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11
12 **UNITED STATES DISTRICT COURT**
13 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN JOSE DIVISION**

15 GEORGE JACK, individually and on behalf of all
16 others similarly situated,

17 Plaintiff,

18 v.

19 GOOGLE INC.,

20 Defendant.

Case No. 5:18-cv-06652

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

21 Plaintiff George Jack (“Plaintiff”), by and through his attorneys, make the following
22 allegations pursuant to the investigation of his counsel and based upon information and belief, except
23 as to allegations specifically pertaining to himself, which are based on personal knowledge, against
24 defendant Google Inc. (“Google” or “Defendant”).

25 **NATURE OF THE ACTION**

26 1. This is a class action concerning Google’s unlawful and deceptive practice of tracking
27 and storing time-stamped location data from millions of mobile phone users who affirmatively opt-out
28 of the tracking.

1 2. Google is a multinational technology company that specializes in Internet-related
2 services and products, including search engines, cloud computing, software, and hardware.

3 3. Google represented to the public and its users that it would not access users' location
4 history if the users took certain steps in managing their privacy settings. Specifically, Google
5 represented that if users disable the "Location History" feature on their accounts or devices, then
6 Google would be prevented from tracking and storing location data from them. Google's support
7 page, which is attached hereto as Exhibit A, stated: "You can turn off Location History at any time.
8 With Location History off, the places you go are no longer stored."

9 4. Google's representation was false, however. As revealed in a recent Associated Press
10 investigation, and confirmed by computer-science researchers at Princeton University, Google
11 accesses and stores the precise geolocation information even from individuals who have affirmatively
12 disabled the Location History setting.¹

13 5. For example, even with the Location History feature disabled, Google apps will still
14 automatically store time-stamped location data without obtaining consent from the user. The AP
15 Report revealed that "Google stores a snapshot of where you are when you merely open its Maps app.
16 Automatic daily weather updates on Android phones pinpoint roughly where you are. And some
17 searches that have nothing to do with location, like 'chocolate chip cookies,' or 'kids science kits,'
18 pinpoint your precise latitude and longitude—accurate to the square foot—and save it to your Google
19 account."²

20 6. Location data is highly sensitive, not only because the data point identifies where an
21 individual is at any given time, but also because of the personal information that can be extracted from
22 the location data. Therefore, the efforts of individuals who are conscious of their privacy and wish to
23 avoid the collection and storage of sensitive location data should be respected and protected.
24 However, Google collects the data against the express preferences and expectations of its users,
25 thereby invading users' reasonable expectations of privacy.

26
27 ¹ Ryan Nakashima, *AP Exclusive: Google tracks your movements, like it or not*, AP News (Aug. 13,
28 2018), <https://www.apnews.com/828aefab64d4411bac257a07c1af0ecb> (hereafter, "AP Report").

² *Id.*

1 7. Google uses the location information it unlawfully obtains from users for marketing
2 and advertising purposes, and generates enormous revenues from it. For example, user-generated data
3 provides information useful to advertisers such as foot traffic metrics. Peter Lenz, the senior
4 geospatial analyst at Dstillery, a rival advertising technology company, stated, “[t]hey build
5 advertising information out of data” and that “more data for them presumably means more profit.”³
6 Last year Google earned \$95.4 billion from location-related advertising.⁴ Accordingly, Google is
7 profiting off of intruding into Plaintiff’s and Class members’ solitude, seclusion, and private affairs.

8 8. Google’s practice of tracking users’ location, in direct contravention of user
9 instructions clearly expressed by turning off the Location History feature, violates the California
10 Invasion of Privacy Act, Cal. Pen. Code §§ 630, *et seq.* (“CIPA”); New York General Business Law,
11 N.Y. Gen. Bus. Law §§ 349 *et seq.*; and constitutes intentional and negligent misrepresentation.

12 **PARTIES**

13 9. Plaintiff George Jack is a citizen of the state of New York, residing in the Bronx. Since
14 September 2017, Plaintiff has owned and used an Apple iPhone 7 that has various Google apps and
15 functionalities downloaded onto the phone. Before acquiring the iPhone 7, Plaintiff owned and
16 operated an iPhone 6. Plaintiff expressly attempted to limit Google’s ability to track his location by
17 managing his Location History settings on Google’s website. He affirmatively turned the Location
18 History storage option to “off.” Mr. Jack believed that by affirmatively turning the Location History
19 storage option to “off,” he was opting out of Google’s practices of collecting and processing
20 information about his actual location. Nevertheless, and unbeknownst to Plaintiff, Google continued to
21 track and store his location information.

