

1 ROBBINS ARROYO LLP
BRIAN J. ROBBINS (190264)
2 brobbins@robbinsarroyo.com
CRAIG W. SMITH (164886)
3 csmith@robbinsarroyo.com
STEVEN R. WEDEKING (235759)
4 swedeking@robbinsarroyo.com
5040 Shoreham Place
5 San Diego, CA 92122
Telephone: (619) 525-3990
6 Facsimile: (619) 525-3991

7 Attorneys for Plaintiff

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11	WILLIAM WESSELS, Derivatively on Behalf of)	Case No.
12	ALPHABET INC.,)	
)	
13	Plaintiff,)	VERIFIED STOCKHOLDER
)	DERIVATIVE COMPLAINT FOR BREACH
14	v.)	OF FIDUCIARY DUTY AND UNJUST
)	ENRICHMENT
15	LARRY PAGE, SERGEY BRIN, SUNDAR)	
	PICHAJ, RUTH M. PORAT, JOHN L.)	
16	HENNESSY, L. JOHN DOERR, ROGER W.)	
	FERGUSON, JR., ANN MATHER, ALAN R.)	
17	MULALLY, K. RAM SHRIRAM, ROBIN L.)	
	WASHINGTON, ERIC E. SCHMIDT, and)	
18	DIANE B. GREENE,)	
)	
19	Defendants,)	
)	
20	-and-)	
)	
21	ALPHABET INC., a Delaware corporation,)	
22)	
	Nominal Defendant.)	
23)	<u>DEMAND FOR JURY TRIAL</u>

1 Plaintiff, by his attorneys, submits this Verified Stockholder Derivative Complaint for Breach of
2 Fiduciary Duty and Unjust Enrichment. Plaintiff alleges the following on information and belief, except
3 as to the allegations specifically pertaining to plaintiff which are based on personal knowledge. This
4 complaint is also based on the investigation of plaintiff's counsel, which included, among other things, a
5 review of public filings with the U.S. Securities and Exchange Commission ("SEC") and a review of
6 news reports, press releases, and other publicly available sources.

7 **NATURE AND SUMMARY OF THE ACTION**

8 1. This is a stockholder derivative action brought by plaintiff on behalf of nominal
9 defendant Alphabet Inc. ("Alphabet" or the "Company") against certain of its officers and directors for
10 breach of fiduciary duty, unjust enrichment, and violations of law. These wrongs resulted in hundreds
11 of millions of dollars in damages to Alphabet's reputation, goodwill, and standing in the business
12 community. Moreover, these actions have cost Alphabet hundreds of millions of dollars in monetary
13 fines and injunctive relief for violations of federal law.

14 2. Alphabet owns YouTube, LLC ("YouTube") through the Company's wholly owned
15 subsidiary, Google LLC ("Google"). YouTube is a video-sharing platform that the Company advertises,
16 markets, and distributes worldwide. It is the largest video-sharing site in the world, with over one
17 billion monthly active users. YouTube earns the Company advertising revenues by placing ads on
18 channels provided on the YouTube platform. Through its YouTube Partner Program, the Company and
19 content creators split the revenues from advertisements placed on the creators' videos.

20 3. In 1998, Congress enacted the Children's Online Privacy Protection Act of 1998
21 ("COPPA"). Congress designed COPPA to protect children's privacy online from operators of websites
22 or online services that collect user information. Specifically, COPPA requires websites and online
23 applications, or apps, that are either directed to children under thirteen years of age or have knowledge
24 that they are collecting personal information from children to provide direct notice to parents and obtain
25 verifiable parental consent before collecting such information. Included in the definition of "personal
26 information" under COPPA are a user's full name, e-mail address, phone number, and persistent
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1 identifiers like cookies that are used to track children for behavioral advertising purposes.¹

2 4. YouTube hosts numerous channels that are considered "directed to children" under
3 COPPA. These channels are directed to children because they feature child-oriented video content,
4 including child-friendly animated characters, depictions of children playing with toys, and depictions of
5 children engaging in child-oriented activities. The Company markets YouTube to popular brands of
6 children's products and services as a top destination for kids. This is evidenced, according to the Federal
7 Trade Commission ("FTC"), by disclosures from content providers, public statements by YouTube
8 executives, and the creation of the YouTube Kids app, which provides additional access to several
9 children's channels on YouTube. The Company even encourages content providers to create children's
10 programs for YouTube. Although Alphabet does not provide breakdowns of its advertising revenues,
11 including YouTube's revenues, the research firm Loup Ventures estimates that roughly \$750 million of
12 YouTube's annual revenue comes from content aimed at children.

13 5. In April 2018, twenty-three child advocacy, consumer, and privacy rights groups filed a
14 complaint with the FTC alleging that the Company's YouTube service violated COPPA. In particular,
15 the complaint claimed that YouTube collected many types of personal information from children using
16 the platform, and used such information to target advertisements, without giving notice or obtaining
17 advanced, verifiable parental consent as required by COPPA. The groups requested that the FTC
18 "enjoin Google from committing further violations of [COPPA], impose effective means for monitoring
19 compliance, and assess civil penalties that the FTC will not permit violations of COPPA." The
20 complaint claimed that YouTube provided content directed at children but did not comply with its
21 obligations under COPPA to provide notice of its data collection procedures and obtain parental consent.
22 The complaint highlighted YouTube's wide reach to children, stating that a search for "children's videos"
23 on YouTube returned 243 million items, and that the second most popular channel on the platform is
24 Ryan ToysReview with twelve million subscribers. In response to the child advocacy coalition's
25 complaint to the FTC, two members of Congress sent a letter to defendant Sundar Pichai ("Pichai") in
26

27 ¹ Behavioral advertising is a technique used by online advertisers to present targeted ads to consumers
28 by collecting information about their browsing behavior.

1 September 2018 asking the Company to provide information on how YouTube collected data on child
2 users. The letter expressed concerns that YouTube's data collection practices "may not be in compliance
3 with [COPPA]." According to one of the Congressmen, defendant Pichai did not respond within the
4 requested one-month deadline.

5 6. The FTC took notice of the concerns over the Company's data collection of children. In
6 or around July 2019, the FTC began investigating the Company for its child-directed content and
7 collection of children's information without parental consent. On September 4, 2019, the FTC and the
8 New York Attorney General filed a complaint in the U.S. District Court for the District of Columbia
9 against Google and YouTube seeking permanent injunction, civil penalties, and other equitable relief for
10 violations of COPPA (the "FTC Complaint"). The FTC Complaint explained that Alphabet collected
11 personal information directly from users of child-directed channels on YouTube, and at no time even
12 attempted to provide parents with the COPPA-specified notice of their information practices or to obtain
13 verifiable parental consent.

14 7. That same day, the FTC announced that the Company agreed to pay a record-breaking
15 \$170 million fine, the largest fine ever for a children's privacy case, in order to settle the claims. The
16 settlement imposed additional obligations on the Company to notify channel owners about their
17 potential COPPA obligations and to develop a system through which channel owners must identify their
18 child-directed content on the platform. The Company also agreed to spend significant resources to limit
19 the data collection of users of YouTube channels aimed at children. Alphabet admitted that such
20 limitations will hamstring its ability to sell advertisements against a massive portion of its media library.
21 The Company also announced that it will spend more to promote its YouTube Kids app—an app created
22 to curate content for children—and establish a \$100 million fund "dedicated to the creation of
23 thoughtful, original children's content." The FTC announced that it will automatically designate
24 identified child-directed channels on YouTube to be covered under COPPA and vowed to conduct
25 sweeps of the platform to ensure the Company falls in line with the law.

26 8. These massive fines and costly obligations imposed on Alphabet by the FTC have caused
27 the Company substantial harm. Plaintiff, on behalf of Alphabet, brings this action against the Individual
28 Defendants (as defined herein) seeking recovery for damages caused by their direct violations of law.

1 **JURISDICTION AND VENUE**

2 9. Jurisdiction is conferred by 28 U.S.C. §1332. Complete diversity among the parties
3 exists and the amount in controversy exceeds \$75,000, exclusive of interests and costs.

4 10. This Court has jurisdiction over each defendant named herein because each defendant is
5 either a corporation that conducts business in and maintains operations in this District, or is an
6 individual who has sufficient minimum contacts with this District to render the exercise of jurisdiction
7 by the District courts permissible under traditional notions of fair play and substantial justice.

8 11. Venue is proper in this Court in accordance with 28 U.S.C. §1391 because:
9 (i) Alphabet maintains its principal place of business in this District; (ii) one or more of the defendants
10 either resides in or maintains executive offices in this District; (iii) a substantial portion of the
11 transactions and wrongs complained of herein, including the defendants' primary participation in the
12 wrongful acts detailed herein, and aiding and abetting and conspiracy in violation of fiduciary duties
13 owed to Alphabet, occurred in this District; and (iv) defendants have received substantial compensation
14 in this District by doing business here and engaging in numerous activities that had an effect in this
15 District.

