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[EXEMPT FROM FILING FEES
PURSUANT TO GOVERNMENT
CODE SECTION 6103]

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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF ALAMEDA
16

17 **THE PEOPLE OF THE STATE OF**
18 **CALIFORNIA,**

19 Plaintiff,

20 v.

21 **GOOGLE LLC**

22 and

23 **IHEARTMEDIA, INC.,**

24 Defendants.
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Case No.

**COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
RESTITUTION, AND OTHER
EQUITABLE RELIEF**

(BUS. & PROF. CODE, § 17200 et seq.,
17500 et seq.)

[STIPULATION FOR ENTRY OF FINAL
JUDGMENT AND PERMANENT
INJUNCTION and PROPOSED ORDER filed
concurrently herewith]

1 The People of the State of California (“People”), appearing through their attorney, Rob
2 Bonta, Attorney General of the State of California, allege the following on information and belief:

3 **INTRODUCTION**

4 1. Defendants Google LLC (“Google”), a technology company, and iHeartMedia,
5 Inc., (“iHeartMedia”) the country’s largest owner of radio stations, violated California law by
6 contracting to have iHeartMedia’s radio personalities (“Radio Personalities”) advertise Google’s
7 Pixel 4 cell phone as though the Radio Personalities owned or regularly used them, even though
8 many had not. Many of the Radio Personalities also represented that they had used a Pixel 4 to
9 take pictures at night, when they had not done so.

10 2. California law prohibits false or misleading statements in connection with the
11 selling of a good. Defendants violated California’s False Advertising Law and Unfair
12 Competition Law by contracting to have iHeartMedia’s Radio Personalities advertise the Pixel 4
13 as though they owned or regularly used them, while knowing that most of those Radio
14 Personalities had not received or experienced the phone.

15 **DEFENDANTS**

16 3. Defendant Google is a Delaware limited liability company with its principal office
17 or place of business at 1600 Amphitheatre Parkway, Mountain View, California, 94043. At all
18 relevant times, Defendant Google, a technology company, has transacted business throughout
19 California—including in Alameda County—by virtue of manufacturing, advertising, labeling,
20 offering for sale, selling, and distributing Google Pixel 4 smartphones (the “Pixel 4”) to
21 consumers throughout the United States. Google wrote scripts for and retained iHeart to record
22 advertisements for the Google Pixel 4 and broadcast those advertisements to consumers in
23 California.

24 4. Defendant iHeartMedia is a Delaware corporation with its principal office or place
25 of business at 20880 Stone Oak Parkway, San Antonio, Texas 78258. At all relevant times,
26 Defendant iHeartMedia, a mass media corporation, has transacted business throughout
27 California—including in Alameda County—by virtue of owning and operating hundreds of AM
28 and FM radio stations in the United States, including in California. The company also streams its

1 content over Internet radio that is accessible to consumers in California. iHeartMedia recorded
2 advertisements for the Google Pixel 4 and broadcast those advertisements to consumers in
3 California.

4 5. As used herein, any reference to “iHeartMedia” shall mean iHeartMedia, Inc.,
5 including all of its officers, directors, affiliates, subsidiaries and divisions, predecessors,
6 successors, and assigns doing business in the United States. Any reference to “Google” shall
7 mean Google LLC, including all of its officers, directors, affiliates, subsidiaries and divisions,
8 predecessors, successors and assigns doing business in the United States. Any reference to
9 Defendants shall mean both Google and iHeartMedia.

10 **JURISDICTION AND VENUE**

11 6. This Court has jurisdiction over Defendants because Defendants intentionally
12 availed themselves of the California market so as to render the exercise of jurisdiction over
13 Defendants by the California courts consistent with traditional notions of fair play and substantial
14 justice.

15 7. The violations of law alleged in this Complaint occurred in the Counties of San
16 Francisco, Alameda, and Los Angeles, among others.