22 10. Defendant Google, Inc. is a United States corporation incorporated under the laws of
23 Delaware with its headquarters in Mountain View, California.

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³ *Id.*

27 ⁴ Cal Jeffrey, *Turning Off ‘Location History’ does not prevent Google from tracking you*, Techspot
28 (Aug. 13, 2018), <https://www.techspot.com/news/75942-turning-off-location-history-does-not-prevent-google.html>.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1332 and 1367 because this is a class action in which the matter or controversy exceeds the sum of \$5,000,000, exclusive of interest and costs, and in which some members of the proposed Class are citizens of a state different from defendant.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Defendant is headquartered in this District.

INTRADISTRICT ASSIGNMENT

13. Pursuant to Civil L.R. 3-2(c), this civil action should be assigned to the San Jose Division, because a substantial part of the events or omissions giving rise to the claims occurred in the county of Santa Clara, where Google is headquartered.

14. Moreover, Google’s “Terms of Service,” available on Google’s website, contains the following forum selection provision:

All claims arising out of or relating to these terms or the Services will be litigated exclusively in the federal or state courts of Santa Clara County, California, USA, and you and Google consent to personal jurisdiction in those courts.⁵

FACTUAL ALLEGATIONS

A. Google Tracks Its Users’ Location Even When Users Affirmatively Disable the Location History Feature

15. An operating system (“OS”) is software that allows a user to run other applications on a computing device, such as a mobile phone. A majority of mobile phones run on one of two operating systems: Android or iOS. Android was developed by Google and iOS was developed by Apple.

16. In addition to developing the Android operating system, Google also develops apps that can be downloaded on Android and iOS devices.

17. On each operating system, users can manage the functionalities of their devices and apps by customizing their preferences.

18. Included among these preferences is the option to turn on or off Location History which

⁵ Google.com, Terms of Service, <https://policies.google.com/terms?hl=en&gl=US> (last visited Oct. 15, 2018).

1 is an individual's precise location information as determined through the phone's GPS coordinates.

2 19. Google represented to users of its devices and apps that by turning the Location History
3 feature off, Google would not track and store data relating to an individual's location. Android phone
4 users can manage the Location History preference from their devices, while iPhone users are required
5 to log into their online Google accounts to do so.

6 20. Specifically, Google's support webpage on the subject stated:

7 You can turn off Location History at any time. With Location History off, the places you
8 go are no longer stored. When you turn off Location History for your Google Account,
it's off for all devices associated with that Google Account.

9 *See Exhibit A.*

10 21. Accordingly, Google represented to both Android and Apple device users that turning
11 the Location History feature off would result in Google ceasing to track and store an individual's
12 location information.

13 22. However, Google's representations were false. As recently publicly revealed in the AP
14 Report, turning off Location History only stopped Google from creating a location timeline that the
15 user could view. Instead, Google continued to track phone owners and keep a record of their
16 locations.

17 23. To demonstrate how powerful and invasive the tracking and storing of location data can
18 be, the AP created a map of the movements of Princeton postdoctoral researcher Gunes Acar, who had
19 the Location History feature on his cell phone turned off. The map identified where he travelled over
20 three days, including, but not limited to, his train commute on two trips to New York, visits to The
21 High Line park, Chelsea Market, Hell's Kitchen, Central Park, and Harlem.⁶

22 24. By tracking Plaintiff's and Class members' locations despite having affirmatively
23 turned the Location History storage option off, Defendant intruded on and into Plaintiff's and Class
24 members' solitude, seclusion, or private affairs. Google's conduct is contrary to users' reasonable
25 expectations of privacy. As Princeton computer scientist and former chief technologist for the Federal
26 Communications Commission's enforcement bureau, Jonathan Mayer, stated: "If you're going to

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28 ⁶ Associate Press Interactive, '*Location history*' Off? Google's still tracking you, <https://interactives.ap.org/google-location-tracking/> (last accessed Oct. 15, 2018).

1 allow users to turn off something called ‘Location History,’ then all the places where you maintain
2 location history should be turned off. . . . That seems like a pretty straightforward position to have.”⁷

3 **B. Contrary to Google’s Representations, Preventing the Collection and Storage of Location**
4 **Information Is Actually a Complex, Counter-Intuitive Process**

5 25. To prevent Google from collecting and storing a user’s location data, users must turn
6 off Location History, *in addition to* disabling a setting called Web & App Activity.

