

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO.

COMMONWEALTH OF MASSACHUSETTS,)
)
Plaintiff,)
)
v.)
)
GOOGLE LLC, and)
IHEARTMEDIA, INC.,)
)
Defendants.)
)
_____)

2284CV02684

**THE COMMONWEALTH AND GOOGLE LLC'S
JOINT MOTION FOR ENTRY OF FINAL JUDGMENT BY CONSENT**

RECEIVED

NOV 28 2022

SUPERIOR COURT-CIVIL
MICHAEL JOSEPH DONOVAN
CLERK/MAGISTRATE

Pursuant to Mass. R. Civ. P. 58a, the Plaintiff, the Commonwealth of Massachusetts, represented by and through its Attorney General, Maura Healey, and the Defendant, Google LLC, hereby jointly move this Court for entry of the attached, proposed Final Judgment by Consent (the "Judgment").

The parties have reached an agreement to resolve this litigation pursuant to the Judgment and assert that there is no just cause for delay. Further, the Defendant stipulates and consents to the entry of the Judgment, waiving: (i) all statutorily required notice associated with the commencement of this action, (ii) any defect concerning service of the Plaintiff's Complaint, (iii) issuance of a summons or service of process though the Commonwealth will provide a copy of the complaint upon filing, (iv) all rights of appeal, and (v) the requirements of Mass. R. Civ. P. 52.

Accordingly, the parties jointly move this Court to enter the Judgment, filed herewith.

Respectfully submitted,

GOOGLE LLC.,
Through its attorneys,

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Dated: 11/7/2022

COMMONWEALTH OF MASSACHUSETTS
Office of Attorney General Maura Healey

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Dated: November 21, 2022

COMMONWEALTH OF MASSACHUSETTS

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FINAL JUDGMENT BY CONSENT

Plaintiff, the Commonwealth of Massachusetts (the “Commonwealth”), appearing by and through its Attorney General Maura Healey, and Defendant Google LLC (“Defendant” or “Google LLC”), appearing through its attorneys, have stipulated to and jointly moved for the entry of this Final Judgment by Consent (“Judgment”) without the taking of proof and without trial or adjudication of any fact or law, without this Judgment constituting evidence of or an admission or denial by Google LLC regarding any issue of law or fact alleged in the Complaint on file, and without Google LLC either admitting or denying any liability, and with all parties having waived their right to appeal.

**NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED
THAT:**

I. PARTIES AND JURISDICTION

1. Plaintiff, the Commonwealth of Massachusetts, is represented by and through its Attorney General, who serves as the chief law enforcement officer for the Commonwealth.

2. Defendant Google LLC is a Delaware limited liability company with its principal office located at 1600 Amphitheatre Parkway, Mountain View, California 94043.

3. This Court has jurisdiction over the subject matter of this action pursuant to G.L. c. 93A, § 4 and G.L. c. 12, § 10; and jurisdiction over the Defendant in this action pursuant to G.L. c. 223A, § 3. Venue is proper in Suffolk County pursuant to G.L. c. 223, § 5, and G.L. c. 93A, § 4.

4. Defendant, at all relevant times, has transacted business in the Commonwealth of Massachusetts, including, but not limited to, in Suffolk County.

II. DEFINITIONS

5. For the purposes of this Judgment, the following definitions shall apply:

- a. **“Covered Conduct”** shall mean any and all alleged acts or practices relating to Google LLC’s engagement of radio stations in October 2019 and January 2020 to have the stations’ on-air radio personalities record advertisements for the Pixel 4 and to disseminate those advertisements, which the Massachusetts Attorney General’s Office alleges violated the Consumer Protection Act, G.L. c. 93A, § 2.
- b. **“Covered Product”** shall mean (i) any Google LLC consumer electronic product, (ii) any Google LLC operating system for handheld devices, and (iii) any Google LLC operating system or consumer-facing feature when marketed as part of any consumer electronic product.
- c. **“Effective Date”** shall be the date the Complaint was filed in this action.
- d. **“Endorsement”** shall mean any advertising or marketing message (including verbal statements, demonstrations, or depictions of the name, signature, likeness

or other identifying personal characteristics of an individual or the name or seal of an organization) that consumers are likely to believe reflects the opinions, beliefs, findings, or experiences of a party other than the sponsoring advertiser, even if the views expressed by that party are identical to those of the sponsoring advertiser.

