



Court File No. **VLC-S-S-208705**

No. _____

VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

HARONDEL J. SIBBLE

Plaintiff

AND:

GOOGLE LLC, GOOGLE CANADA CORPORATION and ALPHABET INC.

Defendants

Brought under the *Class Proceedings Act*, RSBC 1996, c 50

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- b) serve a copy of the filed response to civil claim on the plaintiff

If you intend to make a counterclaim, you or your lawyer must

- a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff,

- a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,

- b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

Definitions

1. The following definitions are used throughout this Notice of Civil Claim:
 - a. “**Account**” means a user account that is required by **Google** for access, authentication, and authorization to use certain **Google Services**;
 - b. “**Android**” means **Google**’s smartphone operating system software;
 - c. “**Alphabet**” means the defendant, Alphabet, Inc., the parent company of **Google LLC** and a publicly traded holding company registered in Delaware, United States, headquartered at The Googleplex, 1600 Amphitheatre Parkway, Mountain View, California, 94043, United States;
 - d. “**BPCPA**” means the *Business Practices and Consumer Protection Act*, SBC 2004;
 - e. “**Chrome**” means Google’s web browser software;
 - f. “**Class**” or “**Class Members**” means all persons residing in Canada who used a **Google Service** or visited a **Third-Party Website** during the **Class Period**, excluding members of the **Ontario Class**, the **Quebec Class**, and the **Excluded Persons**;
 - g. “**Class Period**” means the period from November 1, 2008, to the date of judgment;
 - h. “**Code**” means a set of computer instructions created by **Google** and provided to **Third-Party Websites** that enroll in **Google Ads** or **Google Analytics**. **Third-Party Websites** must insert the **Code** into their own websites, causing the **Code** to be transmitted and executed on **Class Members’ Devices** and causing those **Devices** to transmit **Personal Information** to **Google**;
 - i. “**Competition Act**” means *Competition Act* RSC 1985, c C-34;

- j. “**Consumer Class**” means members of a sub-class of individuals who used **Google Services** or maintained a **Google Account** that was used primarily for non-business purposes during the **Class Period**;
- k. “**CPA**” means the *Class Proceedings Act*, RSBC 1996, c 50;
- l. “**Device**” means a computer, phone, tablet, or other electronic equipment over which **Class Members** exercise the right to immediate possession or ownership, and which is capable of running web browser software;
- m. “**Do Not Track**” means a standardized setting that allows internet users to indicate when visiting a website that they do not want to be tracked by the website;
- n. “**Excluded Persons**” means **Google** and any of their subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors or assigns;
- o. “**Gmail**” means **Google**’s web-based email service, and requires an **Account**;
- p. “**Google**” means the defendants **Google LLC**, **Google Canada**, and **Alphabet Inc.**, or any of them;
- q. “**Google Ads**” means a service offered by **Google** that allows **Third-Party Websites** to place advertising on their sites by inserting **Code** specific to **Google Ads** on the **Third-Party Website**;
- r. “**Google Analytics**” means a service offered by **Google** that allows **Third-Party Websites** to view information about visitors to their sites by inserting **Code** specific to **Google Analytics** into the **Third-Party Website**;
- s. “**Google Canada**” means the defendant, Google Canada Corporation, a subsidiary of **Google LLC** registered in Nova Scotia, Canada, with its registered offices at The Googleplex, 1600 Amphitheatre Parkway, Mountain View, California, 94043, United States;
- t. “**Google LLC**” means the defendant, Google LLC, a limited liability company registered in Delaware, United States, and headquartered at The Googleplex, 1600 Amphitheatre Parkway, Mountain View, California, 94043, United States.
- u. “**Google Service(s)**” means products offered by **Google** for use by the general Canadian public, including but not limited to:

- i. **Android**;
 - ii. **Chrome**;
 - iii. **Search**;
 - iv. **Maps**;
 - v. **Gmail**; and
 - vi. Other services;
- v. **“Google Terms”** means the non-negotiable standard form contract drafted by **Google** and applicable to **Google Accounts** and certain **Google Services**;
- w. **“Impugned Documents”** includes, but is not limited to:
- i. The text and graphics on each new **Incognito** window or tab opened by a **Class Member**;
 - ii. **Google Terms**, including the **Privacy Policy**;
 - iii. **Support Pages**; and
 - iv. **Account** settings;
- x. **“Incognito”** means a distinct mode within **Chrome** that can be enabled by users and purports to allow private browsing;
- y. **“Maps”** means Google’s GPS-enabled mapping software;
- z. **“Ontario Class”** means persons residing in Ontario who would otherwise be **Class Members**;
- aa. **“Other Consumer Protection Legislation”** means:
- i. *Consumer Protection Act*, RSA 2000, c C-26.3;
 - ii. *The Business Practices Act*, CCSM c B120;
 - iii. *Consumer Protection and Business Practices Act*, SNL 2009, c C-31.1;
 - iv. *Business Practices Act*, RSPEI 1988, c B-7; and
 - v. *The Consumer Protection and Business Practices Act*, SS 2013, c C-30.2;

- bb. “**Personal Information**” means information capable of being associated with a **Class Member**, including pseudonymous identifiers, and can include but is not limited to a **Class Member**’s name, IP address, physical address, location, search terms, and web browsing history;
- cc. “**PIPA AB**” means *Personal Information Protection Act*, SA 2003, c P-6.5;
- dd. “**PIPA BC**” means *Personal Information Protection Act*, SBC 2003, c 63;
- ee. “**PIPEDA**” means *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5;
- ff. “**Privacy Legislation**” means:
- i. *Personal Information Protection Act*, SA 2003, c P-6.5;
 - ii. *Personal Information Protection Act*, SBC 2003, c 63;
 - iii. *Privacy Act*, RSBC 1996, c 373;
 - iv. *The Privacy Act*, RSS 1978, c P-24;
 - v. *The Privacy Act*, CCSM c P125; and
 - vi. *Privacy Act*, RSNL 1990, c P-22;
- gg. “**Privacy Policy**” means **Google**’s policy on the collection of **Personal Information**;
- hh. “**Profile**” means the unique profile for each individual **Class** and **Consumer Class** member created by **Google**;
- ii. “**Quebec Class**” means persons residing in Quebec who would otherwise be **Class Members**, as provided by *Leclaire c Google LLC*, Court File No 500-06-001079-207;
- jj. “**Search**” means **Google**’s internet search engine;
- kk. “**Support Page(s)**” means **Google**’s product- and issue-specific online help pages and other information pages provided **Class Members** by **Google**;
- ll. “**Third-Party Website**” means a website owned or operated by an entity other than **Google** that includes the **Code** for **Google Ads**, **Google Analytics**, or both.