7 26. However, the Web & App Activity setting is deeply buried in Google’s settings, and in
8 order to find it, users must first sign into their Google accounts either on a browser or through the
9 Android settings menu. In the browser, users can access the Web & App Activity account settings by
10 finding “Google Account” in the dropdown menu in the upper right-hand corner, then selecting
11 “Personal Info & Privacy,” choosing “Manage your Google Activity,” then clicking “Go to Activity
12 Controls.” Once there, the Web & App Activity setting is revealed, which can then be toggled off.

13 27. However, even if users navigate through their settings to find the Web & App Activity
14 setting, Google obfuscates the fact that the Web & App Activity setting is even related to location
15 collection data. The setting resides directly above, and separate from, the Location History option,
16 causing reasonable users to conclude that Web & App Activity is not related to location tracking.

17 28. Further, Google’s description of Web & App Activity is that it “[s]aves your activity on
18 Google sites and apps to give you faster searches, better recommendations, and more personalized
19 experiences in Maps, Search, and other Google services.”⁸ This description does not provide
20 reasonable notice that it relates to location tracking.

21 29. To obtain additional information about the function of the Web & App Activity feature,
22 a user must click “[l]earn more,” then scroll to “[w]hat’s saved as Web & App Activity,” and click on
23 “[i]nfo about your searches & more” before Google even mentions location tracking.⁹ This is
24

25 _____
26 ⁷ See AP Report.

27 ⁸ Google.com, Activity Controls, <https://myaccount.google.com/intro/activitycontrols> (last visited
28 Oct. 15, 2018).

⁹ Google.com, Search Help, [https://support.google.com/websearch/answer/54068?p=web_app_activity
&hl=en&visit_id=636749651614250929-987972148&rd=1](https://support.google.com/websearch/answer/54068?p=web_app_activity&hl=en&visit_id=636749651614250929-987972148&rd=1) (last visited Oct. 15, 2018).

1 insufficient notice of the collection and storage of location information.

2 30. Leaving Web & App Activity on and turning Location History off does not stop
3 Google's collection of certain location markers.

4 31. Google fails to make clear to users that in order to stop Google from saving their
5 location markers, in addition to turning Location History off, they must also turn off the Web & App
6 Activity setting.

7 **C. Google's Response to the AP Report Confirms Its Unlawful and Deceptive Acts and**
8 **Practices**

9 32. In its response to the AP Report, Google first defended its actions, stating: "We provide
10 clear descriptions of these tools."¹⁰

11 33. Then, three days after the AP revealed that several Google apps and websites store user
12 location even if users have turned off Location History, Google announced that it was "updating the
13 explanatory language about Location History to make it more consistent and clear across our platforms
14 and help centers."¹¹ This statement contradicts a prior statement Google sent to the AP in which it
15 claimed that the descriptions for opting out of Location History were clear.

16 34. The revised description on its website acknowledges that Location History continues to
17 track users even if they have disabled the setting. Specifically, Google revised the description, which
18 originally stated, "[w]ith Location History off, the places you go are no longer stored," to read "This
19 setting does not affect other location services on your device."¹² Google also acknowledged that
20 "some location data may be saved as part of your activity on other services, like Search and Maps."¹³

21 35. Accordingly, Google acknowledged, for the first time, that it continues to track users
22 even if they disable the Location History setting.¹⁴

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24 _____
¹⁰ AP Report.

25 ¹¹ Ryan Nakashim, *APNewsBreak: Google clarifies location-tracking policy*, AP News (Aug. 16,
26 2018), <https://apnews.com/ef95c6a91eeb4d8e9dda9cad887bf211>.

27 ¹² *Id.*

28 ¹³ *Id.*

¹⁴ Nakashim, *supra*.

1 36. Rather than ending the practice, however, Google simply revised its website so that it
2 could continue to track those users who had previously affirmatively opted out of the tracking.

3 **CLASS ALLEGATIONS**

4 37. Plaintiff brings this action on behalf of himself and the members of the proposed Class
5 under Rule 23(a), (b)(2), (b)(3), and/or (c)(4) of the Federal Rules of Civil Procedure. The proposed
6 Class consists of the following:

7 All natural persons residing in the United States who own one or more
8 Android or Apple mobile phones, who turned off Location History, and
9 whose location information was nonetheless recorded and used by Google
10 (the “Class”).

11 38. The Class contains the following Subclass:

12 All natural persons residing in the state of New York who own Android or
13 Apple mobile phones, who turned off Location History, and whose location
14 information was nonetheless recorded and used by Google (the “New York
15 Subclass”).