16 **INTRADISTRICT ASSIGNMENT**

17 12. A substantial portion of the transactions and wrongdoings which give rise to the claims in
18 this action occurred in the County of Santa Clara and, as such, this action is properly assigned to the San
19 Jose division of this Court.

20 **THE PARTIES**

21 **Plaintiff**

22 13. Plaintiff William Wessels has continuously been a stockholder of Alphabet since
23 November 2015. Plaintiff is a citizen of Texas.

24 **Nominal Defendant**

25 14. Nominal Defendant Alphabet is a Delaware corporation with principal executive offices
26 located at 1600 Amphitheatre Parkway, Mountain View, California. Accordingly, Alphabet is a citizen
27 of Delaware and California. Alphabet describes itself as a "collection of businesses," the largest being
28 its subsidiary Google (f/k/a Google Inc.), which operates a ubiquitous internet search engine and its

1 affiliated products and platforms. Alphabet also operates other various early-stage technology
2 businesses which it refers to as "Other Bets." As of December 31, 2018, the Company had 98,771 full-
3 time employees.

4 15. Defendant Larry Page ("Page") is Alphabet's Chief Executive Officer ("CEO") and has
5 been since April 2011, and a director and has been since September 1998. Defendant Page was also
6 Alphabet's President, Products from July 2001 to April 2011; Chief Financial Officer ("CFO") from
7 September 1998 to July 2002; and CEO from September 1998 to July 2001. Defendant Page cofounded
8 the Company in 1998. Defendant Page knowingly, recklessly, or with gross negligence authorized the
9 Company to collect personal information from children under thirteen years of age without notice and
10 parental consent, in direct violation of federal privacy laws. Since 2014, defendant Page has received a
11 nominal salary of \$1 per year. Defendant Page appears to derive a functional salary from monthly sales
12 of Alphabet stock. As indicated in Alphabet's most recent Proxy Statement, defendant Page does not
13 qualify as an independent director under the laws and regulations of the SEC and the listing guidelines
14 set forth by the National Association of Securities Dealers Automated Quotations ("NASDAQ").
15 Defendant Page is a citizen of California.

16 16. Defendant Sergey Brin ("Brin") is Alphabet's President and has been since October 2014,
17 and a director and has been since September 1998. Defendant Brin was also the Company's President,
18 Technology from July 2011 to April 2011 and Google Inc.'s President and Chairman of Google Inc.'s
19 Board of Directors from September 1998 to July 2001. Defendant Brin cofounded the Company in
20 1998. Defendant Brin knowingly, recklessly, or with gross negligence authorized the Company to
21 collect personal information from children under thirteen years of age without notice and parental
22 consent, in direct violation of federal privacy laws. Since 2014, defendant Brin has received a nominal
23 salary of \$1 per year. Defendant Brin appears to derive a functional salary from monthly sales of
24 Alphabet stock. As indicated in Alphabet's most recent Proxy Statement, defendant Brin does not
25 qualify as an independent director under the laws and regulations of the SEC and the listing guidelines
26 set forth by NASDAQ. Defendant Brin is a citizen of California.

27 17. Defendant Pichai is Google's CEO and has been since October 2015, and a director of
28 Alphabet and has been since July 2017. Defendant Pichai was also Google Inc.'s Senior Vice President

1 of Products from October 2014 to October 2015; and Google Inc.'s Senior Vice President, Android,
 2 Chrome and Apps from March 2013 to October 2014. Prior to those positions, defendant Pichai held
 3 various other roles at Google Inc. of increasing responsibility. Defendant Pichai knowingly, recklessly,
 4 or with gross negligence authorized the Company to collect personal information from children under
 5 thirteen years of age without notice and parental consent, in direct violation of federal privacy laws. As
 6 indicated in Alphabet's most recent Proxy Statement, defendant Pichai does not qualify as an
 7 independent director under the laws and regulations of the SEC and listing guidelines set forth by
 8 NASDAQ. Alphabet paid defendant Pichai the following compensation as an executive:

Year	Salary	Stock Awards	All Other Compensation	Total
2018	\$650,000	-	\$1,231,066	\$1,881,066
2017	\$650,000	-	\$683,557	\$1,333,557
2016	\$650,000	\$198,695,790	\$372,410	\$199,718,200
2015	\$652,500	\$99,829,142	\$150,460	\$100,632,102

13 Defendant Pichai is a citizen of California.

14 18. Defendant Ruth M. Porat ("Porat") is Alphabet's CFO and Senior Vice President and has
 15 been since May 2015. Defendant Porat is also Google's CFO and Senior Vice President and has been
 16 since May 2015. Defendant Porat knowingly, recklessly, or with gross negligence authorized the
 17 Company to collect personal information from children under thirteen years of age without notice and
 18 parental consent, in direct violation of federal privacy laws. Alphabet paid defendant Porat the
 19 following compensation as an executive:

Year	Salary	Bonus	Stock Awards	All Other Compensation	Total
2018	\$650,000	-	\$46,612,647	\$29,357	\$47,292,004
2017	\$650,000	-	-	\$38,638	\$688,638
2016	\$650,000	-	\$38,313,173	\$110,956	\$39,074,129
2015	\$395,000	\$5,000,000	\$25,052,554	\$603,932	\$31,051,486

24 Defendant Porat is a citizen of New York.

25 19. Defendant John L. Hennessy ("Hennessy") is Alphabet's Chairman of the Board of
 26 Directors (the "Board") and has been since January 2018, and a director and has been since April 2004.
 27 Defendant Hennessy was also Alphabet's Lead Independent Director from April 2007 to January 2018.
 28 Defendant Hennessy knowingly or recklessly authorized the Company to collect personal information

1 from children under thirteen years of age without notice and parental consent, in direct violation of
 2 federal privacy laws. Alphabet paid defendant Hennessy the following compensation as a director:

Fiscal Year	Fees Paid in Cash	Stock Awards	Total
2018	\$83,717	\$402,711	\$486,428
2017	\$75,000	\$355,567	\$430,567
2016	\$75,000	\$351,676	\$426,676
2015	\$75,000	\$351,198	\$426,198

7 Defendant Hennessey is a citizen of California.

8 20. Defendant L. John Doerr ("Doerr") is an Alphabet director and has been since May 1999.
 9 Defendant Doerr was a member of the Audit Committee from December 2015 to June 2016. Defendant
 10 Doerr knowingly or recklessly authorized the Company to collect personal information from children
 11 under thirteen years of age without notice and parental consent, in direct violation of federal privacy
 12 laws. Alphabet paid defendant Doerr the following compensation as a director:

Fiscal Year	Fees Paid in Cash	Stock Awards	Total
2018	\$75,000	\$350,786	\$425,786
2017	\$75,000	\$355,567	\$430,567
2016	\$75,000	\$351,676	\$426,676
2015	\$75,000	\$351,198	\$426,198

17 Defendant Doerr is a citizen of California.

18 21. Defendant Roger W. Ferguson, Jr. ("Ferguson") is an Alphabet director and has been
 19 since June 2016. Defendant Ferguson is a member of the Audit Committee and has been since June
 20 2016. Defendant Ferguson knowingly or recklessly authorized the Company to collect personal
 21 information from children under thirteen years of age without notice and parental consent, in direct
 22 violation of federal privacy laws. Alphabet paid defendant Ferguson the following compensation as a
 23 director:

Fiscal Year	Fees Paid in Cash	Stock Awards	Total
2018	\$75,000	\$350,786	\$425,786
2017	\$71,552	\$339,156	\$410,708
2016	-	\$1,004,789	\$1,004,789

28 Defendant Ferguson is a citizen of the District of Columbia.

1 22. Defendant Ann Mather ("Mather") is an Alphabet director and has been since November
2 2005. Defendant Mather is a member of the Audit Committee and has been since at least March 2014.
3 Defendant Mather knowingly or recklessly authorized the Company to collect personal information from
4 children under thirteen years of age without notice and parental consent, in direct violation of federal
5 privacy laws. Alphabet paid defendant Mather the following compensation as a director:

Fiscal Year	Fees Paid in Cash	Stock Awards	Total
2018	\$100,000	\$350,786	\$450,786
2017	\$100,000	\$355,567	\$455,567
2016	\$100,000	\$351,676	\$451,676
2015	\$100,000	\$351,198	\$451,198

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10 Defendant Mather is a citizen of California.

11 23. Defendant Alan R. Mulally ("Mulally") is an Alphabet director and has been since July
12 2014. Defendant Mulally is a member of the Audit Committee and has been since July 2014.
13 Defendant Mulally knowingly or recklessly authorized the Company to collect personal information
14 from children under thirteen years of age without notice and parental consent, in direct violation of
15 federal privacy laws. Alphabet paid defendant Mulally the following compensation as a director:

Fiscal Year	Fees Paid in Cash	Stock Awards	Total
2018	\$75,000	\$350,786	\$425,786
2017	\$75,000	\$355,567	\$430,567
2016	\$75,000	\$351,676	\$426,676
2015	\$64,674	\$302,667	\$367,341

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20 Defendant Mulally is a citizen of Washington.