17 8. Venue is proper in this Court under Code of Civil Procedure section 395.5 because
18 Defendants’ activities included the San Francisco and Alameda County region and thus
19 Defendants’ liability arises in the County of Alameda.

20 9. Venue is also proper in this Court under Code of Civil Procedure section 393,
21 subdivision (a), because violations of law that occurred in the County of Alameda are a “part of
22 the cause” upon which the Plaintiff seeks the recovery of penalties imposed by statute.

23 **DEFENDANTS’ BUSINESS PRACTICES**

24 10. Through its media-buying agent, in October 2019, Google hired iHeartMedia to
25 have its Radio Personalities record advertisements endorsing the Google Pixel 4 smartphone and
26 to disseminate those ads in ten markets in the United States, including the Bay Area (which
27 includes San Francisco and Alameda Counties, among others) and Los Angeles markets. Google
28 hired Radio Personalities at iHeartMedia as well as smaller radio networks.

1 11. iHeartMedia owns more than 850 full-power AM and FM radio stations in the
2 United States, making it the country’s largest owner of radio stations, and also streams its content
3 over Internet radio. Its radio network is known as iHeartRadio.

4 12. iHeartMedia employs numerous on-air Radio Personalities throughout the United
5 States, including in California. iHeart gives select Radio Personalities the option to receive
6 additional compensation for recording advertisements for specific clients that are played on-air.

7 13. In October 2019, Google provided iHeartMedia with scripts for Radio
8 Personalities to use in recording advertisements endorsing the Pixel 4.

9 14. The typical English-language script began:

10 The only thing I love more than taking the perfect photo? Taking
11 the perfect photo at night. With Google Pixel 4 both are a cinch. It’s
12 my favorite phone camera out there, especially in low light, thanks
13 to Night Sight Mode. I’ve been taking studio-like photos of
14 everything... my son’s football game... a meteor shower... a rare
15 spotted owl that landed in my backyard. Pics or it didn’t happen,
16 am I right? Pixel 4 is more than just great pics. It’s also great at
17 helping me get stuff done, thanks to the new voice activated Google
18 Assistant that can handle multiple tasks at once. I can read up on
19 the latest health fads, ask for directions to the nearest goat yoga
20 class (yes, that’s a thing), and text the location to mom hands-free .
21 ...
22 ...

23 15. An approximate translation of an excerpt from the typical Spanish-language script
24 for the Pixel 4 radio advertisements is:

25 Pixel 4 is my favorite camera in low light. Its Night Sight mode
26 opened up a galaxy of possibilities for my photos, like the Milky
27 Way! No, really! I just point the camera at the sky and take
28 Instagram-ready photos of the stars! It’s easy. I don’t have to learn
29 anything new or do any fancy editing to obtain studio-quality
30 photos at any time and anywhere, like birthday parties, low-light
31 concerts, my mom and dad’s 50th birthdays. And with the
32 continuous zoom feature, I didn’t miss a second of my daughter’s
33 school play even though I was in the last row.

34 16. In October 2019, an iHeartMedia employee wrote in an email to Google’s media-
35 buying agent that the company would like to have its Radio Personalities “customize certain parts
36 of the script pending what’s relevant to their personal lives (i.e. [*sic*] if they have kids, involved in
37 certain activities/hobbies, etc [*sic*]).” Google’s media-buying agent approved this request.
38

1 17. Before the first advertisements by iHeartMedia’s Radio Personalities were
2 recorded, an iHeartMedia employee wrote an email to Google’s media-buying agent requesting
3 Pixel 4s for the Radio Personalities:

4 I know this has been something that we have brought up numerous
5 times, but it’s something that we really need to get to our voicing
6 talent, especially if we want them to use their own first person tense
7 when voicing. We . . . cannot require talent to use “I” in voiced
8 spots when they have not physically used the product. . . . For this
9 reason, we may receive spots from stations that adjust the tense
10 slightly to remove the personalization of “I.”