- e. **“Endorser”** shall mean a person who provides an endorsement of any of Google LLC’s products or services and has been paid by Google LLC or who has any other relationship with Google LLC that might affect the weight or credibility of the endorsement, including the receipt of free products or services.
- f. **“Google LLC”** shall mean Google LLC, a limited liability company, and its successors and assigns.

III. INJUNCTIVE RELIEF

6. For twenty (20) years following the Effective Date of this Judgment, Google LLC and its officers, agents, servants, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Judgment, whether acting directly or indirectly, shall, in connection with the advertising, promotion, offering for sale, or sale of any Covered Product, not make any misrepresentation, expressly or by implication:

- a. that an Endorser has owned or used the Covered Product; or
- b. about an Endorser’s experience with the Covered Product.

7. Compliance Reports and Notices to the Attorney General. Google LLC shall make timely submissions to the Massachusetts Attorney General’s Office, specifically:

- a. Two hundred and seventy (270) days after the Effective Date of this Judgment, and each year thereafter, for three (3) years, Google LLC shall submit a compliance report, sworn under penalty of perjury, in which it must: (i) identify the primary physical, postal, and email address and telephone number, as

designated points of contact, which representatives of the Massachusetts Attorney General's Office may use to communicate with Google LLC; (ii) identify all of Google LLC's businesses involved in the advertising, promotion, offering for sale, or sale of any Covered Product by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (iii) describe the activities of each business identified, including the Covered Products offered, and the means of advertising, marketing, and sales, including, if through Endorsers, a description of how Endorsers are paid or any other material connection with Google LLC; (iv) describe in detail whether and how Google LLC is in compliance with each Provision of this Judgment, including a discussion of all of the changes Google LLC made to comply with the Judgment; and (v) provide a copy of each Acknowledgment of the Judgment obtained pursuant to this Judgment, unless previously submitted to the Massachusetts Attorney General's Office.

- b. For 10 years after the Effective Date of this Judgment, Google LLC shall submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in: (i) any designated point of contact; or (ii) the structure of Google LLC or any entity that Google LLC has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Judgment, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Judgment.
- c. For twenty (20) years after the Effective Date of this Judgment, Google LLC shall submit notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Google LLC within 14 days of its filing.

d. Any submission to the Massachusetts Attorney General's Office required by this Judgment to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

8. Compliance Monitoring. For the purpose of monitoring Google LLC's compliance with this Judgment:

- a. For twenty (20) years after the Effective Date of this Judgment, within fourteen days of receipt of a written request from a representative of the Massachusetts Attorney General's Office, Google LLC shall: (i) submit additional compliance reports or other requested information, which must be sworn under penalty of perjury, and (ii) produce records for inspection and copying.
- b. For matters concerning this Judgment, representatives of the Massachusetts Attorney General's Office are authorized to communicate directly with Google LLC. Google LLC must permit the Massachusetts Attorney General's Office to interview anyone affiliated with Google LLC who has agreed to such an interview. The interviewee may have counsel present.
- c. The Massachusetts Attorney General's Office may use all other lawful means, including posing through its representatives as consumers, suppliers, or other individuals or entities, to Google LLC or any individual or entity affiliated with Google LLC, without the necessity of identification or prior notice. Nothing in this Judgment limits the Massachusetts Attorney General's Office's lawful use of compulsory process, pursuant to G.L. c. 93A, §6 or any other lawful means.

9. Cooperation. Google LLC must fully cooperate with the Massachusetts Attorney General's Office in any investigation or case related to or associated with the transactions or the occurrences that are the subject of the Complaint. Google LLC must provide truthful and complete information, evidence, and testimony. Google LLC must cause its officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that the Massachusetts Attorney General's Office may reasonably request upon five days' written notice, or other reasonable notice, at such places and times as the Massachusetts Attorney General's Office may designate, without the service of a subpoena.

10. Recordkeeping. Google LLC must create certain records for ten years after the effective date of this Judgment, and retain each such record for five years, unless otherwise specified below. Specifically, for any business that Google LLC is a majority owner or controls directly or indirectly, Google LLC must create and retain the following records:

- a. Accounting records showing the revenues from all Covered Products sold, as required under generally accepted accounting principles;
- b. Personnel records showing, for each person providing services in relation to any aspect of the Judgment, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- c. Copies or records of all consumer or other complaints concerning the subject matter of this Judgment, whether received directly or indirectly, such as through a third party, and any response;
- d. All records necessary to demonstrate full compliance with each provision of this Judgment, including all submissions to the Massachusetts Attorney General's Office;