21 24. Defendant K. Ram Shriram ("Shriram") is an Alphabet director and has been since
22 September 1998. Defendant Shriram was a member of the Audit Committee from at least March 2014
23 to July 2014. Defendant Shriram knowingly or recklessly authorized the Company to collect personal
24 information from children under thirteen years of age without notice and parental consent, in direct
25 violation of federal privacy laws. Alphabet paid defendant Shriram the following compensation as a
26 director:

Fiscal Year	Fees Paid in Cash	Stock Awards	Total
2018	\$75,000	\$350,786	\$425,786
2017	\$75,000	\$355,567	\$430,567
2016	\$75,000	\$351,676	\$426,676
2015	\$75,000	\$351,198	\$426,198

Defendant Shriram is a citizen of California.

25. Defendant Robin L. Washington ("Washington") is an Alphabet director and has been since April 2019. Defendant Washington knowingly or recklessly authorized the Company to collect personal information from children under thirteen years of age without notice and parental consent, in direct violation of federal privacy laws. Defendant Washington is a citizen of California.

26. Defendant Eric E. Schmidt ("Schmidt") was an Alphabet director from March 2001 to at least April 2019. Defendant Schmidt also served as Executive Chairman of Alphabet's Board from April 2011 to January 2018; CEO of Google Inc. from July 2001 to April 2011; and Chairman of Google Inc.'s Board of Directors from March 2001 to April 2004 and again from November 2007 to April 2011. Defendant Schmidt knowingly or recklessly authorized the Company to collect personal information from children under thirteen years of age without notice and parental consent, in direct violation of federal privacy laws. Alphabet paid defendant Schmidt the following compensation as a director and executive:

Year	Salary	Bonus	Non-Qualified Deferred Compensation Earnings	All Other Compensation	Total
2018	\$1,250,000	-	-	\$362,016	\$1,612,016
2017	\$1,250,000	-	\$2,798,606	\$677,986	\$4,726,592
2016	\$1,250,000	-	\$2,430,685	\$629,106	\$4,309,791
2015	\$1,254,808	\$6,000,000	-	\$783,370	\$8,038,178

Defendant Schmidt is a citizen of California.

27. Defendant Diane B. Greene ("Greene") was an Alphabet director from January 2012 to at least April 30, 2019. Defendant Green also served as Google's Senior Vice President and CEO, Google Cloud from December 2015 to January 2019. Defendant Greene was a member of the Audit Committee from at least March of 2014 to December 2015. Defendant Greene knowingly or recklessly authorized the Company to collect personal information from children under thirteen years of age without notice

1 and parental consent, in direct violation of federal privacy laws. Alphabet paid defendant Greene the
2 following compensation as a director and executive:

3 Fiscal Year	Fees Paid in Cash	Stock Awards	All Other Compensation	Total
4 2018	-	-	\$47,502,388	\$47,502,388
5 2017	-	-	\$674,177	\$674,177
6 2016	\$39,825	\$187,002	\$43,455,532	\$43,682,359
2015	\$75,000	\$351,198	\$28,250	\$454,448

7 Defendant Greene is a citizen of California.

8 28. The defendants identified in ¶¶15-18, 26-27 are referred to herein as the "Officer
9 Defendants." The defendants identified in ¶¶15-17, 19-27 are referred to herein as the "Director
10 Defendants." The defendants identified in ¶¶21-23 are referred to herein as the "Audit Committee
11 Defendants." Collectively, the defendants identified in ¶¶15-27 are referred to herein as the "Individual
12 Defendants."

13 **DUTIES OF THE INDIVIDUAL DEFENDANTS**

14 **Fiduciary Duties**

15 29. By reason of their positions as officers and directors of the Company, each of the
16 Individual Defendants owed and owe Alphabet and its stockholders fiduciary obligations of trust,
17 loyalty, good faith, and due care, and were and are required to use their utmost ability to control and
18 manage Alphabet in a fair, just, honest, and equitable manner. The Individual Defendants were and are
19 required to act in furtherance of the best interests of Alphabet and not in furtherance of their personal
20 interest or benefit.

21 30. To discharge their duties, the officers and directors of Alphabet were required to exercise
22 reasonable and prudent supervision over the management, policies, practices, and controls of the
23 financial affairs of the Company. By virtue of such duties, the officers and directors of Alphabet were
24 required to, among other things:

25 (a) ensure that the Company operated in a diligent, honest, and prudent manner in
26 compliance with all laws, rules, and regulations;

27 (b) ensure that the Company complied with its legal obligations and requirements and
28 refrained from engaging in deceptive conduct;

1 (c) conduct the affairs of the Company in an efficient, business-like manner in
2 compliance with all applicable laws, rules, and regulations so as to make it possible to provide the
3 highest quality performance of its business, to avoid wasting the Company's assets, and to maximize the
4 value of the Company's stock; and

5 (d) remain informed as to how Alphabet conducted its operations, and, upon receipt
6 of notice or information of imprudent or unsound conditions or practices, make reasonable inquiry in
7 connection therewith, and take steps to correct such conditions or practices and make such disclosures as
8 necessary to comply with applicable laws.

9 31. Alphabet holds its fiduciaries to specific corporate governance principles beyond the
10 requirements of law. In particular, in the Company's Corporate Governance Guidelines, Alphabet
11 described the duties undertaken by the Board and the active oversight role the Board played in the
12 Company's business affairs. The Corporate Governance Guidelines state that the Board must "oversee
13 management's performance to ensure that Alphabet operates in an effective, efficient and ethical manner
14 in order to produce value for Alphabet's stockholders." Furthermore, the Board has responsibility for
15 risk oversight, including oversight of litigation and regulatory exposures that may present material risk
16 to the Company. In particular, the Corporate Governance Guidelines state:

17 Additionally, the Board has responsibility for risk oversight, with reviews of certain areas
18 being conducted by the relevant board committees. The Board is responsible for
19 oversight of strategic, financial and execution risks and exposures associated with
20 Alphabet's business strategy, product innovation and sales road map, policy matters,
21 significant litigation and regulatory exposures, and other current matters that may present
22 material risk to Alphabet's or its subsidiaries' or controlled affiliates' financial
23 performance, operations, infrastructure, plans, prospects or reputation, acquisitions and
24 divestitures.

25 32. The Individual Defendants, as officers and directors of Alphabet, were also bound by the
26 Company's Code of Conduct (the "Code"). The Code sets out basic principles to guide all employees
27 and directors of Alphabet who are required to know and conduct themselves in accordance with the
28 Code, as well as applicable laws and regulations. In particular, the Code requires its directors and
employees to "[c]omply with all applicable legal requirements and understand the major laws and
regulations that apply to your work."

1 **Breaches of Duties**

2 33. The conduct of the Individual Defendants complained of herein involves a knowing and
3 culpable violation of their obligations as officers and directors of Alphabet, the absence of good faith on
4 their part, and a reckless disregard for their duties to the Company that the Individual Defendants were
5 aware or reckless in not being aware posed a risk of serious injury to the Company.

6 34. The Individual Defendants breached their duty of loyalty and good faith by allowing
7 defendants to cause, or by themselves causing, the Company to engage in improper practices that caused
8 Alphabet to incur substantial damage.

9 35. The Individual Defendants, because of their positions of control and authority as officers
10 or directors of Alphabet, were able to and did, directly or indirectly, exercise control over the wrongful
11 acts complained of herein. The Individual Defendants also failed to prevent the other Individual
12 Defendants from taking such illegal actions. As a result, and in addition to the damage the Company has
13 already incurred, Alphabet has expended, and will continue to expend, significant sums of money.

14 **Additional Duties of the Audit Committee Defendants**

15 36. In addition to these duties, under the Audit Committee Charter, the Audit Committee
16 Defendants, defendants Ferguson, Mather, and Mulally, owed specific duties to Alphabet to "[r]eview
17 and discuss with management Alphabet's major risk exposures, including financial, operational, privacy,
18 security, cybersecurity, competition, legal, regulatory, and reputational risks, and the steps Alphabet
19 takes to detect, monitor, and actively manage such exposures." Moreover the Audit Committee's
20 Charter provides that the Audit Committee members must actively oversee risks and exposures
21 associated with certain financial matters, including programs and policies relating to legal compliance
22 and strategy and data privacy. In particular, the Audit Committee Charter provides:

23 Risk Assessment. The Audit Committee has responsibility for oversight of risks and
24 exposures associated with financial matters, particularly financial reporting, tax,
25 accounting, disclosure, internal control over financial reporting, investment guidelines
26 and credit and liquidity matters, our programs and policies relating to legal compliance
27 and strategy, and our operational infrastructure, particularly reliability, business
28 continuity, capacity, security, and data privacy, including cybersecurity. The Audit
Committee will provide regular reports to the full Board of Directors. In order to
facilitate this review, the Audit Committee will meet in executive session with key
management personnel and representatives of outside advisors as required.

