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

Mary L. Smith, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

GOOGLE, LLC.,

Defendant.

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

NATURE OF THE ACTION

1
2 1. This is a putative class action against Defendant Google, LLC, (“Google”) for
3 wiretapping electronic communications on major on-line tax filing websites offered by H&R
4 Block, TaxAct, and TaxSlayer, among others. As a result of this wiretapping, U.S. consumers have
5 been transmitting their sensitive financial information to Google when they file their taxes online.
6 This information includes income, refund amounts, filing status, and scholarship information.

7 2. What made this wiretapping possible is Google Analytics’ tracking pixel, which is
8 embedded in the JavaScript of online tax preparation websites. These tax preparation companies
9 sent private tax return information to Google through Google Analytics and its embedded tracking
10 pixel, which was installed on their websites.¹ These pixels sent massive amounts of user data to
11 Google to improve its ad business and other business tools.²

12 3. Disclosing tax-return information without consent is a crime. 26 U.S. § 7216.
13 Aiding and abetting the unlawful disclosure of tax-return information is a crime. Inspecting
14 unlawfully obtained tax-return information is a crime. 26 U.S. § 7213A(a)(2).

15 4. This action is brought on behalf of Plaintiff and a putative class of all people in the
16 United States who used the online tax preparation providers such as H&R Block, TaxAct, or
17 TaxSlayer, while those websites had the Google Analytics pixel installed on them. This action also
18 seeks to certify a putative subclass of Illinois residents who used the same websites. The complaint
19 alleges violations of state and federal wiretapping laws.

THE PARTIES

20
21 5. Plaintiff Mary L. Smith is a citizen of Illinois and lives in DuPage County, Illinois.
22 Since at least 2018, Plaintiff Smith has used H&R Block’s website to file her taxes online. At that
23 time, the website utilized Google’s tracking pixel.

24 6. Google is a California corporation with its headquarters in Mountain View,
25 California. Google does business throughout California.

26
27 ¹ United States Senate, *Attacks on Tax Privacy: How the Tax Prep Industry Enabled Meta to*
Harvest Millions of Taxpayers’ Sensitive Data, at 6 (July 2023).

28 ² *Id.*

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this class action. This Court has personal jurisdiction over Google because it is headquartered in this State.

8. Venue is proper in this Court because Google conducts business in this County and throughout the State of California and its principal place of business is in this County.

STATEMENT OF FACTS

The Evolution Of Google’s Business Model: From Search Engine to Surveillance

9. Google is one of the world’s most prominent and recognizable brands. It is not just a search engine company; Google offers a plethora of internet services and products ranging from e-mail to software for mobile phones to cloud services for businesses.³ From its inception, Google has been preoccupied with the idea of “extracting meaning from the mass of data accumulating on the Internet” and has made a lucrative industry out of this venture.⁴

10. The main way Google has managed this is by expanding its search engine business into advertising by combining various marketing and advertisement firms’ databases of information to tailor ads to consumers’ individual preferences.⁵ Google has spent billions of dollars to acquire these web advertisement firms, services, and networks.⁶ The significance of the information gathered for targeted advertising cannot be understated and Google understands this well. Google has been the market leader in online advertising for over a decade.⁷ Google has transformed its search engine capabilities into its top revenue generating feature by including ads as results for Google searches.⁸ Advertising on Google was launched in 2000 with the aim of

³ <https://www.britannica.com/topic/Google-Inc> (last accessed July 13, 2023); https://cloud.google.com/?utm_source=about&utm_medium=referral&utm_campaign=footer-link (last accessed July 13, 2023).

⁴ <https://www.britannica.com/topic/Google-Inc> (last accessed July 13, 2023).

⁵ *Id.*

⁶ *Id.*

⁷ *How Google’s \$150 Billion Advertising Business Works*, <https://www.cnn.com/2021/05/18/how-does-google-make-money-advertising-business-breakdown-.html> (last accessed July 13, 2023).

⁸ *Id.*

1 connecting online businesses with users through “highly targeted ad serving technology” that
2 enabled advertisers to monitor ad statistics such as click-through rates and visitor interest.⁹ By
3 2016, Google earned nearly all of its revenue from advertising based on Google users’ search
4 requests.¹⁰

5 11. In 2020, Google generated \$104 billion through advertising (71% of Google’s entire
6 revenue for that year).¹¹ Google’s revenue from advertising is expected to reach \$201.05 billion by
7 2024.¹²

8 12. Google offers several platforms and analytics for advertisers to optimize their
9 advertising campaigns.¹³ Advertisers using Google products can bid on specific search words and
10 phrases that lead their ads to show up to relevant users in search results.¹⁴ Google’s search
11 advertising capabilities are so powerful, they enable advertisers to target a specific location,
12 language and audience.¹⁵ Ads are not just embedded within Google search results, but also within
13 other Google features such as Maps and Youtube.¹⁶

14 13. Google prides itself on its “advanced” analytics products and services to provide
15 advertisers a “holistic view into consumer behavior” to better target them.¹⁷ To optimize

16
17 ⁹ <https://www.blog.google/technology/ads/new-advertising-brands/> (last accessed July 13, 2023);
18 <http://googlepress.blogspot.com/2000/10/google-launches-self-service.html> (last accessed July 13,
2023).