The Representative Plaintiff

2. The plaintiff, Harondel J. Sibble, is a resident of Vancouver, British Columbia, with an address for service at 1410-777 Hornby Street, Vancouver, British Columbia. He has lived in British Columbia throughout the Class Period.
3. Since at least 2008 and to the present date, the Plaintiff has held an active Google Account. The Plaintiff is a consumer who has routinely used Google Services and Third-Party Websites throughout the Class Period.

The Defendants

4. The defendant, Google LLC, is an extraprovincial company duly incorporated pursuant to the laws of Delaware as a limited liability company with a principal place of business at what is known as the Googleplex, 1600 Amphitheatre Parkway, Mountain View, California 94043. Google LLC is an internet advertising company. At all material times, Google LLC has engaged in the business of selling and placing advertising, internet search, product development, marketing, and advertising technology globally.
5. The defendant, Alphabet, is a publicly traded extraprovincial company duly incorporated pursuant to the laws of Delaware with a principal place of business at what is known as the Googleplex, 1600 Amphitheatre Parkway, Mountain View, California 94043. Alphabet is a holding company and the parent company of Google LLC. Alphabet was created in 2015 as a subsidiary of Google, Inc. Through a merger and stock swap under Delaware law, Alphabet became the parent company and Google, Inc. became the subsidiary. Google, Inc. became Google LLC after a reorganization in 2017. As of August 7, 2020, Alphabet had a market capitalization of \$1.02 trillion USD, on \$161.8 billion USD revenue in 2019 and a net income of \$34.3 billion USD in 2019. Alphabet reported 86% of their 2019 revenue came from advertising, including through Google Ads.
6. The Defendant, Google Canada, is a Canadian subsidiary of Google LLC with a registered head office located in California, USA, and two satellite offices in Toronto and Kitchener, Ontario. At all material times, Google Canada has engaged in the business of internet search functions, product development, marketing, and advertising technology in Canada.
7. During the Class Period, Google collected a vast quantity of Personal Information from the Plaintiff and Class Members by way of Google Services, Google Ads and Google Analytics. Google collected Class Members' Personal Information when the Class Members visited Third-Party Websites, even if they had no relationship with Google. To Class Members who had a relationship with Google,

Google represented that Google would protect their privacy. Google further represented to these Class Members that they could browse the internet privately in Incognito mode, could limit Google's access to their Personal Information by enabling Do Not Track, and could otherwise control their privacy by changing settings within their Account. However, these features and settings did not actually prevent Google from collecting Class Members' Personal Information. Google omitted to disclose when, how, and where Google collects the Personal Information of the Class, including through Third-Party Websites, what is done with the Personal Information when it is collected, and even failed to disclose what Personal Information was being collected. As a result, the Personal Information of millions of Canadians is in the hands of a foreign corporation and subsidiaries known for the commodification of the information they collect, without the Class Members' knowledge or consent.

The Class and the Class Period

8. This action is brought on behalf of members of a class consisting of the Plaintiff and all residents of Canada who, from November 1, 2008, to the date of judgment in this action, used a Google Service or visited a Third-Party Website, excluding the Ontario Class, the Quebec Class, and the Excluded Persons (as defined above, the "Class" or "Class Members").

The Plaintiff's Claim

9. This action concerns Canadians' quasi-constitutional right to privacy and right to be free from unreasonable interference into their private affairs. It alleges that Google blatantly violates those rights by collecting vast quantities of the Personal Information of millions of Class Members, without their knowledge or consent, in the interest of deriving profits for Google. It also alleges that Google materially and deceptively misrepresented Google's collection, retention, and use of the Class Members' Personal Information, in violation of federal and provincial statutes and in furtherance of their profiteering. As a result, the Class Members have suffered loss and damage.

Google's Collection of Personal Information

10. Google's primary business is the sale and placement of targeted advertising. Google's targeted advertisements are placed in a broad array of products and services across the internet, including on Google's own websites and on Third-Party Websites. The targeting is based on Google's collection, retention, use, and monetization of the Personal Information of its users around the world, and the creation of Profiles about those users.

11. Google casts a wide net in its collection of Class Members' Personal Information, drawing on a vast number of distinct sources of Personal Information. Google encourages Class Members to sign up for an Account, which is required to access certain Google Services, such as Gmail. To create an Account, users are required to provide Personal Information including their name, date of birth, and gender, and are encouraged to provide their email address and phone number. Google uses the Class Members' Personal Information as a commodity on which to base their advertising business and finance their operations, deriving their profits in a manner that is uniformly and objectively offensive to the Class Members.
12. Google collects Personal Information, without consent, from the Class Members who do not have an Account but use certain Google Services, including Google Search and Google Maps. The Personal Information collected includes a wide range of Personal Information from a wide range of sources, including, but not limited to, search terms entered in Google Search or Chrome and omnipresent tracking of location in Android and Google Maps.
13. Google collects Personal Information, without consent, from Class Members while they browse the internet and visit Third-Party Websites.
14. Google compiles the Personal Information it collects from this broad array of sources into Profiles of the Class Members. These Profiles are then used by Google to target the Class Members with advertisements, to advance their software and services, to support Google's business interests, and to learn how to collect even more Personal Information from the Class Members.