CONSPIRACY, AIDING AND ABETTING, AND CONCERTED ACTION

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2 37. In committing the wrongful acts alleged herein, the Individual Defendants have pursued,
3 or joined in the pursuit of, a common course of conduct, and have acted in concert with and conspired
4 with one another in furtherance of their common plan or design. In addition to the wrongful conduct
5 herein alleged as giving rise to primary liability, the Individual Defendants further aided and abetted or
6 assisted each other in breaching their respective duties.

7 38. During all times relevant hereto, the Individual Defendants, collectively and individually,
8 initiated a course of conduct that was designed to and did: (i) collect personal information from children
9 under thirteen years of age without consent, in direct violation of federal law; (ii) deceive the investing
10 public, including stockholders of Alphabet, regarding the Individual Defendants' management of
11 Alphabet's operations and violations of federal law; and (iii) enhance the Individual Defendants'
12 executive and directorial positions at Alphabet and the profits, power, and prestige that the Individual
13 Defendants enjoyed as a result of holding these positions. In furtherance of this plan, conspiracy, and
14 course of conduct, the Individual Defendants, collectively and individually, took the actions set forth
15 herein.

16 39. The purpose and effect of the Individual Defendants' conspiracy, common enterprise, or
17 common course of conduct was, among other things, to disguise the Individual Defendants' violations of
18 law, breaches of fiduciary duty and unjust enrichment; and to conceal adverse information concerning
19 the Company's operations, financial condition, and future business prospects.

20 40. The Individual Defendants accomplished their conspiracy, common enterprise, or
21 common course of conduct by causing the Company to purposefully or recklessly engage in violations
22 of federal privacy laws. Because the actions described herein occurred under the authority of the Board,
23 each of the Individual Defendants was a direct, necessary, and substantial participant in the conspiracy,
24 common enterprise, or common course of conduct complained of herein.

25 41. Each of the Individual Defendants aided and abetted and rendered substantial assistance
26 in the wrongs complained of herein. In taking such actions to substantially assist the commission of the
27 wrongdoing complained of herein, each Individual Defendant acted with knowledge of the primary
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1 wrongdoing, substantially assisted in the accomplishment of that wrongdoing, and was aware of his or
2 her overall contribution to and furtherance of the wrongdoing.

3 **CONGRESS ENACTS COPPA TO PROTECT CHILDREN'S PRIVACY ONLINE**

4 42. Congress enacted COPPA in 1998 to protect the safety and privacy of children online by
5 prohibiting the unauthorized or unnecessary collection of children's personal information by operators of
6 Internet websites and services. 15 U.S.C. §§6501, *et seq.* COPPA imposes certain requirements on
7 both: (i) operators of websites or online services to children under thirteen years of age; and (ii)
8 operators of other websites or online services that have actual knowledge that they are collecting
9 personal information online from a child under thirteen years of age.

10 43. Under COPPA, an "operator" means "any person who operates a Web site located on the
11 Internet or an online service and who collects or maintains personal information from or about the users
12 of or visitors to such Web site or online service, or on whose behalf such information is collected or
13 maintained, or offers products or services for sale through that Web site or online service, where such
14 Web site or online service is operated for commercial purposes." As such, commercial entities that
15 operate child-directed channels on the YouTube platform are operators under the COPPA Rule² because
16 they permit the Company to collect personal information on their behalf.

17 44. Additionally, as described herein, the defendants have actual knowledge that they are
18 collecting personal information directly from users of these child-directed channels. Through their
19 actual knowledge, the defendants are deemed to be operators under the COPPA Rule. Under COPPA,
20 the actual knowledge standard will usually be met when "(1) A child-directed content provider ...
21 directly communicates the child-directed nature of its content to the other online service; or (2) a
22 representative of the online service recognizes the child-directed nature of the content." Moreover, an
23 accumulation of other facts analyzed carefully on a case-by-case basis may also establish actual
24 knowledge.

25
26
27 ² COPPA required the FTC to issue and enforce regulations concerning children's online privacy. The
28 FTC's COPPA Rule became effective in April 2000, and amended in July 2013. 16 C.F.R. §§312, *et seq.* and Section 5 of the FTC Act.

1 45. COPPA defines "personal information" as "individually identifiable information about an
2 individual collected online," including "first and last name," "[o]nline contact information," and a
3 "persistent identifier that can be used to recognize a user over time and across different Web sites or
4 online services." These persistent identifiers can include "a customer number held in a cookie, an
5 Internet Protocol (IP) address, a processor or device serial number, or unique device identifier."
6 Personal information is "collected or maintained on behalf of an operator when ... [t]he operator
7 benefits by allowing another person to collect personal information directly from users of such Web site
8 or online service."

9 46. Among other things, the COPPA Rule requires a covered operator to give *notice* to
10 parents and *obtain their verifiable consent* before collecting children's personal information online.
11 This includes, but is not limited to:

12 (a) posting a privacy policy on its website or online service providing, clear,
13 understandable, and complete notice of its information practices, including what information the website
14 operator collects from children online, how it uses such information, its disclosure practices for such
15 information, and other specific disclosures set forth in the COPPA Rule;

16 (b) providing specific disclosures directly to parents of the operator's information
17 practices in a clear, understandable, and complete manner; and

18 (c) obtaining verifiable parental consent prior to collecting, using, or disclosing
19 personal information from children.

20 47. The COPPA Rule thus prohibits the collection of persistent identifiers for behavioral
21 advertising absent notice and verifiable parental consent. Behavioral advertising, which is also referred
22 to as personalized, targeted, or interest-based advertising, involves the tracking of a consumer's online
23 activities in order to deliver tailored advertising based on the consumer's inferred interests.

24 **YOUTUBE'S BUSINESS MODEL DEPENDS ON IT BEING ABLE TO COLLECT PERSONAL**
25 **INFORMATION FROM USERS, INCLUDING CHILDREN,**
26 **TO DRIVE ADVERTISING REVENUE**

27 48. The Company admits in its privacy policy, which applies to YouTube, that it collects
28 personal information from those who use its services. This information includes unique identifiers,
which are strings of characters that can be used to uniquely identify a browser, app, or device. These

1 unique identifiers are also known as "cookies." Other personal information collected from users include
2 "mobile network information including phone number." The privacy policy states that it collects
3 information from its users to show them "more relevant search results and ads." Notably, YouTube does
4 not have a separate privacy policy for children.

5 49. In order to upload content on YouTube, users must first have a Google account and can
6 then create a "channel" to display their content. These users ("channel owners") can set key words for
7 their channel that help other users searching for videos on YouTube find their channel. Channel owners
8 can also set key words for individual videos they upload and choose whether to enable comments.
9 Eligible channel owners, including commercial entities, can monetize their channel by allowing the
10 Company to serve advertisements to viewers, for which the channel owners and the Company earn
11 revenue. By default, Alphabet enables behavioral advertising on monetized channels. When a channel
12 owner monetizes a channel, the Company collects information associated with a viewer's online
13 activities and serves advertising that is specifically tailored to the viewer's inferred interests.

14 50. In January 2016, the Company began offering channel owners the option to disable
15 behavioral advertising on their monetized channels. The checkbox that allows the channel owner to opt
16 out of behavioral advertising contains text stating that doing so "may significantly reduce [the] channel's
17 revenue." When a channel owner opts out of behavioral advertisements on a monetized channel,
18 Alphabet serves contextual advertising on the channel, which generates less revenue for the channel
19 owner and the Company.

20 51. According to its terms, YouTube is not intended for children under thirteen. However,
21 Alphabet does not require users to register or create an account in order to view videos on YouTube. As
22 a result, anyone can view most content on YouTube regardless of their age. Since anyone can watch
23 videos on the platform without an account, YouTube cannot enforce the purported age limit as currently
24 set. Thus, children under thirteen are able to, and do, watch videos on YouTube. The Company collects
25 personal information from these viewers and uses that information for targeted ads.

26 52. In addition to collecting data on its main YouTube platform, the Company collects
27 certain personal information from children through the children's use of the YouTube Kids application.
28 This information includes:

- 1 • device type and settings, such as hardware model and operating system version;
- 2 • log information, including details of how the service is used, device event information,
- 3 and the device's IP address;
- 4 • unique application numbers, such as application version number; and
- 5 • unique identifiers, which are used to collect and store information about an app or device,
- 6 such as preferred language, app activity, and other settings.

7 **THE COMPANY HAD ACTUAL KNOWLEDGE THAT IT WAS COLLECTING**
8 **PERSONAL INFORMATION FROM CHILDREN**

9 53. The Company had actual knowledge, as defined by COPPA, that it was collecting and
10 using personal information from children because: (i) content providers directly communicate the child-
11 directed nature of their content in the "About" section of their channels; and (ii) many high-level
12 YouTube representatives have publicly recognized the child-directed content on YouTube.