19 ¹⁰ <https://www.britannica.com/topic/Google-Inc> (last accessed July 13, 2023).

20 ¹¹ [https://www.cnbc.com/2021/05/18/how-does-google-make-money-advertising-business-
breakdown-.html](https://www.cnbc.com/2021/05/18/how-does-google-make-money-advertising-business-breakdown-.html) (last accessed July 13, 2023).

21 ¹² [https://www.forbes.com/sites/bethkindig/2023/01/27/ad-budgets-set-to-slow-even-more-in-
2023/?sh=6be6da1c554c](https://www.forbes.com/sites/bethkindig/2023/01/27/ad-budgets-set-to-slow-even-more-in-2023/?sh=6be6da1c554c) (last accessed July 13, 2023).

22 ¹³ [https://www.cnbc.com/2021/05/18/how-does-google-make-money-advertising-business-
breakdown-.html](https://www.cnbc.com/2021/05/18/how-does-google-make-money-advertising-business-breakdown-.html) (last accessed July 13, 2023).

23 ¹⁴ *Id.*

24 ¹⁵ *Id.*

25 ¹⁶ [https://www.business.com/articles/6-reasons-why-your-business-should-be-using-google-
adwords/](https://www.business.com/articles/6-reasons-why-your-business-should-be-using-google-adwords/) (last accessed July 13, 2023).

26 ¹⁷ [https://blog.google/products/ads-commerce/5-tips-to-power-your-2023-marketing-
strategy/?_ga=2.25524031.381675576.1689225706-1533121624.1689225706](https://blog.google/products/ads-commerce/5-tips-to-power-your-2023-marketing-strategy/?_ga=2.25524031.381675576.1689225706-1533121624.1689225706) (last accessed July
27 13, 2023).
28

1 advertising, Google offers data tracking features for how users interact with ads and advertisers'
2 websites. For instance, Google will track and analyze what words or ads drove the most sales for
3 any given Google customer and what days users clicked on search ads the most. Google is able to
4 track groups of users “who have generated similar behavioral data or who share demographic or
5 other descriptive data,” e.g., age group, gender.¹⁸ In essence, mining the data collected from users
6 is what drives and makes so precise the targeted advertising.

7 14. Google’s data collecting capabilities also include tracking user actions on customer
8 websites and apps that are referred to as “events,” and important desired events (such as purchases)
9 that are referred to as “conversions.”¹⁹ Tracked conversions can be used to measure the
10 effectiveness of ads and monitor user behavior.²⁰ Google also generates reports to give customers
11 “post-click performance metrics for users who clicked on [a]ds and then came through [an
12 advertiser’s] website, or installed and started using [an advertiser’s] mobile app.”²¹ Google’s data
13 collecting and reporting capabilities are encapsulated in its Google Analytics service.

14 *The Wiretapping Device: Google Analytics’ Tracking Pixel*

15 15. Google Analytics is a suite of business tools that Google claims help business and
16 entity website owners understand how visitors use their sites and apps.²² It is a “platform that
17 collects data from [advertisers’] websites and apps to create reports that provide insights into [their]
18 business.”²³ For instance, Google Analytics helps website owners “understand which sections of
19 an online newspaper have the most readers, or how often shopping cards are abandoned for an

20 ¹⁸ <https://support.google.com/analytics/answer/12799087?hl=en&sjid=3548329945210241384-NA>
21 (last accessed July 13, 2023).

22 ¹⁹ <https://support.google.com/analytics/answer/13128484?sjid=11475162976737609263-NA> (last
23 accessed July 13, 2023).

24 ²⁰ <https://support.google.com/analytics/answer/13128484?sjid=11475162976737609263-NA> (last
25 accessed July 13, 2023);
<https://support.google.com/analytics/answer/13366706?sjid=11475162976737609263-NA> (last
26 accessed July 13, 2023).

27 ²¹ [https://support.google.com/analytics/answer/4355493?hl=en&ref_topic=1308583&sjid=11475162
28 976737609263-NA](https://support.google.com/analytics/answer/4355493?hl=en&ref_topic=1308583&sjid=11475162976737609263-NA) (last accessed July 13, 2023).

²² *Some Facts About Google Analytics Data Privacy*, <https://blog.google/around-the-globe/google-europe/google-analytics-facts/> (last accessed July 13, 2023).

²³ <https://support.google.com/analytics/answer/12159447?hl=en> (last accessed July 13, 2023).

1 online store.”²⁴ Google Analytics allows its customers to collect such detailed information like the
2 number of clicks, scrolls, searches, and downloads a site user performs.²⁵ The most recent version
3 of Google Analytics offers a feature called Reporting Identity, which helps customers identify
4 users by “creat[ing] a single user journey from all the data associated with the same identity.”²⁶
5 Google Analytics offers advertisers machine learning technology to surface and predict new user
6 insights such as their behavior and creates new audiences of users likely to make a purchase.²⁷

7 16. One such tool Google offers is Google Analytics’ embedded pixel, which is an
8 invisible 1x1 web bug that website owners add to their website code for each page of their site to
9 measure certain actions taken by users on their own websites, such as online purchases.²⁸ Of
10 significance is that the tracking pixel is a default feature of Google Analytics.²⁹