Google Ads and Google Analytics

15. Google induces operators of Third-Party Websites to incorporate Google Analytics and Google Ads on the Third-Party Websites. Google Analytics purports to offer the operators of Third-Party Websites information about the users of the Third-Party Websites. Google Ads offers payment to the operators of Third-Party Websites for allowing Google to place targeted advertisements on the Third-Party Websites. Google Ads and Google Analytics are free for Third-Party Websites to use, although Google Analytics offers premium services to Third-Party Websites for a fee. Approximately 55% of websites incorporate Google Analytics, while over 35% incorporate Google Ads.
16. To take part in Google Analytics or Google Ads, Google requires the operators of Third-Party Websites to insert Code developed and provided by Google into the Third-Party Websites. When a Class Member visits the Third-Party Website, the

Code is transmitted to the Class Member's Device. The Code is then executed in the Class Member's web browser on their Device. When the Code executes, it sends the Class Member's Personal Information to Google, including the Class Member's IP address, information about the Class Member's Device and web browser, the address of the webpage being viewed by the Class Member, the address of the webpage that linked the Class Member to the webpage being viewed, and the search terms entered by the Class Member that led them to the Third-Party Website. All of this occurs automatically and without any mandatory prompts or notifications from Google to the Class Member.

17. The execution of the Code results in the creation of a unique user identification number that allows Google to identify the activities of individual Class Members on the Third-Party Website. Google compiles this information into a Profile for the Class Member for Google's own use in its targeted advertising business and to otherwise derive profits from the Personal Information.
18. Google does not require the operators of Third-Party Websites running Google Ads or Google Analytics to obtain consent from Class Members whose Personal Information is collected by Google as a result of the user visiting the Third-Party Website, or to disclose to the Class Members the fact that their Personal Information has been collected.
19. Google compiles the Personal Information it collects into Profiles of the Class Members regardless of whether the Class Members have Google Accounts, use Google Services, or have ever viewed the Google Terms. Google uses various technical means to link the activities of individual Class Members across multiple websites and across different Devices used by the Class Members. The pervasiveness of Google Ads and Google Analytics combined with the amount of Personal Information collected by other Google Services allows Google to build Profiles that contain accurate and intimate portraits of almost all internet users, including the Class Members.

Google's Purported Commitment to Privacy

20. In response to increasing public concern about online privacy, Google took steps to reassure users that they had control over Google's collection, retention, and use of their Personal Information. However, those measures are uniformly and objectively misleading, and materially misrepresented the nature of Google's collection of Personal Information and the choices available to Class Members using Google Services.

21. Since at least 2008, Google has represented to Class Members that they can choose to control Google's access to and use of their Personal Information. This position is most recently manifested in its privacy policy, where Google states, in bold font:

“When you use our services, you're trusting us with your information. We understand this is a big responsibility and work hard to protect your information and put you in control.”
(emphasis added)

22. Google provides information regarding its privacy and security policies on a website called “Safety Centre.” On that website, Google states that respect for its users is one of its core beliefs, and that it empowers the user to make an “individual choice” regarding Google's use of the user's Personal Information. Specifically, Google says:

“Data makes Google services more helpful and relevant, but how we use this information is an individual choice that belongs to you...” (emphasis added)

23. In support of its assertions that users can control their Personal Information, Google points to “powerful data controls” built into each user's Google Account.
24. On or about December 11, 2008, Google introduced Incognito as a method of using the internet “privately” in Chrome. Despite the representations made when a user enters Incognito mode and throughout the Support Pages, Google still collects Class Members' Personal Information when they visit a Third-Party Website that uses Google Ads or Google Analytics.
25. In or about November 2012, Google introduced a Do Not Track feature in Chrome. Do Not Track is an internet standard that allows visitors to a website to indicate they do not want their activity online to be monitored or recorded. However, Google did not implement Do Not Track in its advertising products. As a result, Class Members who turned on Do Not Track in Chrome are still tracked by Google Ads and Google Analytics when visiting Third-Party Websites, and when visiting Google websites or using Google Services.
26. Google's representations give users the impression that the user, not Google, is in control of Google's collection, retention, and use of the user's Personal Information. However, as further illustrated below, the choices and settings available to Class Members give no such control and have no effect on Google's collection, retention, and use of their Personal Information, including the monetization of their Personal Information.

Google Materially Misrepresents and Omits to Disclose its Data Collection and Monetization Activities

27. Throughout the Class Period, Google made uniform, consistent, and objectively material representations that Google respects users' privacy, that Class Members' privacy will be maintained, and that the Class Members have control over how Google collected, used, or retained their Personal Information. These representations are made in the Impugned Documents.
28. Google consistently, uniformly, and materially misrepresents its practices regarding the collection, retention, and use of Class Members' Personal Information while using Google Services. Further, Google materially misrepresents the effect or efficacy of features and settings available to the Class Members which Google represented as preventing or limiting the collection, retention, and use of Personal Information. These objectively material misrepresentations were to the prejudice of the Class Members.
29. Google omits to disclose material information regarding the collection, retention, and use of the Consumer Class members' Personal Information while using Google Services, to the prejudice of the Consumer Class.
30. Google made false and misleading statements or failed to disclose material information to the Class Members and the Consumer Class in the Impugned Documents throughout the Class Period. The material misrepresentations and omissions are included in, but are not limited to, the Impugned Documents. Examples of the false and misleading statements made by the Defendants in the Impugned Documents are articulated below.