11 18. The iHeartMedia employee also wrote that “a few markets” had raised concerns
12 about the personalization without actually having the smartphones. Google’s media-buying agent
13 checked with Google and wrote back:

14 Just heard back from [Google] in regards to [*sic*] sending Pixels to
15 your talent. Unfortunately, this is not feasible for [Google] at this
16 time as the product is not on shelves yet. It would take over a week
17 to ship all of these phones out resulting in a loss of airtime.

18 19. In October 2019, 43 iHeartMedia Radio Personalities at different stations in ten
19 markets—Atlanta, Boston, Chicago, Dallas/Ft. Worth, Denver/Boulder, Houston, Los Angeles,
20 New York, Phoenix, and San Francisco/Bay Area—each recorded advertisements for the Pixel 4
21 using first-person language identical or substantially similar to that in the scripts described in
22 Paragraphs 14 and 15, above. Eleven of these Radio Personalities were at radio stations in the Los
23 Angeles and San Francisco/Bay Area markets.

24 20. Some of the Radio Personalities in California personalized what they said they did
25 with the Pixel 4. However, these Radio Personalities did not own or regularly use a Pixel 4 and
26 had not used a Pixel 4 to take pictures at night, as indicated in scripts. These ads aired in the Los
27 Angeles and San Francisco/Bay Area markets over 2,700 times between October and December
28 2019.

 21. In late January 2020, Google wanted additional advertisements endorsing the Pixel
4 recorded by different iHeartMedia Radio Personalities. An iHeartMedia employee wrote in an
email to a Google employee:

 Our influencers really need to have devices to truly make the

1 creative sound authentic and personal and to understand firsthand
2 what makes Pixel different. I know we discussed this in the past. Is
3 there a way for us to get devices for the talent in advance of the
4 campaign? If Google is unable to provide for all, maybe we could at
5 least get one per market and make sure all of the talent gets to
6 experience it before launch? If this isn't a possibility, [*sic*] we may
7 need to explore purchasing on our end. We think this is essential to
8 making the campaign successful.

9
10 22. The Google employee replied that Google would “not be able to provide devices at
11 this time,” provided a link to a “page [that] has a lot of information on the device that may be
12 helpful for the DJs to get acquainted with the features,” and said she believed “our team has also
13 provided write-up on how to talk about the device.”

14 23. Google subsequently provided iHeartMedia with only five Pixel 4s, one for each
15 market where the advertisements were to be recorded. Google provided one Pixel 4 for the entire
16 Los Angeles market, and one for the San Francisco/Bay Area market.

17 24. In February 2020, 25 additional iHeartMedia Radio Personalities at different
18 stations in five markets—Chicago, Denver, Los Angeles, New York, and San Francisco—each
19 recorded advertisements endorsing the Pixel 4 using first-person language identical or
20 substantially similar to that in the script described in Paragraph 14. Eleven of these Radio
21 Personalities were in the Los Angeles and San Francisco/Bay Area markets.

22 25. Some of the iHeartMedia Radio Personalities personalized what they said they did
23 with the Pixel 4. These Radio Personalities did not own or possess a Pixel 4 and had not used a
24 Pixel 4 to take pictures at night. These ads aired in Los Angeles and San Francisco/the Bay Area
25 over 1,700 times in February and March 2020.

26 26. In October 2019, 54 different Radio Personalities at 58 non-iHeartMedia radio
27 stations in ten markets—Atlanta, Boston, Chicago, Dallas/Fort Worth, Denver/Boulder, Houston,
28 Los Angeles, New York, Phoenix, and San Francisco/the Bay Area—each recorded
29 advertisements endorsing the Pixel 4 using first-person language identical or substantially similar
30 to that in the scripts described in Paragraphs 14 and 15. Eighteen of these Radio Personalities
31 were at radio stations in the Los Angeles and San Francisco/Bay Area markets.