13 54. To start, Alphabet markets YouTube to popular brands of children's products and services
14 as a top destination for kids. For example, in a presentation to toy brand Mattel titled "Insights on
15 Families Online," the Company stated, "YouTube is today's leader in reaching children age 6-11 against
16 top TV channels." In a presentation to toy brand Hasbro, the Company claimed that "YouTube is
17 unanimously voted as the favorite website of kids 2-12," and that "93% of tweens visit YouTube to
18 watch videos." In another presentation to Hasbro, the Company referred to YouTube as "[t]he new
19 'Saturday Morning Cartoons.'" The Company also claimed that YouTube was the "#1 website regularly
20 visited by kids" and "the #1 source where children discover new toys + games."

21 55. In February 2015, the Company created YouTube Kids, a mobile application aimed at
22 children ages two to twelve. YouTube Kids automatically took content rated Y (intended for children
23 ages 0-7) or G (intended for children of any age) from YouTube and made it available through the app.
24 The Company specifically curated, through manual review, content that appears on the YouTube Kids
25 home screen, which the defendants refer to as the "home canvas." Content that appears on YouTube
26 Kids continues to be available on YouTube. Therefore, since content for YouTube Kids came from the
27 main YouTube platform, the Company and the Individual Defendants knew YouTube was directed at
28 children.

1 56. When the Company launched the YouTube Kids app, several of its high-level
2 representatives acknowledged that many children used the main YouTube platform. For example, on
3 YouTube's Official Blog, YouTube Product Manager Shimrit Ben-Yair explained that YouTube
4 developed the Kids app because "[p]arents were constantly asking us, can you make YouTube a better
5 place for our kids." Malik Ducard, YouTube's Global Head of Family and Learning, stated that
6 YouTube rolled out the Kids app "as a mobile experience because of this reality – that we're all familiar
7 with – 75% of kids between birth and the age of 8 have access to a mobile device and more than half of
8 kids prefer to watch content videos on a mobile device or a tablet."

9 57. Despite the availability of the YouTube Kids app, more children use the main YouTube
10 platform. In a survey by Common Sense Media, a nonprofit organization, 81% of parents reported that
11 their children watched YouTube on either its main website (44%) or on the YouTube app (37%). In
12 contrast, only 24% of parents indicated their children used the YouTube Kids app.

13 **Examples of YouTube's Child-Directed Channels**

14 58. YouTube hosts numerous channels that are "directed to children" under the COPPA Rule.
15 Many of these channels self-identify as being for children in their "About" sections on their webpages.
16 In addition, many of the channels include other indicia of child-directed content, such as the use of
17 animated characters or depictions of children playing with toys and engaging in other child-oriented
18 activities. Moreover, the Company's automated system selected content from each of the channels
19 described below, and in many cases, the Company manually curated content from these channels to be
20 featured on the YouTube Kids application. Even though such content is ported to YouTube Kids, it
21 remains available on the main platform. Given that these child-directed channels are available on
22 YouTube, the Company collects personal information from those users.

23 59. For example, the toy brand Mattel has several popular YouTube channels, including
24 Barbie, Monster High, Hot Wheels, and Thomas & Friends. Content from each of these channels
25 regularly appears on YouTube Kids and has been featured on its home canvas. These channels each
26 show videos related to popular children's toys. For example, the Barbie YouTube channel has animated
27 videos with Barbie and her friends, including, for example, "Meet the Junior Rainbow Princesses." The
28 channel also includes episodes of "Barbie Dreamtopia," a show the channel owner describes as

1 "targeting 3-6 year olds." The key words set by the channel owner that help viewers find the Barbie
2 channel on YouTube include "Barbie doll" and "Malibu Dreamhouse." According to Mattel, the target
3 demographic for Monster High is girls ages six to ten.

4 60. Cartoon Network is a popular YouTube channel that shows animated kids television
5 shows, including Steven Universe, the Powerpuff Girls, and Teen Titans Go. The channel's content
6 regularly appears on YouTube Kids and has been featured on its home canvas. The Company selected a
7 clip from the Cartoon Network YouTube channel in a "Creating for Kids Playbook," as a resource for
8 other channels looking to make family-friendly content. In one marketing presentation, Alphabet
9 referred to the channel as a "popular YouTube Channel[] kids are watching."

10 61. Hasbro's popular YouTube channel shows episodes of many animated kids programs,
11 including My Little Pony, Littlest Pet Shop, Hanazuki, and Play-doh Town. Hasbro's content regularly
12 appears on YouTube Kids and has been featured on its home canvas. According to the channel owner,
13 the target demographic for My Little Pony is children ages five to eight, and the Hanazuki show is
14 aimed at children ages eight to ten.

15 62. Dreamworks TV is a popular YouTube channel that shows several animated children's
16 shows, including Dragons: Race to the Edge, Trollhunters, and Shrek. The channel's content regularly
17 appears on YouTube Kids and has been featured on its home canvas. The "About" section of its
18 YouTube channel webpage describes the channel as "made just for kids!" The channel owner uses key
19 words for its channel that include "kung fu panda," "how to train your dragon," and "YouTube Kids." In
20 addition, at least one video appearing on the channel was one of the most popular videos on YouTube
21 Kids during a 90-day period in 2016.

22 63. YouTube markets and hosts countless other channels that are directed to children on its
23 platform. These include incredibly popular channels such as Masha and the Bear, Bratayley,
24 CookieSwirlC, Sandaroo Kids, EvanTubeHD, Little Baby Bum, Mother Goose Club, and Toyscouter.
25 Each of these channels has been described as made for children by the channel owner, and each has been
26 featured on the YouTube Kids home canvas.

1 64. From the above channels alone, which represent a small fraction of the universe of child-
2 directed content on YouTube, the Company earned close to \$50 million from behavioral advertising,
3 according to the FTC Complaint.

4 **THE COMPANY VIOLATES COPPA**

5 65. As described above, COPPA requires operators of commercial websites to give parents
6 notice of their data collection from children under thirteen. The law also requires explicit parental
7 consent for the use of such data. As an operator of a commercial website directed to children, Alphabet
8 failed to comply with the requirements of the COPPA Rule by collecting personal information from
9 children through YouTube channels that were directed to children under the age of thirteen. Alphabet
10 had actual knowledge that YouTube collected personal information directly from users of these child-
11 directed websites or online services given the Company's direct communications with channel owners,
12 its work curating specific content for YouTube Kids, and YouTube's content ratings.

13 66. With this knowledge, the Company collected, used, and disclosed personal information
14 from children in violation of the COPPA Rule. Specifically, Alphabet failed to provide sufficient notice
15 on its website or online service of the information that it collected, or was collected on its behalf, online
16 from children, how it uses such information, its disclosure practices, and all other required content under
17 COPPA. The Company also failed to provide direct notice to parents of the information collected online
18 from children, how it uses such information, its disclosure practices, and all other required content under
19 COPPA. Third, Alphabet failed to obtain verifiable parental consent before any collection or use of
20 personal information from children.

21 67. Based on the foregoing, on April 9, 2018, nearly two dozen consumer, digital, and
22 privacy rights groups filed a complaint with the FTC claiming that YouTube violated COPPA. The
23 complaint specified that the Company's primary YouTube service aimed content at young children and
24 used persistent identifiers to collect information without parental consent. The complaint questioned
25 why so much children's material is hosted on YouTube when the Company purports to prevent children
26 under thirteen from using the platform without parental consent and supervision. The complaint also
27 alleged that the Company knows children are using YouTube, and that the platform provides mountains
28 of content catered to children.

1 68. In response to the child advocacy groups' complaint, two members of Congress, David
2 Cicilline and Jeff Fortenberry, sent a letter to defendant Pichai on September 17, 2018, asking Google's
3 CEO to provide information on how YouTube collects data on child users. The Congressmen pressed
4 defendant Pichai to answer whether children's programs on YouTube are marked to prevent data
5 collection, and whether any data that may be collected from viewers of children's programs is used for
6 targeted ads. They also asked why Google does not employ an age gate to prevent users under thirteen
7 from viewing videos on YouTube, and how the Company determines whether a user is a child. The
8 Congressmen requested that defendant Pichai provide a response to their letter within one month.
9 According to Congressman Fortenberry, defendant Pichai failed to respond to the letter.

10 69. In or around July 2019, the FTC began holding private talks with YouTube officials to
11 investigate the child advocacy groups' claims. According to the *Los Angeles Times*, YouTube
12 advertisers and sponsors took notice, with reports circulating that the FTC would hit YouTube with a
13 record fine and force its operations to change. On September 4, 2019, the FTC and the New York
14 Attorney General filed the FTC Complaint against Google and YouTube in the U.S. District Court for
15 the District of Columbia alleging violations of COPPA. The FTC Complaint sought a permanent
16 injunction to prevent future violations of the FTC Act and the COPPA Rule, monetary civil penalties,
17 and additional relief that the court may deem just and proper.