Google Misrepresents its Collection of Personal Information

31. Throughout the Class Period, Google consistently and uniformly represented in the Account Support Pages that Account holders have control over their Personal Information. For example, Google makes the following representations in its "Safety Center" "Privacy controls" Support Page:
 - a. "you're in control";
 - b. "we know that one size doesn't fit all when it comes to privacy, so we build powerful, easy-to-use privacy tools into your Google account. They give you control over the privacy settings that are right for you, and what types of data we collect and use across our services";

- c. “there are also powerful privacy controls such as Activity Controls and Ad Settings, which allow you to switch the collection and use of data on or off”; and
 - d. “open an Incognito window on your computer or mobile device to prevent Chrome from saving your browsing history”.
- 32. Despite these representations, and no matter what settings Class Members choose, the settings do not prevent Google’s collection and use of the Personal Information for its own business purposes, the creation of a Profile about the Class Member, or the monetization of the Personal Information.
- 33. Google made affirmative misrepresentations about Class Members’ ability to stop the collection of Personal Information using Incognito or Do Not Track.
- 34. Google made consistent, affirmative misrepresentations in each new Incognito window or tab opened by a Class Member during the Class Period. These misrepresentations include, but are not limited to, the following statements:
 - a. “Chrome won’t save the following information:
 - i. Your browsing history
 - ii. Cookies and site data
 - iii. Information entered in forms” (numbering added)
 - b. “you can browse privately”
- 35. Contrary to these statements, Google saved the Plaintiff’s and Class Members’ browsing history and other Personal Information to their respective Profiles.
- 36. The Support Pages for Incognito state that “after you close all Incognito windows, websites won’t be able to serve ads to you based on your signed-out activity during that closed session.” This statement is objectively materially false and misleading, as Google collected the Personal Information during these browsing sessions to improve their understanding of the Class Members’ demographics and to include in the Class Members’ Profiles for future use in targeted advertising. Throughout the Impugned Documents, Google makes objectively misleading statements regarding Class Members’ ability to opt out of having advertising displayed to them, while failing to mention that even if they opt out, Google still collects and uses their Personal Information for other purposes.

Google Misrepresents and Omits to Disclose its Monetization of Personal Information

37. Even if Class Members attempt to exert control over their Personal Information by exercising Google's limited privacy controls, enabling Do Not Track, or entering Incognito mode, Google still collects the Class Members' Personal Information when the Class Members visit Third-Party Websites containing Google Analytics or Google Ads or use Google Services, which unilaterally exposes the Class Members to Google's monetization of their Personal Information.
38. The monetization of Class Members' Personal Information is materially and uniformly misrepresented to, and hidden from, the Class Members. In addition to representing that Class Members have a "choice" in how Google uses their Personal Information in the "Safety Centre", as set out above, in the "Ads and data" Support Page, Google represents that:

"while these ads help fund our services and make them free for everyone, *your personal information is not for sale*"

This statement is objectively and materially false and misleading, as Google's entire business is built on the commodification of Class Members' data, including their Personal Information. Rather than disclose their actual collection, retention or use of Personal Information in furtherance of their business activities, Google misrepresents to the Class Members that Google's commercial use of their Personal Information is banal and does not involve its sale.

Google Misrepresents and Omits to Disclose the Profiles

39. Google fails to disclose to Class Members, took active steps to conceal, or does conceal, that it collects Personal Information from members of the Class who visited Third-Party Websites or used Google Services and compiles that Personal Information into a Profile for each Class Member for Google's business use.
40. At no time has Google disclosed to Class Members without an Account that Google has created a Profile containing their Personal Information. Google has failed to disclose to Class Members, took active steps to conceal, and does conceal:
 - a. what Personal Information is collected, retained or used by Google;
 - b. what Personal Information is contained in their Profile;

- c. where their Profile is stored;
 - d. how their Profile is used;
 - e. how Google monetizes the Personal Information contained in the Profile; and
 - f. how Class Members can control, delete, or access the Personal Information contained in their Profile.
41. These material omissions demonstrate a universal and consistent lack of clear, express, and informed consent provided by the Class to Google for the collection, use, or retention of their Personal Information, and were all to the prejudice of the Class Members.
42. The representations above are only a few examples of the uniform and consistent misrepresentations and omissions concerning the collection, retention or use of Class Members' Personal Information by Google. These statements and omissions were materially false and misleading to a reasonable person and are referred to hereafter as the "Misrepresentations" and "Omissions", respectively.

Part 2: RELIEF SOUGHT

43. The Plaintiff claims on its own behalf and on behalf of the proposed Class Members:
- a. An Order pursuant to section 4 of the *CPA* certifying this action as a class proceeding and providing any ancillary directions;
 - b. An Order pursuant to section 2 of the *CPA* appointing the Plaintiff as the representative plaintiff for the Class;
 - c. general damages, including nominal damages, calculated on an aggregate basis or otherwise, in an amount sufficient to compensate the Plaintiff and the Class Members for the harm done to them as a result of the defendants' unlawful conduct, including breach of the Privacy Legislation, the *BPCPA*, the Other Consumer Protection Legislation, the *Competition Act*, invasion of privacy, intrusion upon seclusion, conversion, trespass and unjust enrichment;
 - d. a declaration that the defendants made false, misleading, deceptive, and unconscionable misrepresentations amounting to unfair and unconscionable practices in violation of the *BPCPA* and the Other Consumer Protection Legislation;

- e. damages and costs of the investigation and prosecution of these proceedings pursuant to section 36(1) of the *Competition Act*;
- f. damages pursuant to sections 171 and 172 of the *BPCPA* and the corresponding provisions of the Other Consumer Protection Legislation;
- g. an accounting, disgorgement, and restitution for unjust enrichment, conversion, trespass, and breach of the Privacy Legislation;
- h. punitive and exemplary damages in an amount to be determined at trial;
- i. an Order for a permanent injunction restraining the defendants from taking any further action in contravention of the *Competition Act*, *BPCPA*, the Other Consumer Protection Legislation, *PIPEDA*, the Privacy Legislation, and applicable common law;
- j. pre-judgment and post-judgment interest pursuant to the *Court Order Interest Act*, RSBC 1996, c 79, as may be allowed;
- k. costs of notice to Class Members and administration pertaining to a plan of distribution;
- l. such further and other relief as this Honourable Court may deem fit.

Part 3: LEGAL BASIS

- 44. The Plaintiff pleads and relies upon the *CPA*, the Privacy Legislation, *PIPEDA*, the *Competition Act*, the Other Consumer Protection Legislation, the *Court Order Interest Act*, RSBC 1996, c 79, and the *Court Jurisdiction and Proceedings Transfer Act*, RSBC 2003, c 28.