32 27. Some of the non-iHeartMedia personalities personalized what they said they did

1 with the Pixel 4. Google did not provide those Radio Personalities with a Pixel 4. In most, if not
2 all instances, the Radio Personalities did not own or possess a Pixel 4 and had not used a Pixel 4
3 to take pictures at night. These ads aired in the Los Angeles and San Francisco/Bay Area markets
4 over 3,500 times between October and December 2019.

5 28. In February 2020, 16 Radio Personalities at 16 non-iHeartMedia radio stations in
6 five markets—Chicago, Denver/Boulder, New York, San Francisco/Bay Area, and San Jose—
7 each recorded advertisements endorsing the Pixel 4 using first-person language identical or
8 substantially similar to that in the script described in Paragraph 14.

9 29. Some of the non-iHeartMedia Radio Personalities personalized what they said they
10 did with the Pixel 4. Google did not provide those Radio Personalities with a Pixel 4. In most, if
11 not all, instances, the Radio Personalities did not own or possess a Pixel 4 and had not used a
12 Pixel 4 to take pictures at night. These ads aired in the Los Angeles and San Francisco/Bay Area
13 markets over 1,000 times between February and March 2020.

14 **FIRST CAUSE OF ACTION**

15 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500** 16 **REGARDING ENDORSEMENTS BY IHEARTMEDIA RADIO PERSONALITIES** 17 **(Against All Defendants)**

18 30. The People reallege and incorporate by reference each of the paragraphs above as
19 though fully set forth herein.

20 31. Defendants violated Business and Professions Code section 17500 et seq. in
21 connection with advertising the Google Pixel 4 cell phone by making or disseminating, or causing
22 to be made or disseminated, false or misleading statements with the intent to induce members of
23 the public to purchase Google Pixel 4 cell phones when Defendants knew, or by the exercise of
24 reasonable care should have known, that the statements were false or misleading.

25 32. Defendants' false or misleading statements include the following:

26 a. Through the means described in Paragraphs 19 and 24 above, Defendants have
27 represented, directly or indirectly, expressly or by implication, that:

28 i. Certain iHeartMedia Radio Personalities owned or regularly used a Pixel 4;

1 and

2 ii. Certain iHeartMedia Radio Personalities had used a Pixel 4 to take pictures
3 at night.

4 b. In fact:

5 i. Numerous iHeartMedia Radio Personalities who represented that they
6 owned or regularly used a Pixel 4 smartphone did not own or regularly use
7 one; and

8 ii. Numerous iHeartMedia Radio Personalities who represented that they had
9 used a Pixel 4 to take pictures at night had not done so.

10 **SECOND CAUSE OF ACTION**
11 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**
12 **REGARDING ENDORSEMENTS BY IHEARTMEDIA RADIO PERSONALITIES**
13 **(Against All Defendants)**

14 33. The People reallege and incorporate by reference each of the paragraphs above as
15 though fully set forth herein.

16 34. Defendants violated California Business and Professions Code section 17200 in
17 connection with the marketing of Google Pixel 4 cell phones.

18 35. Defendants' violations include the following:

19 a. Defendants' acts and practices violated Business and Professions Code section
20 17500 et seq., as alleged above in the First Cause of Action, and thus are unlawful
21 under Business and Professions Code section 17200.

22 b. Defendants' acts and practices were fraudulent under Business and Professions
23 Code section 17200 because, through the means described in Paragraphs 19 and 24
24 above, Defendants falsely or misleadingly represented, directly or indirectly,
25 expressly or by implication, that:

26 i. Certain iHeartMedia Radio Personalities owned or regularly used a Pixel 4;
27 and

28 ii. Certain iHeartMedia Radio Personalities had used a Pixel 4 to take pictures

1 at night.

2 c. In fact:

- 3 i. Numerous iHeartMedia Radio Personalities who represented that they
4 owned or regularly used a Pixel 4 smartphone did not own or regularly use
5 one; and
6 ii. Numerous iHeartMedia Radio Personalities who represented that they had
7 used a Pixel 4 to take pictures at night had not done so.