16 39. Plaintiff reserves the right to redefine the Class before certification and after having the
17 opportunity to conduct discovery.

18 40. Excluded from the Class are Defendant, its parents, subsidiaries, affiliates, officers and
19 directors, any entity in which Defendant has a controlling interest, and all judges assigned to hear any
20 aspect of this litigation, as well as their immediate family members.

21 41. Numerosity. Fed. R. Civ. P. 23(a)(1). The members of the Class are so numerous that
22 joinder is impractical. The Class consists of millions of members, the precise number which is within
23 the knowledge of and can be ascertained only by resort to Defendant’s records.

24 42. Commonality. Fed. R. Civ. P. 23(a)(2) and (b)(3). There are numerous questions of
25 law and fact common to the Class, which predominate over any questions affecting only individual
26 members of the Class. Among the questions of law and fact common to the Class are:

- 27 a. Whether Defendant’s acts and practices complained of herein violated the CIPA, Cal.
28 Pen. Code §§ 630, *et seq.*;
- b. Whether Defendant’s acts and practices complained of herein violated the New York

1 General Business Law, N.Y. Gen. Bus. Law §§ 349, *et seq.*;

2 c. Whether Defendant misrepresented or omitted one or more material facts to Plaintiff
3 and the Class; and

4 d. Whether Defendant's conducted violated the other provisions of statutory and common
5 law outlined in this complaint;

6 43. Typicality. Fed. R. Civ. P. 23(a)(3). Plaintiff's claims are typical of the claims of the
7 Class in that Plaintiff, like all Class members, took efforts to prevent his phone's location history from
8 being recorded and used by Google, yet despite these efforts and contrary to Google's representations,
9 nonetheless had said location history recorded and used by Google.

10 44. Adequacy. Fed. R. Civ. P. 23(a)(4). Plaintiff is a representative who will fairly and
11 adequately assert and protect the interests of the Class and retained counsel experienced in prosecuting
12 class actions. Accordingly, Plaintiff is an adequate representative and will fairly and adequately
13 protect the interests of the Class.

14 45. Superiority of Class Action. Fed. R. Civ. P. 23(b)(3). A class action is superior to all
15 other available methods for the fair and efficient adjudication of this lawsuit, because individual
16 litigation of the claims of all members of the Class is economically unfeasible and procedurally
17 impracticable. While the aggregate damages sustained by the Class are in the millions of dollars, the
18 individual damages incurred by each member of the Class resulting from Defendant's wrongful
19 conduct are too small to warrant the expense of individual lawsuits. The likelihood of individual Class
20 members prosecuting their own separate claims is remote, and even if every member of the Class
21 could afford individual litigation, the court system would be unduly burdened by individual litigation
22 of such cases.

23 46. The prosecution of separate actions by members of the Class would create a risk of
24 establishing inconsistent rulings and/or incompatible standards of conduct for Defendant.
25 Additionally, individual actions may be dispositive of the interests of the Class, although certain Class
26 members are not parties to such actions.

27 47. Injunctive and Declaratory Relief. Fed. R. Civ. P. 23(b)(2). The conduct of Defendant
28 is generally applicable to the Class as a whole and Plaintiff seeks equitable remedies with respect to
the Class as a whole. Like all Class members, Plaintiff suffers a substantial risk of repeated injury in

1 the future. Like all Class members, although Plaintiff wishes to control the circumstances under which
2 his location information can be collected and used by Google, Google has shown deliberate
3 indifference to those wishes and has indeed taken pains to deceive Plaintiff (and all Class members)
4 and to thwart those wishes. As such, the systematic policies and practices of Defendant make
5 declaratory or equitable relief with respect to the Class as a whole appropriate. Plaintiff and all Class
6 members face substantial risk of the same injury in the future. Google's conduct is common to all
7 Class members and represents a common thread of conduct resulting in injury to all members of the
8 Class.

9 **CAUSES OF ACTIONS**

10 **COUNT I**

11 **Violations of CIPA, Cal. Pen. Code §§ 630, *et seq.***

12 48. Plaintiff incorporates and realleges by reference each and every allegation above as if
13 set forth herein in full.

14 49. Cal. Pen. Code § 630, known as the California Invasion of Privacy Act (“CIPA”) provides that “[t]he Legislature hereby declares that advances in science and technology have led to
15 the development of new devices and techniques for the purpose of eavesdropping upon private
16 communication and that the invasion of privacy resulting from the continual and increasing use of
17 such devices and techniques has created a serious threat to the free exercise of personal liberties and
18 cannot be tolerated in a free and civilized society.”

