly and understandably written,
25 complete, and must contain no unrelated, confusing, or contradictory materials.”

26 86. Google has failed to provide notice to Plaintiffs’ father and legal guardian Clinton
27 Farwell, and has failed to provide such notice to the parents and guardians of the other members of
28 the COPPA Class of its data collection practices as required by 16 C.F.R. § 312.4. Specifically,

1 Google failed to give direct notice to parents stating the types of personal information it seeks to
2 collect from the child. Any notice that Google provides is not intended for the child's parent and
3 contains terms that no child under the age of 13 would comprehend or would have the capacity to
4 accept.

5 87. Further, Google failed to obtain—or even adequately attempt to obtain—parental
6 consent authorizing it to collect and use minors' personal and sensitive information from Plaintiffs'
7 father and guardian Clinton Farwell or from the parents or guardians of any of the other COPPA
8 Class members.

9 88. Each instance of Google's nonconsensual and unauthorized collection and use of
10 Plaintiffs' and other members of the COPPA Class's personal information in one or more ways
11 described above constitutes a separate violation of COPPA and is thus a separate violation of the
12 UCL's "unlawful" prong.

13 89. Moreover, pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), a violation
14 of COPPA constitutes an "unfair" or "deceptive" act or practice in or affecting commerce, in
15 violation of the FTC Act and thus the UCL.

16 90. Google additionally engaged in business acts or practices deemed "unfair" under the
17 UCL because, as alleged above, Google failed to disclose during the Class Period that it was
18 collecting, storing, and using the biometric identifiers, biometric information, and other personally
19 identifying information of Plaintiffs and the other COPPA Class members without obtaining the
20 requisite parental consent in violation of COPPA and Federal Trade Commission regulations.

21 91. Unfair acts under the UCL have been interpreted using three different tests:
22 (1) whether the public policy which is a predicate to a consumer unfair competition action under
23 the unfair prong of the UCL is tethered to specific constitutional, statutory, or regulatory
24 provisions; (2) whether the gravity of the harm to the consumer caused by the challenged business
25 practice outweighs the utility of the defendant's conduct; and (3) whether the consumer injury is
26 substantial, not outweighed by any countervailing benefits to consumers or competition, and is an
27 injury that consumers themselves could not reasonably have avoided. Defendants' conduct is unfair
28 under each of these tests. As described above, Google's conduct violates the policies underlying

1 privacy law, as well as COPPA itself. The gravity of the harm resulting from Google’s secret
2 collecting, storing, and using of biometric identifiers, biometric information, and other personally
3 identifying information from children under the age of 13, without the requisite parental consent, is
4 significant and there is no corresponding benefit to these children or their parents from such
5 conduct. Lastly, because Plaintiffs and COPA Class members were completely unaware of
6 Google’s practices as alleged herein, they could not possibly have avoided the privacy-based harms
7 such practices caused.

8 92. Additionally, Google’s conduct constitutes deceptive business practices in violation
9 of Cal. Bus. & Prof. Code §17200. Under the UCL, a business practice that is likely to deceive an
10 ordinary consumer constitutes a deceptive business practice. Google’s conduct as alleged herein
11 was deceptive because Google intentionally and deceptively misled children under the age of 13,
12 the parents of those children, and the public about their practices of collecting, storing, and using of
13 biometric identifiers, biometric information, and other personally identifying information from
14 children under the age of 13. Google has additionally made material misrepresentations and
15 omissions, both directly and indirectly, to Plaintiffs and members of the COPPA Class, by and
16 through their legal guardians, related to the invasive and unlawful practices alleged herein,
17 including through its signing of the Student Privacy Pledge and through other public-facing
18 documents such as websites, privacy policies, marketing materials, and public statements, in which
19 it omits or otherwise conceals the full extent of its BIPA and COPPA violative conduct detailed
20 herein and its practices of otherwise invading the privacy of children under the age of 13 in
21 connection with their use of the “G Suite for Education” platform at school, as well as by
22 misrepresenting, *inter alia*, the privacy-protective nature of its “G Suite for Education” platform
23 and its suitability for children.

24 93. Finally, Google’s secret and unlawful practices of collecting, storing, and using the
25 biometric identifiers, biometric information, and other personally identifying information of
26 Plaintiffs and the other COPPA Class members without obtaining the requisite parental consent, in
27 violation of COPPA and Federal Trade Commission regulations, take advantage of the lack of
28 knowledge, ability, experience, or capacity of the children, parents, and educators across the United

1 States to a grossly unfair degree. Google purposefully misrepresents and obfuscates its COPPA-
2 violative conduct, which in turn results in the children of the United States being forced to use its
3 “G Suite for Education” service in order to participate in school. Google has complete control over
4 the data collection, use, and retention practices of the “G Suite for Education” service, including
5 the biometric data and other personally identifying information collected through the use of the
6 service, and uses this control not only to secretly and unlawfully monitor and profile children, but
7 to do so without the knowledge or consent of those children’s parents. Such exploitation by
8 Google, with its unique knowledge of its wrongful practices, occurs to the detriment of the children
9 and their parents across the United States, and has invaded the privacy of Plaintiffs and the other
10 members of the COPPA Class.