- e. Copies of all materials used by Google LLC to train or otherwise educate any of its principals, officers, directors, managers, employees, agents, or representatives regarding Google LLC's policies with respect to Endorsements subject to this Judgment; and records reflecting which individuals received such training, the date(s) that the individuals received such training, and an indication of which training was provided; and
- f. For any Endorser of a Covered Product who is paid by or on behalf of Google LLC for, or who is contractually obligated to provide, an Endorsement subject to this Judgment: (a) records indicating the Endorser's name and contact information used to communicate with the Endorser, or if Google LLC and its agents and representatives did not communicate directly with the Endorser, then the name of the Endorser's agent or representative and contact information used to communicate with that agent or representative; and (b) records indicating whether Google LLC or its agents or representatives provided the Endorser with the endorsed Covered Product; and (c) a copy of each unique Endorsement by the Endorser.

11. Acknowledgements of the Judgment.

- a. Within ten days after the Effective Date of this Judgment, Google LLC shall submit an acknowledgment of receipt of this Judgment sworn under penalty of perjury to the Massachusetts Attorney General's Office.
- b. For five years after the Effective Date of this Judgment, Google LLC must deliver a copy of this Judgment to: (i) all principals, officers, directors, and Google LLC managers and members; (ii) all employees, agents, and representatives having managerial responsibilities for conduct related to the subject matter of the

Judgment; and (iii) any business entity resulting from any change in structure as set forth in the Provision titled Compliance Reports and Notices to the Attorney General. Delivery must occur within ten days after the Effective Date of the FTC Order, File No. 202-3092, for current personnel. For all others, delivery must occur before they assume their responsibilities.

- c. From each individual or entity to which Google LLC delivered a copy of this Judgment, Google LLC must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Judgment, which may be obtained electronically.

IV. MONETARY PAYMENT

12. No later than sixty (60) days after the Effective Date, Google LLC shall pay a total of \$9,000,000.00 to be divided and paid by Google LLC directly to each Attorney General's Office participating in a similar settlement agreement in an amount to be designated by, and at the sole discretion of, the involved state Attorney General's Offices.

13. Google LLC shall pay **\$1,033,337.58** to the Massachusetts Attorney General's Office. The Massachusetts Attorney General shall distribute the payment to her office at her sole discretion and in any amount, allocation, or apportionment to any purpose allowed by law, including, but not limited to, distributing funds to: the Commonwealth's General Fund; the Commonwealth's local consumer aid fund established by G. L. c. 12, § 11G; or any program, initiative, or fund designed to educate or protect Massachusetts consumers.

V. RELEASE

14. Upon entry of this Judgment and following full payment of the amounts due under this Judgment, the Massachusetts Attorney General's Office shall release and discharge Google LLC from all civil claims that it could have brought based on the known Covered

Conduct under the Consumer Protection Act, G.L. c. 93A, § 2, or common law claims, including those concerning unfair, deceptive, or fraudulent trade practices. Nothing contained in this paragraph shall be construed to limit the ability of the Massachusetts Attorney General's Office to enforce the obligations that Google LLC has under this Judgment.

15. Notwithstanding any term of this Judgment, any and all of the following forms of liability are specifically reserved and excluded from the release in Paragraph 14, above, as to any entity or person, including Google LLC:

a. Any criminal liability that any person or entity, including Google LLC, has or may have to the States.

b. Any civil or administrative liability that any person or entity, including Google LLC, has or may have to the States under any statute, regulation or rule giving rise to, any and all of the following claims: (i) state or federal antitrust violations; (ii) state or federal securities violations; or (iii) state or federal tax claims.

c. Any claims by any agency, board, authority or instrumentality other than the Massachusetts Attorney General's Office.

16. Nothing in this Judgment shall be construed as excusing or exempting Google LLC from complying with any state or federal law, rule, or regulation, nor shall any of the provisions of this Judgment be deemed to authorize or require Google LLC to engage in any acts or practices prohibited by any law, rule, or regulation.

17. Nothing in this Judgment shall be construed to settle, release, or resolve any claims individual consumers have or may have under the Consumer Protection Act, G.L. c. 93A, and any common law claims individual consumers may have concerning unfair, fraudulent or deceptive trade practices, against any person and/or entity, including Google LLC.

VI. NO ADMISSION OF LIABILITY

18. Violations of Law. In stipulating to the entry of this Judgment, Google LLC does not admit to or deny any violation of or liability arising from any state, federal, or local law.