19 50. Google's acts and practices complained of herein, engaged in for purposes of acquiring
20 and using the geolocation of mobile phone users, without their consent, and in direct contravention of
21 the representations made about turning off the location history function, violate Cal. Pen. Code
22 § 637.7.

23 51. Cal. Pen. Code § 637.7 prohibits the use of an electronic tracking device to determine
24 the location or movement of a person.

25 52. In direct violation of this prohibition and without the consent of Plaintiff or Class
26 members, and in direct contravention of those individuals' clearly-expressed wishes—Google intended
27 to and continued to record, store, and use the location information of Plaintiff and Class members after
28

1 they disabled the Location History feature on their phones.

2 53. As described herein, Google utilized multiple devices that are “electronic tracking
3 devices” under Cal. Pen. Code § 637.7(d), in that Google employs and embeds a host of technology—
4 including but not limited to apps, firmware, device components, operating system software, and other
5 code—on each Class member’s phone (a “movable thing” under the statute), and this technology
6 “reveals its location or movement by the transmission of electronic signals.”

7 54. Defendant’s acts in violation of the CIPA occurred in the State of California because
8 those acts resulted from business decisions, practices, and operating policies that Google developed,
9 implemented, and utilized in the State of California and which are unlawful and constitute criminal
10 conduct in the state of Google’s principal business operations.

11 55. As a result of Google’s violations of Cal. Pen. Code § 637.7, and pursuant to Cal. Pen.
12 Code § 637.2, Plaintiff and Class members are entitled to the following relief:

- 13 a. A declaration that Google’s conduct violates the CIPA;
14 b. Statutory damages and/or trebled actual damages;
15 c. Injunctive relief in the form of, *inter alia*, an order enjoining Google from
16 geolocating Class members in violation of CIPA;
17 d. Injunctive relief in the form of, *inter alia*, an order requiring Google to destroy
18 all data created or otherwise obtained from its illegal geolocation of Class members; and
19 e. An award of attorney’s fees and costs of litigation as provided by the CIPA, the
20 private attorney general doctrine existing at common law and also codified at California Civil Code
21 § 1021.5, and all other applicable laws.

22 **COUNT II**

23 **Violations of the New York General Business Law, N.Y. Gen. Bus. Law §§ 349, *et seq.***

24 56. Plaintiff, individually and on behalf of the New York Subclass, incorporates and
25 realleges by reference each and every allegation above as if set forth herein in full.

26 57. Google engaged in deceptive acts or practices in the conduct of its business, trade, and
27 commerce or furnishing of goods or services, in violation of N.Y. Gen. Bus. Law § 349, as described
28 herein.

1 58. Google's representations and omissions were material because they were likely to
2 deceive reasonable consumers into believing their location information would not be tracked and
3 stored if they disabled the Location History feature.

4 59. Google acted intentionally, knowingly, and maliciously to violate New York's General
5 Business Law, and recklessly disregarded Plaintiff and the New York Subclass members' rights.

6 60. As a direct and proximate result of Google's unfair, deceptive, and unconscionable
7 trade practices, Plaintiff and the New York Subclass members have suffered and will continue to
8 suffer injury, ascertainable losses of money or property, and monetary and nonmonetary damages,
9 including from not receiving the benefit of their bargain in using Google's services and keeping their
10 data private.

11 61. Google's deceptive and unlawful acts and practices complained of herein affected the
12 public interest and consumers at large, including the millions of New Yorkers who use Google's
13 services and devices.

14 62. Plaintiff's and the New York Subclass members' location data has tangible value.
15 Their location data is in the possession of Google, which has used and will continue to use such data
16 for its own advantage, including financial advantage.

17 63. Plaintiff's and the New York Subclass members' personal location data was exploited
18 without consent. Accordingly, Plaintiff and the New York Subclass members are entitled to part of
19 Google's profits that were generated by their personal location data without informed consent.

20 64. Plaintiff and New York Subclass members seek all monetary and non-monetary relief
21 allowed by law, including actual damages or statutory damages of \$50 (whichever is greater), treble
22 damages, injunctive relief, and attorneys' fees and costs

23 **COUNT III**

24 **Intentional Misrepresentation**

25 65. Plaintiff incorporates and realleges by reference each and every allegation above as if
26 set forth herein in full.