11 94. Google’s violations of the UCL were, and are, willfully unlawful, deceptive, and
12 unfair. Google is aware of its violative conduct, yet has failed to adequately and affirmatively take
13 steps to cure such misconduct.

14 95. Plaintiffs and the other members of the COPPA Class were directly and proximately
15 harmed by Google’s violations of Cal. Bus. & Prof. Code §17200.

16 96. Plaintiffs, individually and on behalf of the COPPA Class, by and through their
17 father and legal guardian Clinton Farwell, seek: (1) an injunction requiring Google to obtain
18 consent prior to collecting the “biometric identifiers,” “biometric information,” and other
19 personally identifiable information within the meaning of COPPA from children under the age of
20 13, to delete such “biometric identifiers,” “biometric information,” and other personally
21 identifiable information already collected without parental consent, and to implement functionality
22 sufficient to prevent the unlawful collection of such “biometric identifiers,” “biometric
23 information,” and other personally identifiable information in the future; and (2) reasonable
24 attorney’s fees (pursuant to Cal. Code of Civ. Proc. § 1021.5).

25 **PRAYER FOR RELIEF**

26 WHEREFORE, on behalf of themselves and all others similarly situated, Plaintiffs H.K.
27 and J.C., minor children, by and through their respective father and legal guardian, Clinton Farwell,
28 seek judgment against Defendant as follows:

- 1 (a) Certifying this case as a class action on behalf of the Classes defined above,
2 appointing Plaintiffs, by and through their father and legally authorized guardian,
3 Clinton Farwell, as representatives of the Classes, and appointing their counsel as
4 Class Counsel on behalf of the Classes;
- 5 (b) Declaring that Google’s actions, as set out above, violate the BIPA, 740 ILCS 14/1,
6 *et seq.*, with respect to Plaintiffs and members of the BIPA Class;
- 7 (c) Declaring that Google’s actions, as set out above, violate the COPPA and thus the
8 UCL, Cal. Bus. & Prof. Code § 17200, *et seq.*, with respect to Plaintiffs and
9 members of the COPPA Class;
- 10 (d) Awarding \$1,000.00 statutory damages to Plaintiff H.K., Plaintiff J.C., and each
11 member of the BIPA Class pursuant to 740 ILCS 14/20(1) for each violation of
12 BIPA committed by Google negligently, or \$5,000.00 pursuant to 740 ILCS
13 14/20(2) for each violation of BIPA committed by Google intentionally or
14 recklessly;
- 15 (e) Awarding injunctive and other equitable relief pursuant to BIPA as is necessary to
16 protect the interests of Plaintiffs and members of the BIPA Class, including, *inter*
17 *alia*, an order requiring Google to collect, store, and use the biometric identifiers
18 and biometric information of children in Illinois in compliance with BIPA, and to
19 permanently destroy the biometric identifiers and biometric information it has
20 collected from Plaintiffs and BIPA Class members to date;
- 21 (f) Awarding injunctive and other equitable relief pursuant to the California UCL as is
22 necessary to protect the interests of Plaintiffs and members of the COPPA Class,
23 including, *inter alia*, an order requiring Google to collect, store, and use the
24 biometric identifiers, biometric information, and other personally identifying
25 information (within the meaning of COPPA) of children under the ages of 13 across
26 the United States in compliance with COPPA, and to permanently destroy the
27 biometric identifiers, biometric information, and other personally identifying
28

information covered by COPPA that it has collected from Plaintiffs and COPPA Class members to date;

- (g) Awarding Plaintiffs’ counsel and proposed Class counsel their reasonable litigation expenses and attorneys’ fees pursuant to BIPA and the UCL;
- (h) Awarding Plaintiffs and the Classes pre- and post-judgment interest, to the extent allowable;
- (i) Awarding Plaintiffs and the Classes such other and further relief as equity and justice may require.

DEMAND FOR JURY TRIAL

WHEREFORE, on behalf of themselves and all others similarly situated, Plaintiffs H.K. and J.C., minor children, by and through their respective father and legal guardian, Clinton Farwell, demand a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all claims and issues so triable.

Dated: April 2, 2020

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By: /s/ L. Timothy Fisher
L. Timothy Fisher

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father and legal guardian Clinton Farwell,
and the Putative Class*