11 17. Google describes Google Analytics embedded pixel, as follows: “Every time a user
12 visits a webpage [with the code], the tracking code *will collect [purportedly] pseudonymous*
13 *information about how that user interacted with the page.*”³⁰ The tracking pixel will also collect
14 information from the browser like the language setting, the browser type, and the device and
15 operating system on which the browser is running.³¹ It can even collect the “traffic source,” which
16 is what brought users to the site in the first place such as a search engine, an advertisement they
17 clicked on, or an email marketing campaign.³² “When the tracking pixel collects data, it packages
18 the information and sends it to Google Analytics to be processed into reports.”³³ The reports are

19 _____
20 ²⁴ *Id.*

21 ²⁵ [https://www.mparticle.com/blog/google-tag-manager-vs-google-analyt](https://www.mparticle.com/blog/google-tag-manager-vs-google-analytics/#:~:text=Google%20Analytics%20is%20an%20analytics,for%20granular%20user%20event%20insights)
22 [ics/#:~:text=Google%20Analytics%20is%20an%20analytics,for%20granular%20user%20ev](https://www.mparticle.com/blog/google-tag-manager-vs-google-analytics/#:~:text=Google%20Analytics%20is%20an%20analytics,for%20granular%20user%20event%20insights)
23 [ent%20insights](https://www.mparticle.com/blog/google-tag-manager-vs-google-analytics/#:~:text=Google%20Analytics%20is%20an%20analytics,for%20granular%20user%20event%20insights) (last accessed July 13, 2023).

24 ²⁶ *Id.*

25 ²⁷ <https://blog.google/products/ads-commerce/prepare-for-future-with-google-analytics-4/> (last
26 [accessed July 13, 2023](https://blog.google/products/ads-commerce/prepare-for-future-with-google-analytics-4/)).

27 ²⁸ <https://support.google.com/analytics/answer/12159447?hl=en> (last accessed July 13, 2023).

28 ²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

1 then organized on particular criteria like whether a user’s device is mobile or desktop, or which
2 browser they are using.³⁴ A Google Analytics customer can further configure the settings to allow
3 them to customize what data is collected and how it is processed.³⁵

4 18. The Google Analytics tracking pixel has vast capabilities and can collect a large
5 range of user data of up to 200 different metrics, including, the following, according to Google:³⁶

- 6 • **Ad Interactions** – Includes when users are exposed to ads, when users click ads, and when
7 ads grant rewards.
- 8 • **Button Click Data** – Includes when users click links that lead outside of the current
9 domain, when users click links leading to files, how often buttons are clicked, tracking
10 common clicks, any buttons clicked by site visitors, when screen transitions occur, every
11 time a user’s page loads or is changed by the active site, when a user scrolls to the bottom
12 of a page, each time a user performs a site search, first time site visits, and when users use
13 and submit forms.
- 14 • **Enabling Options** – Google Analytics allows customers to enable “enhanced
15 measurements” which allow for the collection of other types of optional data. The optional
16 enhanced measurements do not require code changes, rather, once the options are enabled
17 Google Analytics begins collecting the data. Example custom data events can include
18 conversion events, page views based on browser history, scrolls, and site searches.

19 19. User website interactions and data collected by Google Analytics’ pixel are
20 transmitted in real time to Google, where the information is stored and processed into reports.
21 Once the data is processed and stored it cannot be changed.³⁷

22 20. Google Analytics and the corresponding tracking pixel is not simply a “tool”
23 utilized by website owners for their own purposes. Google offers these technologies to customers
24 in a free version because Google benefits too. Google says it can use the data it gleans from tools
25 like the tracking pixel to power its algorithms, providing it insight into the habits of users across
26 the internet. Indeed, the data obtained allows Google to amass huge amounts of data in a detailed

24 ³⁴ *Id.*

25 ³⁵ *Id.*

26 ³⁶ See https://support.google.com/firebase/answer/9234069?sjid=13198096824834568666-NA&visit_id=638248819935482735-1615699485&rd=1 (last accessed July 13, 2023);
27 <https://support.google.com/analytics/answer/9216061?sjid=13198096824834568666-NA> (last
28 accessed July 13, 2023).

³⁷ <https://support.google.com/analytics/answer/12159447?hl=en> (last accessed July 13, 2023).

1 dossier, or digital fingerprint, that it keeps on its users and other website visitors. To the benefit of
2 Google, Google Analytics also includes the feature to integrate with other Google data collecting
3 products such as Google Ads, Google Data Studio, Google AdSense, Google Optimize 360,
4 Google Ad Manager, and Google Search Console.³⁸

5 21. Google Analytics is widely deployed across many industries.

6 22. Google Analytics has been available in some form to website developers since
7 2005. The most recent version of Google Analytics was adopted by Google on July 1, 2023.³⁹

8 ***Google Secretly Hoovers Up Vast Amounts Of Private Tax Return Information***

9 23. Enabled by Google's pixel and business tools, the tax filing services such as H&R
10 Block, TaxAct, and TaxSlayer have been quietly transmitting sensitive financial information to
11 Google when Americans file their taxes online.