Causes of Action

Trespass

- 45. Google intentionally or recklessly intrudes or trespasses upon the Plaintiff and the Class Members' Devices to collect their Personal Information.
- 46. Google conscripts the Class Members' Devices as a tool to further their collection of Personal Information at the expense, and without the informed consent, of the Plaintiff and the Class Members.
- 47. Google unlawfully and without justification abuses the prolific nature of Google Services, Google Ads, and Google Analytics as means to invade or trespass upon the Plaintiff and Class Members' Devices both physically and virtually.

48. Google directs Google Services, Google Ads, and Google Analytics, or causes them to direct, the use of the Plaintiff's and Class Members' Devices to provide Google with Class Members' Personal Information. Google thereby interferes with the Plaintiff and Class Members' use of their Devices when accessing a Google Service or Third-Party Website, effectively converting the Devices into data-mining machines for Google's business and commercial interests. Contrary to the Plaintiff's and Class Members' possessory or ownership rights, the instructions in the Code constitute a virtual and physical intrusion into the Plaintiff's and the Class Members' Devices by commandeering the Devices and forcing the Devices to send the Personal Information to Google in furtherance of Google's commercial activities.
49. Further, Google discharges, or causes to be discharged, the Code that is executed on the Plaintiff's and the Class Members' Devices each time the Class Members visit a Third-Party Website. Google thereby intrudes upon the Class Members' Devices both virtually, by executing the Code, and physically, by controlling how the Class Members' Devices respond to the Code, leaving the Plaintiff and the Class Members powerless to Google's control over their Devices and, ultimately, their Personal Information.
50. Google's trespass to the Plaintiff's and the Class Members' Devices is unauthorized and inconsistent with the Plaintiff's and the Class Members' possessory or ownership rights over their chattels. Google's trespass is in furtherance of their commercial activities, including the targeted collection, retention, or use of the Personal Information.
51. As a result, Google has invaded, with no lawful justification, the Plaintiff's and the Class Members' Devices in a manner that interferes with the safe operation and use of their Devices.
52. By virtue of Google's continued and ongoing trespass, the Plaintiff and the Class remain continuously monitored, exposed, and victimized by Google's collection, retention or use of their Personal Information obtained through the trespass and intrusion to their Devices as described herein.
53. Google's trespass against the Devices is continued and ongoing, and as such they are liable to the Plaintiff and the Class for as long as the trespass persists.

Conversion

54. By its conduct, Google has taken the Personal Information belonging to the Plaintiff and Class Members and converted it to revenues in furtherance of

Google's business interests and to the detriment of the Plaintiff and the Class Members.

55. The Personal Information is property over which the Plaintiff and the Class Members exercise control or have a right to immediate possession. It is inherently personal, unique or sensitive information that Google has no right to collect, use, retain, or monetize for their own commercial interests.
56. Google willfully and intentionally converts the Plaintiff's and the Class Members' Personal Information from that which is unique, personal or sensitive into statistics, algorithms and revenue streams to drive their revenues and further the intrusion into the Plaintiff's and Class Member's affairs.
57. Google's conversion of the Plaintiff's and the Class Members' Personal Information allows Google to develop further mechanisms to intrude upon the Plaintiff and the Class Members' chattels and to perpetuate the invasions of their privacy and other harms alleged herein.
58. Google's conversion of the Class Members' Personal Information is motivated by financial gain and is wholly unjustified. Google has no legal right to collect, retain, use or monetize the Personal Information, as there was no valid consent and the Personal Information was obtained through the illegal acts alleged herein.
59. The collection, retention, use and monetization of the Plaintiff's and Class Members' Personal Information results in the conversion of their personal, unique, or sensitive information in a manner that is inconsistent with their proprietary, property and personal rights.

Invasion of Privacy

60. As outlined below, Google's actions constitute a violation of provincial statutes that create torts, actionable without proof of damage, for violations of privacy.

British Columbia *Privacy Act*

61. With respect to Class Members who are domiciled or resident in British Columbia, Google committed the statutory tort in section 1(1) of the British Columbia *Privacy Act*, RSBC 1996, c 373, as amended.
62. Google, willfully and without a claim of right, violated the privacy of the British Columbia Class Members.
63. Google failed to obtain meaningful consent prior to the collection, retention, or use of the Class Members' Personal Information.

64. Alternatively, the Plaintiff's and Class Members' consent was obtained through the Misrepresentations and Omissions alleged above and is therefore invalid, or the enforcement of the Google Terms would be unconscionable.
65. Further, Google's actions are tantamount to surveillance by way of trespass, as particularized above.

Saskatchewan *Privacy Act*

66. With respect to Class Members who are domiciled or resident in Saskatchewan, Google committed the statutory tort in section 2 of the Saskatchewan *Privacy Act*, RSS 1978, c P-24, as amended (the "*SPA*").
67. Google, willfully and without a claim of right, violated the privacy of the Saskatchewan Class Members.
68. Google failed to obtain meaningful consent prior to the collection, retention, or use of the Personal Information, contrary to section 3 of the *SPA*.
69. Alternatively, the Plaintiff's and Class Members' consent was obtained through the Misrepresentations and Omissions alleged above and is therefore invalid, or the enforcement of the Google Terms would be unconscionable.
70. Further, Google's actions are tantamount to surveillance by way of trespass, as particularized above.
71. By virtue of section 7 of the *SPA*, members of the Saskatchewan Class are entitled to damages, an accounting, injunction and any other remedy available at law for Google's breaches.

Manitoba *Privacy Act*

72. With respect to Class Members who are domiciled or resident in Manitoba, Google committed the statutory tort in section 2 of the Manitoba *Privacy Act*, CCSM c P125, as amended (the "*MPA*").
73. Google, substantially, unreasonably, and without claim of right, violated the privacy of the Manitoba Class Members.
74. Google failed to obtain meaningful consent prior to the collection, retention, or use of the Personal Information.
75. Alternatively, the Plaintiff's and Class Members' consent was obtained through the Misrepresentations and Omissions alleged above and is therefore invalid, or the enforcement of the Google Terms would be unconscionable.