18 **THE COMPANY SETTLES THE FTC'S ALLEGATIONS**

19 70. On September 4, 2019, the Company settled allegations by the FTC and the New York
20 Attorney General for a record \$170 million in monetary fines. The proposed settlement was the largest
21 under COPPA since the law came into effect in 1998, nearly thirty times larger than the previous largest
22 civil penalty imposed by the FTC for COPPA violations and three times larger than any privacy penalty
23 assessed against Google. In addition to the monetary fine, the proposed settlement imposed additional
24 obligations on Google and YouTube that go beyond the requirements of COPPA, forcing the Company
25 to change its YouTube business model. In particular, the Company must now notify channel owners
26 about their potential COPPA obligations and develop a system through which channel owners must
27 identify their child-directed content on the YouTube platform.

28

1 71. In response, YouTube announced that it will treat data from any user watching children's
2 content on YouTube as though coming from a child, regardless of the age of the user. YouTube also
3 announced that it would stop serving personalized advertisements on children's content and that it would
4 turn off certain technical features on this content, such as comments and notifications. In addition,
5 creators would be required to identify child-directed content to YouTube, and YouTube would use
6 "machine learning" to find videos that clearly target children. The Company also announced that it
7 would launch YouTube Kids on the web, along with the mobile app, and established a \$100 million fund
8 to the creation of thoughtful children's content on both YouTube and YouTube Kids globally. In sum,
9 the settlement imposes significant costs on the Company to comply with the law.

10 72. After the announcement of the record-breaking settlement, New York Attorney General
11 Letitia James stated that Google and YouTube "abused their power," claiming "Google and YouTube
12 knowingly and illegally monitored, tracked, and served targeted ads to young children just to keep
13 advertising dollars rolling in." FTC Chairman Joe Simons added, "YouTube touted its popularity with
14 children to prospective corporate clients.... Yet when it came to complying with COPPA, the company
15 refused to acknowledge that portions of its platform were clearly directed to kids. There's no excuse for
16 YouTube's violations of the law."

DAMAGES TO ALPHABET

17
18 73. As a result of the Individual Defendants' improprieties, Alphabet has suffered significant
19 damage. In particular, as a direct result of the Company's massive violations of federal law, Alphabet
20 has been forced to pay \$170 million to the FTC and the New York Attorney General to settle allegations
21 that the Company violated COPPA. Alphabet's performance issues also damaged its reputation within
22 the business community and in the capital markets. In addition to price, Alphabet's current and potential
23 customers consider a company's ability to comply with the FTC's requirements designed to protect the
24 privacy of children online. Businesses are less likely to award contracts or provide advertising to
25 companies that have problems complying with federal privacy laws. In addition, the Company stands to
26 incur higher marginal costs of capital and debt because the unlawful conduct by the Individual
27 Defendants have materially increased the perceived risks of investing in and lending money to the
28 Company.

1 74. Further, as a direct and proximate result of the Individual Defendants' actions, Alphabet
2 has expended, and will continue to expend, significant sums of money. Such expenditures include, but
3 are not limited to:

4 (a) costs incurred from defending and paying the settlement in the FTC and New
5 York Attorney General action for violations of federal laws;

6 (b) costs incurred in complying with the governmental investigations into the
7 misconduct detailed herein, including any fines or penalties resulting therefrom;

8 (c) costs incurred from addressing the issues raised by the FTC in the settlement
9 agreement, including costs incurred from assuring future compliance with COPPA; and

10 (d) costs incurred from compensation and benefits paid to the defendants who have
11 breached their duties to Alphabet.

12 **DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS**

13 75. Plaintiff brings this action derivatively in the right and for the benefit of Alphabet to
14 redress injuries suffered, and to be suffered, by Alphabet as a direct result of breaches of fiduciary duty
15 and unjust enrichment, as well as the aiding and abetting thereof, by the Individual Defendants.
16 Alphabet is named as a nominal defendant solely in a derivative capacity. This is not a collusive action
17 to confer jurisdiction on this Court that it would not otherwise have.

18 76. Plaintiff will adequately and fairly represent the interests of Alphabet in enforcing and
19 prosecuting its rights.

20 77. Plaintiff has continuously been a stockholder of Alphabet since November 2015.

21 78. The current Board of Alphabet consists of the following ten individuals: defendants Page,
22 Brin, Hennessy, Doerr, Ferguson, Mather, Mulally, Pichai, Shriram, and Washington. Plaintiff has not
23 made any demand on the present Board to institute this action because such a demand would be a futile,
24 wasteful, and useless act, as set forth below.

25 **Demand Is Excused Because a Majority of the Board Faces a Substantial Likelihood of Liability**
26 **for Their Misconduct**

27 79. Defendants Page, Brin, Pichai, Hennessy, Doerr, Ferguson, Mather, Mulally, Shriram,
28 and Washington breached their fiduciary duties of loyalty by abdicating their responsibility to exercise

1 oversight of Alphabet, and unheeded the very responsibilities that Alphabet's own Code imposed on
2 them. Specifically, the Company committed to conduct its business in accordance with all applicable
3 laws, rules, and regulations and mandated that all employees, directors, and officers exemplify "the
4 highest possible standards of ethical business conduct." In short, Alphabet's Code requires its officers,
5 directors, and employees to "[o]bey the [l]aw." Notwithstanding the Code's provisions, each of these
6 defendants participated in, if not acquiesced in, the decision to continue to collect personal information
7 from children without parental consent or proper notice, in direct violation of COPPA. These
8 defendants knew of the COPPA violations but failed to act, given YouTube's massive advertising
9 revenues and its over one billion unique monthly visitors worldwide. As described herein, the
10 defendants directly marketed YouTube to children's content creators for the purpose of gaining child
11 users on its platform and generating substantial advertising revenues.

12 80. Defendants Ferguson, Mather, and Mulally, as members of the Audit Committee,
13 reviewed and approved the unlawful conduct described herein. The Audit Committee's Charter provides
14 that it is responsible for compliance with legal and regulatory requirements. Thus, the Audit Committee
15 Defendants were responsible for knowingly or recklessly allowing the improper conduct related to the
16 Company's failure in its obligations to comply with the law. Despite their knowledge or reckless
17 disregard, the Audit Committee Defendants permitted the unlawful conduct of collecting children's
18 information through the YouTube platform without parental consent or providing the required notice.
19 Accordingly, the Audit Committee Defendants breached their fiduciary duty of loyalty and good faith
20 because they participated in the wrongdoing described herein. Thus, defendants Ferguson, Mather, and
21 Mulally, face a substantial likelihood of liability for their breach of fiduciary duties so any demand upon
22 them is futile.

23 **Demand Is Excused Because Defendants Brin and Page Dominate and Control the Board**

24 81. Defendants Brin and Page govern the Company and dominate the Board through their
25 voting power as controlling stockholders. As of April 30, 2019, defendant Page controlled 26.1% of the
26 stockholder voting power, and defendant Brin controlled 25.2% of the stockholder voting power. These
27 two defendants collectively control a majority of the Board, controlling 51.3% of the stockholder voting
28 power. Defendants Page and Brin have also dominated the Board in terms of their influence on the

1 Company. As disclosed in the Company's 2018 Annual Report on Form 10-K filed with the SEC on
2 February 5, 2019, defendants Page, Brin, and Schmidt together "have significant influence over
3 management and affairs and over all matters requiring stockholder approval, including the election of
4 directors and significant corporate transactions ... for the foreseeable future." The Company even
5 acknowledges in that same filing that "[t]he concentration of our stock ownership limits our
6 stockholders' ability to influence corporate matters."

7 82. The remaining Director Defendants are and have been wholly under the domination of
8 defendants Brin and Page preventing them from taking remedial action against defendants Brin and
9 Page. Defendants Brin and Page, as majority stockholders, have the power not to reelect any director
10 who votes to discipline them for their improper acts. Demand is therefore futile and excused. As
11 discussed below, in addition to the controlling interest in the Company, the Director Defendants are
12 incapable of assessing demand as to defendants Brin and Page due to their substantial personal and
13 professional ties to them.

14 **Demand Is Excused Because a Majority of the Board Cannot Conduct an Independent and**
15 **Objective Investigation into the Wrongful Conduct**

16 83. The Board's tangled web of close professional and personal relationships, especially with
17 the controlling stockholders, amount to conflicts of interest that have precluded, and will continue to
18 preclude, it from taking necessary and proper steps to investigate and remedy Alphabet's illegal conduct.

19 84. Three of the Company's Board members—defendants Page, Brin, and Pichai—are not
20 independent by definition and as admitted in Alphabet's 2019 Proxy Statement.

21 85. **Defendants Page and Brin:** As set forth in detail above, defendants Page and Brin are
22 the cofounders, controlling stockholders, and, respectively, the CEO and President of Alphabet. Given
23 their roles at the Company, neither are considered "Independent Directors" by the Company.
24 Defendants Page and Brin were also personally involved in the decisions approving the misconduct
25 alleged herein, breaching their duties of due care and loyalty to the Company and its stockholders.
26 During all relevant times, defendants Page and Brin worked closely together and were generally the final
27 decision-makers on all major decisions.