12 24. The information sent to Google can be used by the company to power its advertising
13 algorithms. As described above, the Google pixel is a snippet of code that is placed within the
14 overall code of a website. If business uses Google Analytics, the pixel is placed by default.⁴⁰ Once
15 placed on the website, the pixel downloads more code from Google, which then gathers valuable
16 and sensitive information about website visitors and their activity. This information is then used by
17 advertisers to understand their users' behaviors and shopping patterns, measure the performance of
18 ad campaigns, and build an audience-base for future ad targeting. The data collected by Google is
19 used by website publishers to better understand how people enter, use, and leave their websites.

20 25. Google features this pixel through its Google Analytics product. Google Analytics
21 gives its partners the opportunity to "[u]nderstand how [their] customers interact across [their]
22 sites and apps," "anticipate future customer actions" with machine learning, and "optimize
23 marketing performance." Google Analytics can be implemented on certain websites without
24 writing or copying any additional code at all, allowing for less technologically sophisticated

25 _____
26 ³⁸ <https://www.techtarget.com/searchbusinessanalytics/definition/Google-Analytics#:~:text=Google%20Analytics%20includes%20features%20that,and%20integration%20with%20other%20applications> (last accessed July 13, 2023).

27 ³⁹ <https://support.google.com/analytics/answer/11583528?hl=en> (last accessed July 13, 2023).

28 ⁴⁰ <https://support.google.com/analytics/answer/12159447?hl=en> (last accessed July 13, 2023).

1 businesses to utilize Google Analytics to collect certain information by default such as browser
2 language, browser type, user clicks, user downloads, form interactions, and page titles. By default,
3 Google Analytics matches that information geolocation, gender, and general interests. That
4 information is then provided to the customer in an aggregated form, accessible through the
5 customer's Google Analytics account dashboard.

6 26. For more sophisticated businesses, Google gives the option to install a pixel, called
7 the Google Tag, directly to individual web pages. This allows website publishers to customize the
8 type of data they want collected by Google.⁴¹

9 27. H&R Block, TaxAct, and TaxSlayer are some of the most widely used e-filing
10 services that had the tracking pixel deployed on their websites.

11 28. The type of data collected may include email addresses, data on users' income,
12 filing status, refund amounts, buttons that were clicked, and year of return.

13 29. H&R Block, which also has millions of users, reportedly transmitted information
14 about tax filers' filings to Google, and Google has admitted that its technology would permit such
15 transmissions. Plaintiff was one of those users when she filed her taxes. Since the tracking pixel
16 was on the site at that time, and it operates always and for everyone, Plaintiff's tax return data
17 would have been sent to Google. In a recently published Senate investigation, TaxAct revealed
18 that dollar amount of adjusted gross income and refund amounts were disclosed to Google.

19 30. TaxSlayer reportedly used the Google Analytics tracking pixel embedded on the
20 company's website since March 2011. TaxSlayer completed 10 million federal and state tax
21 returns last year. In a recently published Senate investigation, TaxSlayer revealed that dollar
22 amount of adjusted gross income and refund amounts were disclosed to Google.⁴²

23 31. Google would have known, or at best recklessly turned a blind eye, to the fact that it
24 was collecting vast amounts of confidential tax information. Income and other related financial
25 information are highly valuable demographic markers for advertising purposes.

26 _____
27 ⁴¹ <https://support.google.com/analytics/answer/12131703?sjid=5199951762458264308-NA> (last
28 accessed July 13, 2023).

⁴² *Id.* at 37.

1 32. Concerning the anonymity of the sensitive information collected, Google claims
2 such information is not associated with the user’s name or other identifiable information making it
3 so that the information is not able to be linked to a specific user. However, a Stanford and
4 Princeton study found that Google’s tracking software is able to “successfully carry out de-
5 anonymization” through a simple process that leverages a user’s web browsing history collected by
6 Google’s tracking tools. Regardless, data can be compiled and used by Google Analytics
7 customers to target ad content, limiting the extent that anonymity can be protected. Further,
8 Google company officials have admitted that if a Google Analytics customer so desired, they
9 would be able to configure their settings to track sensitive taxpayer information such as adjusted
10 gross income, and Google’s systems would not filter this information or even alert anyone.

11 33. Google purports to have policies in place that prohibit its Google Analytics
12 customers from “passing any information that could be used by Google to identify individuals.”
13 Google further claims that “[c]ustomers who violate [their] policies are subject to account
14 suspension or termination.” Yet Google has admitted to never having contacted any of the tax
15 preparation companies about their sharing potentially sensitive information with Google, and it did
16 not suspend or terminate any of the tax prep company accounts at any time.

17 34. Evidence obtained as part of the recent Senate investigation appears to indicate that
18 Google “failed to implement adequate safeguards to prevent the transfer of taxpayers’ sensitive
19 personal and financial information, despite their contentions that they did so.”

20 ***Google Did Not Receive Consent To Receive Confidential Tax Information***

21 35. The Internal Revenue Code states that a tax return preparer may not disclose “any
22 information furnished to him for, or in connection with, the preparation of any such return” or use
23 “any such information for any purpose other than to prepare, or assist in preparing any such
24 return.” Thus, taxpayers can (and do) furnish their returns and return information, *i.e.*, income,
25 refund amount, and filing status, to tax prep companies presumably with confidence that their
26 privacy will be maintained. Tax return information protected by law includes information that the
27 taxpayer provided solely for tax preparation purposes. Under the Code, this information is
28 prohibited from disclosure unless the taxpayer gives permission to do so. Further, “disclosure” is

1 defined as “the act of making tax return information known to any person in any manner
2 whatever.”