76. Further, Google's actions are tantamount to surveillance by way of trespass, as particularized above.
77. By virtue of section 4 of the *MPA*, members of the Manitoba Class are entitled to damages, an accounting, injunction and any other remedy available at law for Google's breaches.

Newfoundland *Privacy Act*

78. With respect to Class Members who are domiciled or resident in Newfoundland and Labrador, Google violated section 3(1) of the Newfoundland *Privacy Act*, RSNL 1990, c P-22, as amended (the "*NPA*").
79. Google, without a claim of right, willfully violated the privacy of the Newfoundland and Labrador Class Members.
80. Google failed to obtain meaningful consent prior to the collection, retention, or use of the Personal Information.
81. Alternatively, the Plaintiff's and Class Members' consent was obtained through the Misrepresentations and Omissions alleged above and is therefore invalid, or the enforcement of the Google Terms would be unconscionable.
82. Further, Google's actions are tantamount to surveillance by way of trespass, as particularized above.
83. By virtue of section 6 of the *NPA*, members of the Newfoundland and Labrador Class are entitled to damages, an accounting, injunction and any other remedy available at law for Google's breaches.

Intrusion Upon Seclusion

84. Google's actions constitute an intentional or reckless intrusion upon the Class Members' seclusion that would be highly offensive to a reasonable person, for which they are liable to members of the Class.
85. Google's taking or use of the Plaintiff and the Class Members' Personal Information was unauthorized and inconsistent with the Plaintiff's and the Class Members' right of possession.
86. Google intentionally, willfully or recklessly intruded upon the Class Members' reasonable expectation of privacy by:
 - a. failing to obtain meaningful consent from the Class to collect, retain, or use their Personal Information;

- b. making the Misrepresentations and Omissions to the Class and the Consumer Class, respectively, and in doing so leading the Class Members to believe their Personal Information would remain private;
 - c. collecting, retaining, or using Personal Information despite their reasonable expectations of privacy;
 - d. collecting, retaining, or using Personal Information in a manner inconsistent with the Google Terms and Privacy Policy;
 - e. developing the Profiles based on the Class Members' Personal Information.
87. The actions of Google are uniformly and objectively highly offensive, causing distress and anguish to Class Members, for which they are liable.
88. Google's intrusion upon the Plaintiff's and the Class Members' privacy was, and continues to be, objectively highly offensive due to the following:
- a. the manner in which the Personal Information is collected, including by making the Misrepresentations and Omissions as alleged herein;
 - b. the nature of the Personal Information collected, retained or used includes sensitive information;
 - c. the Profiles created by Google contain sensitive information;
 - d. Google may use the Plaintiff's and Class Members' Personal Information to further their business interests without prior meaningful consent;
 - e. Google's disregard for their users' privacy rights despite recognizing that Class Members have reasonable and objective expectations of privacy; and
 - f. Google's disregard for the Plaintiff's and Class Members' privacy rights was motivated, directly or indirectly, wholly or partially, by Google's own financial interest or commercial gain.
89. Google invaded the Plaintiff's and Class Members' private affairs with no lawful justification. Google's actions are uniformly and objectively highly offensive, causing distress, humiliation, and anguish to the Plaintiff and Class Members, for which they are liable.

Standard for Invasion of Privacy and Intrusion on Seclusion

90. The Personal Information collected to by Google constitutes personal information pursuant to *PIPA BC*, *PIPA AB*, and *PIPEDA*, which inform the standard of care Google is obligated to meet in its collection, retention and use of the Class Members' Personal Information.
91. Under *PIPEDA*, *PIPA BC*, and *PIPA AB*, the Defendants have a duty to collect and use the Class Members' Personal Information for specified purposes only. The Class Members' Personal Information should only be retained as long as required to serve those specified purposes.
92. Google's failure to properly disclose the specified purposes for which it intends to and did collect, retain and use the Class Members' Personal Information constitutes a breach of *PIPEDA*, including breaches of the valid consent provisions in sections 6.1 and the Fair Information Principles incorporated under section 5(1) Invasion of Privacy, and breaches of *PIPA BC* and *PIPA AB*.
93. Google retains the Class Members' Personal Information for longer than required to meet the purposes Google specifies.

Breach of the *Competition Act*

94. Section 52 of the *Competition Act* prohibits knowingly or recklessly making misleading representations to promote a business interest.
95. Google knowingly and intentionally structured the disclosure of the collection, retention or use of the Class Members' Personal Information in a manner that is objectively and uniformly false and misleading in material respects in order to capitalize on the use of the Plaintiff's and Class Members' Personal Information.
96. The Impugned Documents are affirmative Misrepresentations made expressly, and in standard form, to every Class Member. The Impugned Documents are false and misleading in objective and material respects because they create the general impression that Class Members have control over their Personal Information collected by Google when they do not.
97. It is not necessary to prove that a person was deceived or misled to establish a breach of section 52 of the *Competition Act*.
98. In addition to all other remedies available at law, the Plaintiff is entitled to damages and costs of investigation and prosecution pursuant to section 36 of the *Competition Act*. Without limitation, Google obtains unlawful revenues from the

Personal Information collected, retained or used pursuant to the false and misleading Misrepresentations.

Breach of Consumer Protection Laws

British Columbia *BPCPA*

99. With respect to members of the Consumer Class domiciled or resident in British Columbia, Google commits unfair practices as provided in Part 2 of the *BPCPA*.
100. Google offers a “service” in the context of a “consumer transaction” wherein Google is the “supplier” for the purposes of section 1 of the *BPCPA*.
101. Google commits unfair practices by making the Misrepresentations and Omissions in a manner that has the capability, tendency or effect of deceiving or misleading a consumer, contrary to sections 4 and 5 of the *BPCPA*, either expressly or on analogous grounds.
102. Google knows, or ought to know, that the members of the British Columbia Consumer Class were not reasonably able to protect their interests to prevent the unlawful collection, retention or use of the Personal Information. Google committed unconscionable practices, contrary to sections 8 and 9 of the *BPCPA*.
103. By virtue of section 171 of the *BPCPA*, members of the British Columbia Consumer Class are entitled to damages, including exemplary and punitive damages for the egregious nature of Google’s breaches.