19. Admissions of Fact. Google LLC does not admit to or deny any fact alleged in the Complaint. Nothing contained in this Judgment shall be construed as an admission or concession of liability by Google LLC, or create any third-party beneficiary rights or give rise to or support any right of action in favor of any consumer or group of consumers, or confer upon any person other than the parties hereto any rights or remedies. By entering into this Judgment, Google LLC does not intend to create any legal or voluntary standard of care and expressly denies that any practices, policies, or procedures inconsistent with those set forth in this Judgment violate any applicable legal standard. This Judgment is not intended to be and shall not be construed as, deemed to be, represented as, or relied upon in any manner by any party in any civil, criminal, or administrative proceeding before any court, administrative agency, arbitration, or other tribunal as an admission, concession, or evidence that Google LLC has violated any federal, state, or local law, or that Google LLC's current or prior practices are or were not in accordance with any federal, state, or local law.

VII. GENERAL PROVISIONS

20. Nothing herein shall be construed to exonerate any failure to comply with any provision of this Judgment after the Effective Date, or to compromise the authority of the Massachusetts Attorney General's Office to initiate a proceeding for any failure to comply with this Judgment.

21. Nothing in this Judgment shall be construed to limit the authority or ability of the Massachusetts Attorney General's Office to protect the interests of Commonwealth of Massachusetts or its people. This Judgment shall not bar the Massachusetts Attorney General's

Office or any other governmental entity from enforcing laws, regulations, or rules against Google LLC for conduct subsequent to or otherwise not covered by this Judgment. Further, nothing in this Judgment shall be construed to limit the ability of the Massachusetts Attorney General's Office to enforce the obligations that Google LLC has under this Judgment.

22. Nothing in this Judgment shall be construed as relieving Google LLC of the obligation to comply with all state and federal laws, regulations, and rules, nor shall any of the provisions of this Judgment be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, and rules.

23. Google LLC shall not participate in any activity or form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part that are prohibited by this Judgment or for any other purpose that would otherwise circumvent any term of this Judgment. Google LLC shall not knowingly cause, permit, or encourage any other persons or entities acting on its behalf, to engage in practices prohibited by this Judgment.

24. Severability. If any portion of this Judgment is held invalid or unenforceable, the remaining terms of this Judgment shall not be affected and shall remain in full force and effect.

25. Notice. Whenever Google LLC shall provide notice to the Massachusetts Attorney General's Office under this Judgment, that requirement shall be satisfied by sending notice to:

Massachusetts Attorney General's Office
c/o Mychii Snape
Consumer Protection Division
One Ashburton Place, 18th Floor
Boston, MA 02108

Google LLC shall simultaneously provide a copy of each notice or other document by email to Mychii.Snape@mass.gov.

26. Google LLC waives any defect associated with service of the Plaintiff's Complaint and does not require issuance or service of process of a summons. Further, Google LLC waives any statutorily required notice associated with the commencement of this action, including any requirement to seek injunctive relief.

27. Jurisdiction Retained. Jurisdiction is retained by the Court for the purpose of enabling any party to the Judgment to apply to the Court at any time for such further orders and directions as may be necessary or appropriate for the construction or the carrying out of this Judgment, for the modification of any of the injunctive provisions hereof, for enforcement of compliance herewith, and for the punishment of violations hereof, if any.

28. Governing Law. The provisions of this Judgment shall be construed in accordance with the laws of the Commonwealth of Massachusetts.

29. Google LLC relinquishes dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Judgment and may not seek the return of any assets.

30. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Massachusetts Attorney General's Office to enforce its right to any payment pursuant to this Judgment, such as a nondischargeability complaint in any bankruptcy proceeding.

31. Notwithstanding Paragraph 19, Google LLC stipulates that the facts alleged in the Complaint establish all elements necessary to sustain an action by or on behalf of the Massachusetts Attorney General's Office pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Judgment will have collateral estoppel effect for such purposes.

32. Entire Agreement. This Judgment contains the complete agreement between the Massachusetts Attorney General's Office and Google LLC. No promises, representations, or warranties other than those set forth in this Judgment have been made between the parties. This Judgment supersedes all prior communications, discussions, or understandings, if any, between the Massachusetts Attorney General's Office and Google LLC, whether oral or in writing, concerning the matters alleged in the Complaint.

33. The Court has determined that there is no just reason for delay and, pursuant to Mass. R. Civ. P. 54(b), directs the clerk is ordered to enter this Judgment forthwith.

ORDERED AND ADJUDGED:

Justice of the Superior Court

Dated: _____