27 66. Defendant and its agents, employees, and/or subsidiaries made materially false
28 representations to Plaintiff and the Class that their operating system and apps did not secretly collect

1 information against users' explicit wishes.

2 67. These material misrepresentations were contained in public statements by Defendant,
3 including in its Terms of Service.

4 68. Defendant knew or recklessly disregarded the false and misleading nature of their
5 material misrepresentations.

6 69. Defendant made the materially false and misleading statements for the purpose of
7 inducing Plaintiff and the other members of the Class to install and use its operating system and apps.

8 70. In purchasing and using Google's operating system and apps, Plaintiff and the Class
9 reasonably relied on Defendant's materially misleading statements that Plaintiff's and the Class'
10 location would not be monitored contrary to users' explicit wishes.

11 71. As a result of Defendant's materially false and misleading misrepresentations and
12 omissions, Plaintiff and the Class sustained damages as set forth herein.

13 **COUNT IV**

14 **Negligent Misrepresentation**

15 72. Plaintiff incorporates and realleges by reference each and every allegation above as if
16 set forth herein in full.

17 73. Defendant and its agents, employees, and/or subsidiaries negligently and/or recklessly
18 made materially false representations to Plaintiff and the Class as alleged above.

19 74. These material misrepresentations were contained in public statements by Defendant,
20 including in its Terms of Service.

21 75. Defendant knew or should have known that the materially false and misleading
22 statements would induce Plaintiff and the other members of the Class to accept the operating system
23 and apps for their phones.

24 76. In purchasing and/or using Google's operating system and apps, Plaintiff and the Class
25 reasonably relied on Google's materially misleading statements that their location would not be
26 monitored contrary to their explicit wishes.

27 77. As a result of Google's materially false and misleading misrepresentations and
28 omissions, Plaintiff and the Class sustained damage as set forth herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- A. An order certifying that this Action may be maintained as a class action, that Plaintiff be appointed as Class Representative, and his counsel be appointed Class Counsel;
- B. A judgment awarding Plaintiff and all members of the Class damages as alleged above incurred by Plaintiff and Class members as a result of Defendant’s unlawful, deceptive, and unfair business and trade practices described herein;
- C. Appropriate declaratory relief against Defendant;
- D. An order enjoining Defendant from continuing to violate the laws as described herein;
- E. Injunctive relief in the form of, inter alia, an order enjoining Defendant from continuing its practice of recording and using Plaintiff’s and Class members’ location information against their express preferences;
- F. An order requiring Google to destroy all data acquired, created, or otherwise obtained from the unlawful recording and use of the location information of Plaintiff and Class members;
- G. An order requiring Google to modify its operating system and all applications, and representations made with respect thereto, in a manner that truthfully advises users of location tracking;
- H. For equitable relief requiring restitution and disgorgement of the revenues wrongfully retained as a result of Defendant’s wrongful conduct;
- I. A judgment awarding Plaintiff the costs of suit, including reasonable attorneys’ fees, and pre and post-judgment interest; and
- J. Such other and further relief as may be deemed necessary or appropriate.

JURY DEMAND

Plaintiff demands a trial by jury.

Dated: November 1, 2018

LEVI & KORSINSKY, LLP

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Counsel for Plaintiff George Jack

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

GEORGE JACK, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Bronx, New York (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Rosemary Rivas, Levi & Korsinsky, LLP, 44 Montgomery Street, Suite 650, San Francisco, CA 94104; 415-373-1671

DEFENDANTS GOOGLE INC.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF 1 DEF 1 Incorporated or Principal Place of Business In This State PTF 4 DEF 4 Citizen of Another State PTF 2 DEF 2 Incorporated and Principal Place of Business In Another State PTF 5 DEF 5 Citizen or Subject of a Foreign Country PTF 3 DEF 3 Foreign Nation PTF 6 DEF 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes categories like Personal Injury, Civil Rights, Prisoner Petitions, Habeas Corpus, and others.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation-Transfer 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. § 1332(d) Brief description of cause: Violations of: Cal. Pen. Code §§ 630, et seq.; NY Gen. Bus. Law §§ 349, et seq.; Intentional Misrepresentation; Negligent Misrepresentation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE Hon. Davila; Hon. Tigar DOCKET NUMBER 18cv5062; 18cv5288; 18cv6262

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND X SAN JOSE EUREKA-MCKINLEYVILLE

DATE 11/01/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Rosemary M. Rivas

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Google Hit with Another Class Action Over Alleged Surreptitious Location History Tracking](#)