Alberta *Consumer Protection Act*

104. With respect to members of the Consumer Class domiciled or resident in Alberta, Google commits unfair practices as provided in Part 2 of the *Consumer Protection Act*, RSA 2000, c C-26.3 (the “*ACPA*”).
105. Google offers a “service” in the context of a “consumer transaction” wherein Google is the “supplier” for the purposes of section 1 of the *ACPA*.
106. Google commits unfair practices by making the Misrepresentations and Omissions in a manner that might reasonably deceive or mislead a consumer contrary to section 6 of the *ACPA*, either expressly or on analogous grounds.
107. By virtue of sections 7.2, 13 and 17 of the *ACPA*, members of the Alberta Consumer Class are entitled to damages, including entitled to exemplary and punitive damages for the egregious nature of Google’s breaches.

Saskatchewan Consumer Protection and Business Practices Act

108. With respect to members of the Consumer Class domiciled or resident in Saskatchewan, Google commits unfair practices as provided in Part 2 of *The Consumer Protection and Business Practices Act*, SS 2013, c C-30.2, as amended (the “SCPBA”).
109. Google offers a “service” in the context of a transaction wherein Google is the “supplier” for the purposes of section 2 of the SCPBA.
110. Google commits unfair practices by making the Misrepresentations and Omissions in a manner that might reasonably deceive or mislead a consumer contrary to sections 6, 7 and 8 of the SCPBA, either expressly or on analogous grounds.
111. By virtue of section 93 of the SCPBA, members of the Saskatchewan Consumer Class are entitled to damages, including entitled to exemplary and punitive damages for the egregious nature of Google’s breaches.

Manitoba Business Practices Act

112. With respect to members of the Consumer Class domiciled or resident in Manitoba, Google commits unfair practices as provided in Part I of *The Business Practices Act*, CCSM c B120 (the “MBPA”).
113. Google offers a “good” in the context of a “consumer transaction” wherein Google is the “supplier” for the purposes of section 1 of the MBPA.
114. Google commits unfair practices by making the Misrepresentations and Omissions in a manner that might reasonably deceive or mislead a consumer contrary to sections 2, 3 and 5 of the MBPA, either expressly or on analogous grounds.
115. By virtue of section 23 of the MBPA, members of the Consumer Class are entitled to damages, including entitled to exemplary and punitive damages for the egregious nature of Google's breaches.

Newfound & Labrador Consumer Protection and Business Practices Act

116. With respect to members of the Consumer Class domiciled or resident in the Province of Newfoundland & Labrador, Google committed unfair practices as provided in Part III of *Consumer Protection and Business Practices Act*, SNL 2009, c C-31.1 (the “NCPBA”).

117. Google Services are a “service” in the context of a “consumer transaction” wherein Google is the “supplier”, for the purposes of section 2 of the *NCPBPA*.
118. Google commits unfair practices by making the Misrepresentations and Omissions in a manner that might reasonably deceive or mislead a consumer contrary to sections 7 and 9 of the *NCPBPA*, either expressly or on analogous grounds.
119. Google knows, or ought to know, that members of the Newfoundland & Labrador Consumer Class are not reasonably able to protect their interests to prevent the unlawful collection, retention or use of the Personal Information. Google thereby committed unconscionable practices, contrary to sections 8 and 9 of the *NCPBPA*.
120. By virtue of section 10 of the *NCPBPA*, members of the Newfoundland & Labrador Consumer Class are entitled to damages, including exemplary and punitive damages for the egregious nature of Google’s breaches.

Prince Edward Island *Business Practices Act*

121. With respect to members of the Consumer Class domiciled or resident on Prince Edward Island, Google commits unfair and unconscionable practices as provided in section 2 of the *Business Practices Act*, RSPEI 1988, c B-7 (the “*PEIBPA*”).
122. Google offers a “service” in the context of a “consumer representation” for the purposes of section 2 of the *PEIBPA*.
123. Google commits unfair practices by making the Misrepresentations and Omissions which are false, misleading or deceptive, contrary to sections 2 and 3 of the *PEIBPA*, either expressly or on analogous grounds.
124. Google knows, or ought to know, that the Plaintiff and the Class are not reasonably able to protect their interests to prevent the unlawful collection, retention or use of the Personal Information. Google thereby committed unconscionable practices, contrary to sections 2 and 3 of the *PEIBPA*.
125. By virtue of section 4 of the *PEIBPA*, members of the Consumer Class are entitled to damages, including entitled to exemplary and punitive damages for the egregious nature of Google’s breaches.

Unjust Enrichment

126. Google has been unjustly enriched to the extent that they have retained revenues from the collection, retention, or use of the Plaintiff’s and the Class Members’ Personal Information.

127. Google's enrichment represents a corresponding deprivation to the Class Members as a whole.
128. Google's enrichment arises by the illegal acts as set out herein. There is therefore no juristic reason for the Defendants' enrichment.
129. In addition to all other remedies, the Plaintiff and Class Members are entitled to damages and restitution at common law.

Fraudulent Concealment and Discoverability

130. Google intentionally and fraudulently concealed the existence of their unlawful conduct from the public, including the Plaintiff and the Class Members, through the Misrepresentations and Omissions alleged herein. Google made the Misrepresentations and Omissions to the Plaintiff, the Class Members, and the general public in a manner that is misleading to a reasonable person.
131. The Plaintiff and the Class Members did not discover, and could not discover through the exercise of reasonable diligence, the existence of the claims sued upon until recently because the Defendants actively, intentionally and purposively made the Misrepresentations and Omissions regarding the collection, retention, and use of Class Members' Personal Information.
132. Any applicable statute of limitation has been tolled by Google's knowledge, concealment and denial of the alleged facts, which prevented the Plaintiff and the Class Members from discovering their causes of action.