3 36. Google Analytics ultimately provides tax prep companies with statistical
4 compilations of data, but the information these compilations are based on was apparently not in a
5 compiled form until Google received and compiled it. Further, the data shared with Google was
6 not truly anonymous regarding taxpayer identity because the information could, at the very least,
7 be indirectly associated with a particular taxpayer.

8 37. Google also makes false representations warranties that it does not collect sensitive
9 information like the information at issue here.

10 38. For Google customers who connect their Google Analytics account to Google’s
11 advertising products, the Google Analytics Advertising Features Policies apply. Google’s
12 Advertising Policies expressly provide that website developers will not share data that includes
13 health, *financial* or other categories of sensitive information. However, Google does not enforce
14 this policy.

15 CLASS ACTION ALLEGATIONS

16 39. Plaintiff seeks to represent the following classes:

17 Nationwide Class: All people in the United States who used online tax
18 preparation providers such as H&R Block, TaxAct, or TaxSlayer, while those
19 websites had the Google pixel installed on them.

20 Illinois Class: All people in Illinois who used online tax preparation providers
21 such as H&R Block, TaxAct, or TaxSlayer, while those websites had the Google
22 pixel installed on them.

23 40. Plaintiff reserves the right to modify the class definition, including by using
24 subclasses, as appropriate based on further investigation and discovery obtained in the case.

25 41. Members of the putative class and subclass are so numerous that their individual
26 joinder herein is impracticable. On information and belief, members of the putative class and
27 subclass number in the millions. The precise number of putative class and subclass members and
28 their identities are unknown at this time but may be determined through discovery. Putative class
and subclass members may be notified of the pendency of this action by mail and/or publication

1 through the distribution records of Google.

2 42. Common questions of law and fact exist as to all putative class and subclass
3 members and predominate over questions affecting only individual class members. Common legal
4 and factual questions include, but are not limited to, whether Defendant has violated wiretapping
5 statutes at issue here; and whether class members are entitled to statutory damages for the
6 violations.

7 43. The claims of the named Plaintiff are typical of the claims of the putative class and
8 subclass because the named Plaintiff, like all other class members, visited the websites of H&R
9 Block, TaxAct, or TaxSlayer and had their electronic communications intercepted and disclosed to
10 Google using the tracking pixel and/or other business tools.

11 44. Plaintiff is an adequate representative of the putative class and subclass because her
12 interests do not conflict with the interests of the class members she seeks to represent, she has
13 retained competent counsel experienced in prosecuting class actions, and she intends to prosecute
14 this action vigorously. The interests of putative class and subclass members will be fairly and
15 adequately protected by Plaintiff and her counsel.

16 45. The class mechanism is superior to other available means for the fair and efficient
17 adjudication of the claims of putative class and subclass members. Each individual putative class
18 and subclass member may lack the resources to undergo the burden and expense of individual
19 prosecution of the complex and extensive litigation necessary to establish Defendant's liability.
20 Individualized litigation increases the delay and expense to all parties and multiplies the burden on
21 the judicial system presented by the complex legal and factual issues of this case. Individualized
22 litigation also presents a potential for inconsistent or contradictory judgments. In contrast, the class
23 action device presents far fewer management difficulties and provides the benefits of single
24 adjudication, economy of scale, and comprehensive supervision by a single court on the issue of
25 Defendant's liability. Class treatment of the liability issues will ensure that all claims and
26 claimants are before this Court for consistent adjudication of the liability issues.

27 46. Plaintiff brings all claims in this action individually and on behalf of members of the
28 putative class and subclass against Defendant.

COUNT I
Violation Of The California Invasion Of Privacy Act,
Cal. Penal Code § 631

1
2
3
4 47. Plaintiff repeats the allegations contained in the foregoing paragraphs as if fully set
5 forth herein.

6 48. Plaintiff brings this claim individually and on behalf of the members of the putative
7 class and subclass against Defendant.

8 49. To establish liability under section 631(a), a plaintiff need only establish that the
9 defendant, “by means of any machine, instrument, contrivance, or in any other manner,” does any
10 of the following:

11 Intentionally taps, or makes any unauthorized connection, whether
12 physically, electrically, acoustically, inductively or otherwise, with
13 any telegraph or telephone wire, line, cable, or instrument, including
14 the wire, line, cable, or instrument of any internal telephonic
15 communication system,

16 Or

17 Willfully and without the consent of all parties to the
18 communication, or in any unauthorized manner, reads or attempts to
19 read or learn the contents or meaning of any message, report, or
20 communication while the same is in transit or passing over any wire,
21 line or cable or is being sent from or received at any place within this
22 state,

23 Or

24 Uses, or attempts to use, in any manner, or for any purpose, or to
25 communicate in any way, any information so obtained,

26 Or

27 Aids, agrees with, employs, or conspires with any person or persons
28 to unlawfully do, or permit, or cause to be done any of the acts or
things mentioned above in this section.