8
9 **THIRD CAUSE OF ACTION**
10 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500**
11 **REGARDING ENDORSEMENTS BY OTHER RADIO PERSONALITIES**
12 **(Against Defendant Google)**

13 36. The People reallege and incorporate by reference each of the paragraphs above as
14 though fully set forth herein.

15 37. Google violated Business and Professions Code section 17500 et seq. in
16 connection with advertising the Google Pixel 4 cell phone by making or disseminating, or causing
17 to be made or disseminated, false or misleading statements with the intent to induce members of
18 the public to purchase Google Pixel 4 cell phones when Defendants knew, or by the exercise of
19 reasonable care should have known, that the statements were false or misleading.

20 38. Defendants' false or misleading statements include the following:

21 a. Through the means described in Paragraphs 26 and 28 above, Google has
22 represented, directly or indirectly, expressly or by implication, that:

- 23 i. Certain Radio Personalities owned or regularly used a Pixel 4; and
24 ii. Certain Radio Personalities had used a Pixel 4 to take pictures at night.

25 b. In fact:

- 26 i. Numerous Radio Personalities who represented that they owned or
27 regularly used a Pixel 4 smartphone did not own or regularly use one; and
28 ii. Numerous Radio Personalities who represented that they had used a Pixel 4
to take pictures at night had not done so.

1 **FOURTH CAUSE OF ACTION**
2 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**
3 **REGARDING ENDORSEMENTS BY OTHER RADIO PERSONALITIES**
4 **(Against Defendant Google)**

5 39. The People reallege and incorporate by reference each of the paragraphs above as
6 though fully set forth herein.

7 40. Google violated California Business and Professions Code section 17200 in
8 connection with the marketing of Google Pixel 4 cell phones.

9 41. Google's violations include the following:

10 a. Google's acts and practices violated Business and Professions Code section 17500
11 et seq., as alleged above in the Third Cause of Action, and thus are unlawful under
12 Business and Professions Code section 17200.

13 b. Google's acts and practices were fraudulent under Business and Professions Code
14 section 17200 because, through the means described in Paragraphs 26 and 28
15 above, Defendants falsely or misleadingly represented, directly or indirectly,
16 expressly or by implication, that:

17 iii. Certain Radio Personalities owned or regularly used a Pixel 4; and

18 iv. Certain Radio Personalities had used a Pixel 4 to take pictures at night.

19 42. In fact:

20 i. Numerous Radio Personalities who represented that they owned or
21 regularly used a Pixel 4 smartphone did not own or regularly use one;
22 and

23 ii. Numerous Radio Personalities who represented that they had used a Pixel
24 4 to take pictures at night had not done so.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, the People pray for judgment as follows:

27 1. That under Business and Professions Code section 17535, Defendants, their
28 successors, agents, representatives, employees, and all persons who act in concert with

1 Defendants, be permanently enjoined from making any false or misleading statements in violation
2 of Business and Professions Code section 17500 as alleged in this complaint;

3 2. That under Business and Professions code section 17203, Defendants, their
4 successors, agents, representatives, employees, and all persons who act in concert with
5 Defendants, be permanently enjoined from committing any acts of unfair competition in violation
6 of Business and Professions code section 17200 as alleged in this complaint;

7 3. That under Business and Professions Code section 17536, the Court assess a civil
8 penalty of \$2,500 for each violation of Business and Professions Code section 17500, as proved at
9 trial;

10 4. That under Business and Professions Code section 17206, the Court assess a civil
11 penalty of \$2,500 for each violation of Business and Professions Code section 17200, as proved at
12 trial;

13 5. That Plaintiff recover its costs of suit, including costs of investigation; and


14 6. For such other and further relief that the Court deems just and proper.

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Dated: November 28, 2022

Respectfully submitted,

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