28

1 86. The principal professional occupation of defendant Page is his employment with
2 Alphabet, pursuant to which he has received and continues to receive substantial monetary
3 compensation and other benefits as alleged above. Accordingly, defendant Page lacks independence
4 from defendants Brin, Hennessy, Doerr, Ferguson, Mather, Mulally, Pichai, Shriram, and Washington
5 due to his interest in maintaining his executive positions at Alphabet and the substantial compensation
6 he receives in connection with that occupation. This lack of independence renders defendant Page
7 incapable of impartially considering a demand to commence and vigorously prosecute this action.
8 Demand is futile as to defendant Page.

9 87. The principal professional occupation of defendant Brin is his employment with
10 Alphabet, pursuant to which he has received and continues to receive substantial monetary
11 compensation and other benefits as alleged above. Accordingly, defendant Brin lacks independence
12 from Page, Hennessy, Doerr, Ferguson, Mather, Mulally, Pichai, Shriram, and Washington due to his
13 interest in maintaining his executive positions at Alphabet and the substantial compensation he receives
14 in connection with that occupation. This lack of independence renders defendant Brin incapable of
15 impartially considering a demand to commence and vigorously prosecute this action. Demand is futile
16 as to defendant Brin.

17 88. **Defendant Hennessy:** Defendant Hennessy was the President of Stanford University
18 ("Stanford") for sixteen years, until the summer of 2016. Since then, defendant Hennessy has served as
19 the Director of Stanford's Knight-Hennessy Scholars Program, which each year selects 100 new
20 graduate scholars from around the world to receive a full scholarship at Stanford with the stated goal of
21 developing a new generation of global leaders. Between 2006 and March 2018, Alphabet paid tens of
22 millions of dollars to Stanford in the form of donations and licensing fees. According to the *Wall Street*
23 *Journal*, defendant Hennessy's role at Alphabet has created the closest intersection with his Stanford
24 duties. In 2004, several months before Alphabet's initial public offering ("IPO"), the Company
25 appointed defendant Hennessy to its Board. Alphabet granted defendant Hennessy 65,000 options to
26 buy Alphabet stock at \$20 per option. After Alphabet's IPO, SEC filings reveal that defendant Hennessy
27 received 10,556 Alphabet shares as part of an earlier investment in a Kleiner Perkins Caufield & Byers
28 ("Kleiner Perkins") fund. To date, defendant Hennessy has made tens of millions of dollars from the

1 sale of Alphabet stock and the exercise of stock options, and has given away at least \$900,000 worth of
2 Alphabet stock.

3 89. With his dual positions at Stanford and Alphabet, defendant Hennessy effectively stood
4 on two sides of a business relationship. Alphabet licenses its Internet search technology from Stanford,
5 where defendants Brin and Page started the Company and were Ph.D. students. As payment, Stanford
6 received shares in the offering that the school has since sold for \$336 million. Stanford continues to
7 receive what it describes as "modest" annual licensing fees from Alphabet. Paul Aiken, Executive
8 Director of the Authors Guild, has called defendant Hennessy's personal holdings in Alphabet "a great
9 concern," and stated that "there seems to be both a personal and institutional profit motive here." In
10 November 2006, Alphabet pledged \$2 million to Stanford Law School's Center for Internet and Society,
11 founded by Stanford Professor Lawrence Lessig, known for his views that copyright laws are often too
12 restrictive. Around that time, Aine Donovan, Executive Director of the Ethics Institute at Dartmouth
13 College, commented that Stanford should not have accepted the Alphabet gift because it is too narrowly
14 tailored to benefit the Company's corporate interests, stating: "It might as well be the [Alphabet]
15 Center."

16 90. Defendant Hennessy also has a close relationship with defendant Pichai. According to an
17 October 19, 2017 article published by *Bloomberg Businessweek*, defendant Hennessy has served as a
18 mentor to many Google executives, including defendant Pichai, and advised defendant Pichai on how to
19 respond to at least one internal crisis.

20 91. Further, defendants Hennessy, Page, Brin, Doerr, Schmidt, and Ferguson all serve as
21 fellows at the American Academy of Arts and Sciences. Defendant Hennessy became an Academy of
22 Arts and Sciences Fellow in 1995, and has concurrently served in this role alongside defendants Page,
23 Brin, Doerr, Schmidt, and Ferguson since April 2009. Defendant Hennessy, along with defendants
24 Mulally, Page, and Schmidt, is also a member of the National Academy of Engineering and has been
25 since 1992.

26 92. Defendant Hennessy has much to lose by voting to initiate litigation against his fellow
27 members of the Board. For instance, if defendant Hennessy voted to initiate litigation against
28 defendants Brin or Page, Stanford would risk losing multimillion-dollar donations every year.

1 Defendant Hennessy would not jeopardize the loss of such a substantial donation. Furthermore,
2 defendant Hennessy would not risk Alphabet's continued support of Stanford by voting to initiate
3 litigation against defendants Brin or Page. Jeopardizing the fundraising received would also make it
4 more difficult for the Knight-Hennessy Scholars Program to provide the full scholarships (with stipends)
5 that they provide to new graduate scholars from around the world. Accordingly, based upon defendant
6 Hennessy's many personal and professional ties, he lacks independence, rendering presuit demand on him
7 futile.

8 93. **Defendant Doerr:** Defendant Doerr, a General Partner at the venture capital firm of
9 Kleiner Perkins since August 1980, was an early investor in Alphabet and has been on its Board since
10 May 1999. Defendant Doerr met defendants Brin and Page in his capacity as General Partner of Kleiner
11 Perkins. Defendant Doerr has sought and obtained significant investments from Alphabet for private
12 companies in which Kleiner Perkins is a major investor. For example, Alphabet acquired Peakstream,
13 Inc. ("Peakstream"), a developer of a software application platform aimed at making multiprocessor
14 systems easier to program, for \$20.3 million in May 2007. As part owner of Peakstream, Kleiner
15 Perkins received 24.5% of that figure (approximately \$5 million). Since then, Alphabet has continued to
16 invest in companies in which Kleiner Perkins has major investments. Indeed, from the beginning of
17 2017 through March 31, 2018, Google Ventures and CapitalG, the Company's growth equity investment
18 fund, directly invested, or committed to invest, an aggregate of approximately \$128.6 million in certain
19 private companies in which Kleiner Perkins was a coinvestor or existing investor. If defendant Doerr
20 voted in favor of initiating litigation against defendants Brin, Page, or Schmidt, he would risk Alphabet's
21 continued financial support in companies in which Kleiner Perkins has major investments. Defendant
22 Doerr will not take such a risk.

23 94. Further, defendant Doerr has long-standing ties to defendants Schmidt and Shriram.
24 Defendant Doerr's firm, Kleiner Perkins, was an early investor in Sun Microsystems, Inc. ("Sun
25 Microsystems"), a supplier of network computing solutions. From 1983 until March 1997, defendant
26 Schmidt held various positions at Sun Microsystems. In 1996, when defendant Schmidt was Sun
27 Microsystems' Chief Technology Officer, Kleiner Perkins formed a \$100 million fund to invest in
28 companies that would create software and related products based on the Java programming language

1 developed by Sun Microsystems. Defendant Doerr also directed early venture capital funding to
2 Netscape Communications Corp. ("Netscape") in 1994, when the web browser company was founded
3 and defendant Shriram served as its Vice President. Kleiner Perkins acquired a 25% stake in Netscape
4 in 1994 for around \$5 million; eventually the investment produced a return of \$400 million for Kleiner
5 Perkins.

6 95. Defendants Doerr and Shriram also worked together at Amazon.com, Inc. ("Amazon").
7 Defendant Doerr served as director of Amazon from June 1996 to May 2000, while defendant Shriram
8 was employed by Amazon as Vice President of Business Development from August 1998 to September
9 1999. Further, in July 2005, defendants Shriram and Doerr, backed by their respective venture capital
10 firms, coinvested \$16 million in Zazzle Inc. and joined that company's board of directors. In early 2006,
11 defendants Doerr and Shriram visited India together looking for potential investments. Defendant
12 Shriram's venture capital firm, Sherpalo, and Kleiner Perkins ended up coinvesting in a number of
13 Indian companies, including: PayMate, Clearingtrip.com, CE Infosystems, Naukri.com, MapMyIndia,
14 Kotak Urja Pvt Ltd., and Reverse Logistics Company Pvt Ltd.

15 96. Further, defendants Doerr, Schmidt, Hennessy, Page, Brin, and Ferguson all serve as
16 fellows at the American Academy of Arts and Sciences. Defendant Doerr became an Academy of Arts
17 and Sciences Fellow in April 2009, and has concurrently served in this role alongside defendants Page,
18 Brin, Doerr, Schmidt, Hennessy, and Ferguson since April 2009. Based on defendant Doerr's many
19 personal and professional ties, he lacks independence, rendering presuit demand on him futile.