50. Section 631(a) is not limited to phone lines, but also applies to “new technologies”
such as computers, the Internet, and email. *See Matera v. Google Inc.*, 2016 WL 8200619, at *21
(N.D. Cal. Aug. 12, 2016) (CIPA applies to “new technologies” and must be construed broadly to
effectuate its remedial purpose of protecting privacy); *Bradley v. Google, Inc.*, 2006 WL 3798134,
at *5-6 (N.D. Cal. Dec. 22, 2006) (CIPA governs “electronic communications”); *In re Facebook*,

1 *Inc. Internet Tracking Litigation*, 956 F.3d 589 (9th Cir. Apr. 9, 2020) (reversing dismissal of
2 CIPA and common law privacy claims based on Facebook’s collection of consumers’ Internet
3 browsing history).

4 51. The tracking pixel and related business tools are a “machine, instrument,
5 contrivance, or ... other manner” used to engage in the prohibited conduct at issue here.

6 52. At all relevant times, by using the Google Analytics Pixel, Defendant intentionally
7 tapped, electrically or otherwise, the lines of internet communication between Plaintiff and class
8 members and the owners of the websites at issue here.

9 53. At all relevant times, by using the Google Analytics Pixel, Defendant willfully and
10 without the consent of all parties to the communication, or in any unauthorized manner, read or
11 attempted to read or learn the contents or meaning of electronic communications of Plaintiff and
12 putative class members, while the electronic communications were in transit or passing over any
13 wire, line or cable or were being sent from or received at any place within California.

14 54. Plaintiff and putative class and subclass members did not consent to any of
15 Defendant’s actions in implementing the wiretaps. Plaintiff and putative class and subclass
16 members did not consent to Google’s access, interception, reading, learning, recording, and
17 collection of Plaintiff and putative class and subclass members’ electronic communications.

18 55. Plaintiff and putative class and subclass members seek all relief available under Cal.
19 Penal Code § 637.2, including injunctive relief and statutory damages of \$5,000 per violation.

20 **COUNT II**
21 **Violation Of The California Invasion Of Privacy Act,**
22 **Cal. Penal Code § 632**

23 56. Plaintiff repeats the allegations contained in the paragraphs above as if fully set
24 forth herein.

25 57. Plaintiff brings this Count individually and on behalf of the members of the putative
26 class and subclass.

27 58. The California invasion of Privacy Act (“CIPA”) is codified at Cal. Penal Code
28 §§ 630 to 638. The Act begins with its statement of purpose:

1 The Legislature hereby declares that advances in science and technology have led to
2 the development of new devices and techniques for the purpose of eavesdropping
3 upon private communications and that the invasion of privacy resulting from the
4 continual and increasing use of such devices and techniques has created a serious
5 threat to the free exercise of personal liberties and cannot be tolerated in a free and
6 civilized society.

7 Cal. Penal Code § 630.

8 59. California Penal code § 632(a) provides, in pertinent part:

9 A person who, intentionally and without the consent of all parties to a confidential
10 communication, uses an electronic amplifying or recording device to eavesdrop
11 upon or record the confidential communication, whether the communication is
12 carried on among the parties in the presence of one another or by means of a
13 telegraph, telephone, or other device, except a radio, shall be punished by a fine not
14 exceeding two thousand five hundred dollars (\$2,500) per violation.

15 60. A defendant must show it had the consent of all parties to a communication.

16 61. Google’s pixel and related backend and frontend code is “an electronic amplifying
17 or recording device” under the CIPA.

18 62. The data collected by Google constitutes “confidential communications,” as that
19 term is used in Section 632, because class members had objectively reasonable expectations of
20 privacy with respect to their tax filing information.

21 63. Pursuant to Cal. Penal Code § 637.2, Plaintiff and class members have been injured
22 by the violations of Cal. Penal Code § 635, and each seek damages for the greater of \$5,000 or
23 three times the amount of actual damages, as well as injunctive relief.

24 **COUNT III**
25 **Violation Of The California Invasion Of Privacy Act,**
26 **Cal. Penal Code § 635**

27 64. Plaintiff repeats the allegations contained in the foregoing paragraphs as if fully set
28 forth herein.

65. Plaintiff brings this claim individually and on behalf of the members of the putative
class and subclass members against Defendant.

66. California Penal Code § 635 provides, in pertinent part:

Every person who manufactures, assembles, sells, offers for sale,
advertises for sale, possesses, transports, imports, or furnishes to
another any device which is primarily or exclusively designed or
intended for eavesdropping upon the communication of another, or
any device which is primarily or exclusively designed or intended for

1 the unauthorized interception or reception of communications
2 between cellular radio telephones or between a cellular radio
3 telephone and a landline telephone in violation of Section 632.5, or
4 communications between cordless telephones or between a cordless
5 telephone and a landline telephone in violation of Section 632.6 ,
6 shall be punished by a fine not exceeding two thousand five hundred
7 dollars

8 67. At all relevant times, by implementing Google’s wiretaps, Google intentionally
9 manufactured, assembled, sold, offered for sale, advertised for sale, possessed, transported,
10 imported, and/or furnished a wiretap device that is primarily or exclusively designed or intended
11 for eavesdropping upon the communication of another.

12 68. The Google Analytics Pixel is a “device” that is “primarily or exclusively designed”
13 for eavesdropping. That is, the Google Analytics Pixel is designed to gather information about
14 what URLs users visit and what they search for.