Remedies

Damages

133. As a result of Google's acts and omissions, as particularized above, the Plaintiff and the Class Members have suffered losses and damages.
134. The Class Members are owed damages to compensate for the violation of their rights to privacy and the opportunity cost of their Private Information in an online marketplace.
135. Further, as Google's practices did not comply with the requirements of the *BPCPA*, the Other Consumer Protection Legislation, the Privacy Legislation and the *Competition Act*, the Plaintiff pleads and relies on the remedies provided for in the legislation, which entitles the Consumer Class Members in their respective provinces to damages occasioned on them by Google.

Restitution

136. Google was unjustly enriched by the unlawful acts alleged herein and are compelled to restore that benefit to the Class Members.
137. Restitution is required to prevent Google's continued unjust enrichment by the illegal acts alleged herein.

Disgorgement

138. Compensatory remedies alone are inadequate to address the harm occasioned on the Plaintiff and the Class by Google's unlawful actions.
139. The nature of the Plaintiff's and the Class Members' interest in the Personal Information support their legitimate interest in preventing Google's profit-making activity and, hence, in depriving Google of its profits.

Punitive and Exemplary Damages

140. By virtue of Google's high-handed conduct and its disregard for the quasi-constitutional privacy rights of Class Members, the Plaintiff asks this Court to award punitive damages against Google in an amount deemed appropriate by this Court at trial.
141. Google's actions were high-handed, arrogant, and display a reckless disregard for the Class Members' privacy and property rights. As a result, the Class Members have suffered damage to, among other things, their pride, self-respect and reputation.
142. The Plaintiff relies on the respective sections of the *BPCPA*, the Other Consumer Protection Legislation, the Privacy Legislation, and equity which entitles the Court to order exemplary or punitive damages or other relief the court considers proper.

Injunction

143. Google should be permanently enjoined from carrying on business in contravention of the applicable laws.

Waiver of Notice

144. The Plaintiff requests that any requirement for notice be waived in the interest of justice, in accordance with the Other Consumer Protection Legislation.

Jurisdiction

145. This action has a real and substantial connection with British Columbia because, among other things:

- a. A substantial proportion of the proposed Class Members reside in British Columbia;
- b. Many of the agreements were entered into in British Columbia;
- c. The alleged misrepresentations were disseminated in British Columbia;
- d. A substantial portion of the damages sustained by the Class Members were sustained by entities resident and domiciled in British Columbia.

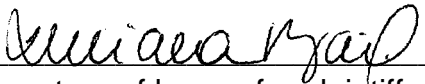
Plaintiff's address for service:

<p>BRANCH MACMASTER LLP 1410 - 777 Hornby Street Vancouver, BC V6Z 1S4</p> <p>Telephone: (604) 654-2999 Fax number for service: (604) 684-3429 E-mail address for service: n/a</p> <p>Luciana Brasil Trevor Siemens</p>	<p>CAMP FIORANTE MATTHEWS MOGERMAN LLP Suite 400 – 856 Homer St. Vancouver, BC V6B 2W5</p> <p>Telephone: (604) 689-7555 Fax: (604) 689-7554 Email: n/a</p> <p>Reidar Mogerman Jamie Thornback Rebecca Coad</p>
<p>FOREMAN & COMPANY 4 Covent Market Place London, ON N6A 1E2</p> <p>Telephone: (519) 914-1175 Fax: (226) 884-5340 Email: n/a</p> <p>Jonathan J. Foreman (LSO #45087H) Anne E. Legate-Wolfe (LSO #76832J)</p>	<p>GREG McMULLEN LAW 415-388 W 1st Ave Vancouver, BC V5Y 0B2</p> <p>Telephone: (604) 376-3100 Email: greg@gregmcmullen.net</p> <p>Greg McMullen</p>
<p>David Loukidelis QC Law Corporation</p> <p>Telephone: (587) 985-2818</p> <p>David Loukidelis QC</p>	

Place of trial: Vancouver, British Columbia

The address of the registry is: 800 Smithe Street
Vancouver, BC V6Z 2E1

Dated: August 17, 2020



Signature of lawyer for plaintiff
Luciana P. Brasil
Branch MacMaster LLP

**ENDORSMENT ON ORIGINATING PLEADING OR PETITION FOR SERVICE
OUTSIDE BRITISH COLUMBIA**

The plaintiff, Harondel J. Sible, claims the right to serve this pleading on the defendants, Google LLC, Google Canada Corporation and Alphabet Inc., outside of British Columbia on the ground that the pleading, pursuant to sections 10(e)-(h) of the *Court Jurisdiction and Proceedings Transfer Act* [SBC 2003] ch 28:

- (e) concerns contractual obligations that, to a substantial extent, were to be performed in British Columbia;
- (f) concerns restitutionary obligations that, to a substantial extent, arose in British Columbia;
- (g) concerns a tort committed in British Columbia; and
- (h) concerns a business carried on in British Columbia.

Rule 7-1(1) of the Supreme Court Civil Rules states:

1. Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading,
 - a) period,prepare a list of documents in Form 22 that lists
 - i. all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - ii. all other documents to which the party intends to refer at trial, and
 - b) serve the list on all parties of record.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

The representative Plaintiff, on behalf of all Class Members, seeks damages as well as restitution and restoration of losses suffered due to the Defendants' unlawful collection

of Over Weight Charges in connection with the waste disposal services provided by the Defendants.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- a motor vehicle accident
- medical malpractice
- another cause

A dispute concerning:

- contaminated sites
- construction defects
- real property (real estate)
- personal property
- the provision of goods or services or other general commercial matters
- investment losses
- the lending of money
- an employment relationship
- a will or other issues concerning the probate of an estate
- a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- a class action
- maritime law
- aboriginal law
- constitutional law
- conflict of laws
- none of the above
- do not know

Part 4:

1. *Class Proceedings Act*, RSBC 1996, c 50