20 97. **Defendant Shriram:** Defendant Shriram was the second ever investor in Alphabet and a
21 founding member of its Board. According to *Googled: The End of the World as We Know It*, a Stanford
22 computer science professor, David Cheriton, had introduced defendant Shriram to defendants Brin and
23 Page in 1998. Impressed by their idea, defendant Shriram made an investment of \$250,000. Defendant
24 Shriram helped defendants Brin and Page incorporate the Company, assisted them in working out a
25 licensing agreement with Stanford, and introduced them to other early investors including Amazon CEO
26 Jeff Bezos.

27 98. Like a number of his fellow Board members, defendant Shriram has a very close
28 relationship with Stanford. Defendant Shriram has been a member of Stanford's board since December

1 2009. As an Alphabet director and Stanford trustee, defendant Shriram worked closely on two boards
2 with defendants Hennessy and Porat. Defendant Shriram and his wife have served on Stanford's Parents
3 Advisory Board since 2006. In 2014, defendant Shriram donated \$61 million to Stanford to help
4 construct the Shriram Center for Bioengineering & Chemical Engineering. In announcing the donation,
5 defendant Hennessy stated "[w]e are deeply grateful to Ram and Vijay for sharing our vision, and for the
6 extraordinary generosity that is making the center a reality."

7 99. Defendant Shriram also has long-standing personal and professional ties to defendants
8 Page, Doerr, and Schmidt. As discussed above, defendant Shriram has frequently coinvested alongside
9 these defendants as well as Google Ventures. Based on defendant Shriram's many personal and
10 professional ties, he lacks independence, rendering presuit demand on him futile.

11 100. **Defendant Mulally:** Defendant Mulally is an Alphabet director and has been since July
12 2014. Defendant Mulally, along with defendants Hennessy, Page, and Schmidt, is a member of the
13 National Academy of Engineering and has been since at least 2006. Based on these personal and
14 professional ties, defendant Mulally lacks independence, rendering presuit demand on him futile.

15 101. Plaintiff has not made any demand on the other stockholders of Alphabet to institute this
16 action since such demand would be a futile and useless act for at least the following reasons:

17 (a) Alphabet is a publicly held company with over 690 million shares outstanding and
18 thousands of stockholders as of July 19, 2019;

19 (b) making demand on such a number of stockholders would be impossible for
20 plaintiff who has no way of finding out the names, addresses, or phone numbers of stockholders; and

21 (c) making demand on all stockholders would force plaintiff to incur excessive
22 expenses, assuming all stockholders could be individually identified.

23 **COUNT I**

24 **Against the Individual Defendants for Breach of Fiduciary Duty**

25 102. Plaintiff incorporates by reference and realleges each and every allegation contained
26 above, as though fully set forth herein.

27 103. The Individual Defendants owed and owe Alphabet fiduciary obligations. By reason of
28 their fiduciary relationships, the Individual Defendants owed and owe Alphabet the highest obligation of

1 good faith, fair dealing, loyalty, and due care.

2 104. The Individual Defendants and each of them, violated and breached their fiduciary duties
3 of candor, good faith, and loyalty. More specifically, the Individual Defendants violated their duty of
4 good faith by creating a culture of lawlessness within Alphabet, or consciously failing to prevent the
5 Company from engaging in the unlawful acts complained of herein.

6 105. The Officer Defendants either knew, were reckless, or were grossly negligent in
7 disregarding the illegal activity of such substantial magnitude and duration. The Officer Defendants
8 either knew, were reckless, or were grossly negligent in not knowing that the Company failed to comply
9 with the requirements of the COPPA Rule, in violation of federal privacy laws. Accordingly, the
10 Officer Defendants breached their duty of care and loyalty to the Company.

11 106. The Director Defendants, as directors of the Company, owed Alphabet the highest duty
12 of loyalty. These defendants breached their duty of loyalty by recklessly permitting the improper
13 activity concerning the unlawful collection of information of children under thirteen years of age
14 through the YouTube platform. The Director Defendants knew or were reckless in not knowing that that
15 the Company failed to comply with the requirements of the COPPA Rule, in violation of federal privacy
16 laws. Accordingly, these defendants breached their duty of loyalty to the Company.

17 107. The Audit Committee Defendants breached their fiduciary duty of loyalty by permitting
18 the unlawful conduct described herein which was made during their tenure on the Audit Committee,
19 which they knew or were reckless in not knowing violated federal privacy laws. The Audit Committee
20 Defendants completely and utterly failed in their duty of oversight, and failed in their duty to
21 appropriately oversee management's compliance with applicable laws and regulations, as required by the
22 Audit Committee Charter in effect at the time.

23 108. As a direct and proximate result of the Individual Defendants' breaches of their fiduciary
24 obligations, Alphabet has sustained significant damages, as alleged herein. As a result of the
25 misconduct alleged herein, these defendants are liable to the Company.

26 109. Plaintiff, on behalf of Alphabet, has no adequate remedy at law.
27
28

1 **COUNT II**

2 **Against the Individual Defendants for Unjust Enrichment**

3 110. Plaintiff incorporates by reference and realleges each and every allegation contained
4 above, as though fully set forth herein.

5 111. By their wrongful acts and omissions, the Individual Defendants were unjustly enriched
6 at the expense of and to the detriment of Alphabet. The Individual Defendants were unjustly enriched as
7 a result of the compensation and director remuneration they received while breaching fiduciary duties
8 owed to Alphabet.

9 112. Plaintiff, as a stockholder and representative of Alphabet, seeks restitution from these
10 defendants, and each of them, and seeks an order of this Court disgorging all profits, benefits, and other
11 compensation obtained by these defendants, and each of them, from their wrongful conduct and
12 fiduciary breaches.

13 113. Plaintiff, on behalf of Alphabet, has no adequate remedy at law.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, plaintiff, on behalf of Alphabet, demands judgment as follows:

16 A. Against all of the defendants and in favor of the Company for the amount of damages
17 sustained by the Company as a result of the defendants' breaches of fiduciary duties and unjust
18 enrichment;

19 B. Directing Alphabet to take all necessary actions to reform and improve its corporate
20 governance and internal procedures to comply with applicable laws and to protect Alphabet and its
21 stockholders from a repeat of the damaging events described herein, including, but not limited to,
22 putting forward for stockholder vote, resolutions for amendments to the Company's Bylaws or Articles
23 of Incorporation and taking such other action as may be necessary to place before stockholders for a
24 vote of the following corporate governance policies:

25 1. a proposal to strengthen the Company's controls over the collection of personal
26 information online from children under thirteen years of age;

27 2. a proposal to strengthen the Company's controls over the child-directed channels
28 on the YouTube platform to ensure that child-directed channels are properly designated as such;

1 3. a proposal to strengthen the Board's supervision of operations and develop and
2 implement procedures for greater stockholder input into the policies and guidelines of the Board;

3 4. a provision to permit the stockholders of Alphabet to nominate at least three
4 candidates for election to the Board; and

5 5. a proposal to strengthen Alphabet's oversight of its online privacy protection
6 procedures;

7 C. Extraordinary equitable or injunctive relief as permitted by law, equity, and state
8 statutory provisions sued hereunder, including attaching, impounding, imposing a constructive trust on,
9 or otherwise restricting the proceeds of defendants' trading activities or their other assets so as to assure
10 that plaintiff on behalf of Alphabet has an effective remedy;

11 D. Awarding to Alphabet restitution from defendants, and each of them, and ordering
12 disgorgement of all profits, benefits, and other compensation obtained by the defendants;

13 E. Awarding to plaintiff the costs and disbursements of the action, including reasonable
14 attorneys' fees, accountants' and experts' fees, costs, and expenses; and

15 F. Granting such other and further relief as the Court deems just and proper.

16 **JURY DEMAND**

17 Plaintiff demands a trial by jury.

18 Dated: October 22, 2019

ROBBINS ARROYO LLP
BRIAN J. ROBBINS
CRAIG W. SMITH
STEVEN R. WEDEKING

21 /s/ Brian J. Robbins
22 BRIAN J. ROBBINS

23 5040 Shoreham Place
San Diego, CA 92122
24 Telephone: (619) 525-3990
Facsimile: (619) 525-3991
25 E-mail: brobbins@robbinsarroyo.com
csmith@robbinsarroyo.com
swedeking@robbinsarroyo.com

26 Attorneys for Plaintiff
27
28

VERIFICATION

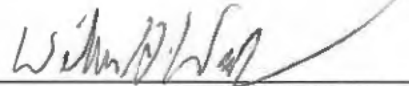
I, William Wessels, hereby declare as follows:

I am the plaintiff in this action. I have read the verified stockholder derivative complaint. Based upon discussions with and reliance upon my counsel, and as to those facts of which I have personal knowledge, the complaint is true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Signed and Accepted:

Dated: 10-19-2019



WILLIAM WESSELS