15 69. Plaintiff and putative class and subclass members did not consent to any of
16 Defendant’s actions in implementing Google’s wiretaps.

17 70. Pursuant to Cal. Penal Code § 637.2, Plaintiff and putative class and subclass
18 members have been injured by the violations of Cal. Penal Code § 635, and each seek damages for
19 the greater of \$5,000 or three times the amount of actual damages, as well as injunctive relief.

20 **COUNT IV**
21 **Violation Of The Federal Wiretap Act,**
22 **18 U.S.C. §§ 2510, et seq.**

23 71. Plaintiff repeats the allegations contained in the paragraphs above as if fully set
24 forth herein.

25 72. Plaintiff brings this claim individually and on behalf of the members of the putative
26 class and subclass members against Defendant.

27 73. The Federal Wiretap Act, as amended by the Electronic Communications Privacy
28 Act of 1986, prohibits the intentional interception of the contents of any wire, oral, or electronic
communications through the use of a device. 18 U.S.C. § 2511.

74. The Wiretap Act protects both the sending and receiving of communications.

75. 18 U.S.C. § 2520(a) provides a private right of action to any person whose wire,
oral or electronic communication is intercepted.

1 76. Google’s actions in intercepting and tracking the information at issue here was
2 intentional, and done for the purpose of violating laws prohibiting the unlawful disclosure and
3 review of tax information.

4 77. Google’s intentional interception of internet communications that Plaintiff and Class
5 members were sending and receiving while navigating websites that integrated Google Analytics
6 was done contemporaneously with the Plaintiff’s and Class members’ sending and receipt of those
7 communications.

8 78. The communications intercepted by Google included “contents” of electronic
9 communications made from Plaintiff.

10 79. The transmission of data between Plaintiff and Class members were “transfer[s] of
11 signs, signals, writing, ... data, [and] intelligence of [some] nature transmitted in whole or in part
12 by a wire, radio, electromagnetics, photoelectronic, or photooptical system that affects interstate
13 commerce[,]” and were therefore “electronic communications” within the meaning of 18 U.S.C. §
14 2510(12).

15 80. Google’s pixel and business tools are “devices” within the meaning of 18 U.S.C.
16 2510(5):

17 81. Google was not an authorized party to the communications because Plaintiff and
18 Class members were unaware of Google’s monitoring. Class members did not consent to Google’s
19 interception or continued gathering of the user’s communications.

20 82. The interceptions by Google were unlawful and tortious, and were done in
21 furtherance of one or more crimes baring disclosure or review of confidential tax information, and
22 tortious invasion of privacy.

23 83. After intercepting the communications, Google used the contents of the
24 communications knowing or having reason to know that such information was obtained through
25 the interception of electronic communications in violation of 18 U.S.C. § 2511(a).

26 84. Plaintiff seeks all available relief for the violations asserted here.
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28

COUNT IV
Violation Of The Federal Wiretap Act,
18 U.S.C. § 2512

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85. Plaintiff repeats the allegations contained in the foregoing paragraphs as if fully set forth herein.

86. Plaintiff brings this claim individually and on behalf of the members of the putative class and subclass against Defendant.

87. 18 U.S.C. § 2512, in pertinent part, holds “any person” liable who manufactures, assembles, or sells “any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire, oral, or electronic communications, and that such device or any component thereof has been or will be sent through the mail or transported in interstate or foreign commerce. 18 U.S.C. § 2512(1)(b).

88. The technology at issue here is an “electronic, mechanical, or other device” as defined by 18 U.S.C. § 2510(5) and is primarily useful for the purpose of the surreptitious interception of electronic communications.

89. Defendant manufactured, marketed, and sold its technology with knowledge that it would primarily be used to illegally intercept electronic communications.

90. Defendant conduct violated 18 U.S.C. § 2512 and therefore gives rise to a claim under 18 U.S.C. § 2520.

91. Pursuant to 18 U.S.C. § 2520, Plaintiff and the putative class and subclass are entitled to the greater of actual damages or statutory damages or not less than \$100 a day for each day of violation or \$10,000, whichever is greater.

COUNT V
Invasion of Privacy (Common Law and Constitutional)

92. Plaintiff repeats the allegations contained in the above paragraphs as if fully set forth here.

93. Plaintiff brings this claim individually and on behalf of the members of the putative

1 class and subclass against Defendant.

2 94. Article I, section I of the California Constitution provides: “All people are by nature
3 free and independent and have inalienable rights. Among these are enjoying and defending life and
4 liberty, acquiring, possessing, and protecting property and pursuing and obtaining safety,
5 happiness, and privacy.”

6 95. The phrase “and privacy” was added in 1972 after voters approved a proposed
7 legislative constitutional amendment designated as Proposition 11. Critically, the argument in
8 favor of Proposition 11 reveals that the legislative intent was to curb businesses’ control over the
9 unauthorized collection and use of consumers’ personal information, stating:

10 The right of privacy is the right to be left alone. ... It prevents government and
11 business interests from collecting and stockpiling unnecessary information about us
12 and from misusing information gathered for one purpose in order to serve other
13 purposes or to embarrass us. Fundamental to our privacy is the ability to control
14 circulation of personal information. This is essential to social relationships and
15 personal freedom.

16 96. The principal purpose of this constitutional right was to protect against unnecessary
17 information gathering, use, and dissemination by public and private entities, including Google.

18 97. As described herein, Google has intruded upon the following legally protected
19 privacy interests:

- 20 a. The Federal Wiretap Act as alleged herein;
- 21 b. The California Wiretap Act as alleged herein;
- 22 c. A Fourth Amendment right to privacy contains on personal computing devices, as
23 explained by the United States Supreme Court in the unanimous decision of *Riley v.*
California;
- 24 d. The California Constitution, which guarantees Californians the right to privacy;
- 25 e. Google’s Advertising Policies and other public promises it made not to track or
26 intercept class members’ sensitive or unlawfully-disclosed communications;
- 27 f. Federal and state statutory prohibitions on the disclosure or review of tax
28 information

98. Class members had a reasonable expectation of privacy under the circumstances in

1 that they could not reasonably expect Google to commit acts in violation of federal and state civil
2 and criminal laws; and Google affirmatively promised users it would not track their
3 communications or access their computer devices or web-browser when they sent or received
4 sensitive or otherwise protected information, like their personally identifiable information.

5 99. Google's actions constituted a serious invasion of privacy in that the actions:

- 6 a. Invaded a zone of privacy protected by the Fourth Amendment, namely the right to
7 privacy in data contained on personal computing devices;
- 8 b. Violated several federal criminal laws, including the Wiretap Act;
- 9 c. Violated state criminal laws on wiretapping and invasion of privacy, including the
10 California Invasion of Privacy Act;
- 11 d. Invaded the privacy rights of tens of millions of Americans (including Plaintiff and
12 the Class members) without their consent;
- 13 e. Constituted the taking of valuable information from tens of millions of Americans
14 through deceit; and
- 15 f. Violated several federal criminal laws prohibiting the disclosure and review of tax
16 information.

17 100. Committing criminal acts against tens of millions of Americans constitutes an
18 egregious breach of social norms that is highly offensive.

19 101. Google's intentional intrusion into class members' internet communications and
20 their computing devices and web-browsers was highly offensive to a reasonable person in that
21 Google violated federal and state criminal and civil laws designed to protect individual privacy and
22 against theft.

23 102. The taking of personally identifiable information from tens of millions of
24 Americans through deceit is highly offensive behavior.

25 103. Secret monitoring of a video platform is highly offensive behavior.

26 104. Wiretapping and surreptitiously recording of communications is highly offensive
27 behavior.

28 105. Google lacked a legitimate business interest in tracking users' tax filing information.

1 106. Class members have been damaged by Google’s invasion of their privacy and are
2 entitled to just compensation and injunctive relief.

3
4 **COUNT VI**
5 **Intrusion Upon Seclusion**

6 107. Plaintiff incorporates the paragraphs contained above as if fully set forth herein.

7 108. Plaintiff brings this claim individually and on behalf of the members of the putative
8 class and subclass against Defendant.

9 109. In carrying out this scheme to track and intercept tax filing information, Google
10 intentionally intruded upon class members’ solicitude or seclusion in that it effectively placed itself
11 in the middle of conversation to which it was not an authorized party.

12 110. Google’s tracking and interception were not authorized by class members.

13 111. Google’s intentional intrusion into their internet communications and their
14 computing devices and web-browsers was highly offensive to a reasonable person in that they
15 violated federal and state criminal and civil laws designed to protect individual privacy and against
16 theft.

17 112. Secret monitoring of tax filing information is highly offensive behavior.

18 113. Wiretapping and surreptitiously recording of communications is highly offensive
19 behavior.

20 114. Public polling on internet tracking has consistently revealed that the overwhelming
21 majority of Americans believe it is important or very important to be “in control of who can get
22 information” about them; to not be tracked without their consent; and to be in “control[] of what
23 information is collected about [them].” The desire to control one’s information is only heightened
24 while a person is preparing their tax filings.

25 115. Class members have been damaged by Google’s intrusion upon their seclusion and
26 are entitled to reasonable compensation including but not limited to disgorgement of profits related
27 to the unlawful internet tracking.

28 **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, seeks

1 judgment against Google, as follows:

- 2 a. For an order certifying the putative class and subclass and naming Plaintiff as the
- 3 representatives of the putative class and subclass and Plaintiff’s attorneys as Class
- 4 Counsel to represent the putative class and subclass members;
- 5 b. For an order declaring that the Defendant’s conduct violates the statutes referenced
- 6 herein;
- 7 c. For an order finding in favor of Plaintiff and the putative class and subclass on all
- 8 counts asserted herein;
- 9 d. For statutory damages in amounts to be determined by the Court and/or jury;
- 10 e. For prejudgment interest on all amounts awarded;
- 11 f. For injunctive relief as pleaded or as the Court may deem proper; and
- 12 g. For an order awarding Plaintiff and the putative class and subclass their reasonable
- 13 attorneys’ fees and expenses and costs of suit.

14 **JURY TRIAL DEMANDED**

15 Plaintiff demands a trial by jury on all claims so triable.

16 Dated: July 14, 2023

BURSOR & FISHER, P.A.

17 By: /s/ Joel D. Smith

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