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CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

5 Counsel for Plaintiffs

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

12 DANIELLE REYAS, on behalf of herself
13 and of all others similarly situated,

No.:

CV10-03886

JFW
AJW

14 Plaintiff,

CLASS ACTION ALLEGATIONS
COMPLAINT

15 vs.

16 GOOGLE, INC.,

17 Defendant

(18 U.S.C. §2701 et seq.; 18 U.S.C. §1030 et
seq.; Invasion of Privacy; 18 U.S.C. § 2511, et
seq.; California Business & Professions Code
§17200 et seq.; California Civil Code
§1798.81.5; Conversion; Trespass; Injunctive
Relief)

22 DEMAND FOR JURY TRIAL

27 Plaintiff individually and on behalf of the below-described class alleges as follows:

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NATURE OF THE CASE

1. This is a class action. Plaintiff, on behalf of herself, and all similarly situated persons seeks recovery of monetary damages, penalties, attorney fees, and other relief based on certain acts of defendant, including invasion of legally protected privacy interests, acquisition of personal and private information without permission or consent, and violation of privacy and security rights granted by 18 U.S.C. § 2511, et seq. Plaintiff demands a jury trial.

JURISDICTION AND VENUE

2. This court has jurisdiction under 28 U.S.C. §1331 because Plaintiff have alleged a violation of 18 U.S.C. § 2511, et seq. This court also has jurisdiction under the Stored Communications Act, 18 U.S.C. §2701 et seq., and the Computer Fraud and Abuse Act, 18 U.S.C. §1030 et seq. This Court also has jurisdiction pursuant to 28 U.S.C. §1367(a) over Plaintiff's state statutory and common law claims.

3. Venue lies within this District pursuant to 28 U.S.C. 1391(b)-(c) in that defendant conducts business in this District; certain acts giving rise to the claims asserted in this Complaint occurred within this District; the actions of Defendants alleged in this Complaint caused damages to plaintiff and a substantial number of class members within this District, and plaintiff Danielle Reyas resides within this District.

THE PARTIES

4. Plaintiff Danielle Reyas ("Reyas") is an individual residing in Los Angeles County, California. During the class period, Reyas used and maintained and used a wireless internet connection ("WiFi connection") at her home. Reyas used the wireless internet connection to transmit and receive personal and private data, including but not limited to personal emails, personal internet research and viewing, work-related emails, work-related

1 documents, work-related internet research and viewing, credit card information, banking
2 information, personal identification information such as social security numbers, date of birth,
3 medical information, and telephone calls made using a voice over internet (VOIP) protocol.

4 5. Defendant Google Inc. ("Google") is a multinational public cloud computing and
5 internet search technologies corporation. Google hosts and develops a number of Internet-based
6 services and products. It was first incorporated as a privately held company on September 4,
7 1998, with its initial public offering to follow on August 19, 2004. Google is a Delaware
8 corporation with its home office in the state of California. The company's stated mission from
9 the outset of its existence has been "to organize the world's information and make it universally
10 accessible and useful."
11

12 **DEFENDANT'S CONDUCT**

13 6. One of Google's web-based and web-accessed internet services is Google Street
14 View ("GSV"). GSV is a technology featured in the Google Maps and Google Earth products
15 that provides panoramic views from various positions along many streets in the United States
16 and throughout the world. It was launched on May 25, 2007, originally only in several cities in
17 the United States, and has since gradually expanded to include more cities and rural areas
18 throughout the states of the United States, and worldwide. GSV displays images taken from a
19 fleet of specially adapted vehicles ("GSV vehicles"). Areas not accessible by a full-sized vehicle,
20 such as pedestrian areas, narrow streets, alleys and ski resorts are sometimes covered by Google
21 Trikes (tricycles) or a snowmobile.
22

23 7. On each of the GSV vehicles there are typically nine directional cameras for 360°
24 views at a height of about 2.5 meters, GPS units for positioning, three laser range scanners for
25 the measuring of up to 50 meters 180° in the front of the vehicle. There are also 3G/GSM/Wi-Fi
26 antennas for scanning 3G/GSM and Wi-Fi broadcasts (sometimes called "hotspots") and
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1 associated electronic hardware for the capture and storage of wireless signals and data ("WiFi
2 data").

3 8. In 2006, Google generated programming code that sampled and decoded all
4 categories of publicly broadcast WiFi data. This type or class of program is commonly called a
5 packet analyzer, also known as a network analyzer, protocol analyzer or packet sniffer, or for
6 particular types of networks, an Ethernet sniffer or wireless sniffer ("wireless sniffer"). As data
7 streams flow across the wireless network, the sniffer secretly captures each packet (or discreet
8 package) of information, then decrypts / decodes and analyzes its content according to the
9 appropriate specifications.
10

11 9. To view data secretly captured by a wireless sniffer in readable or viewable form,
12 after being captured and stored on digital media, it must then be decoded using crypto-analysis or
13 similar programming or technology. Because the data "as captured" by the wireless sniffer is
14 typically not readable by the public absent sophisticated decoding or processing, it is reasonably
15 considered and understood to be private, protected information by users and operators of home
16 based WiFi systems. Google collected and recorded snippets from emails and web surfing by the
17 public on WiFi networks.
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19 10. When Google created its data collection systems on the GSV vehicles, it included
20 wireless packet sniffers that, in addition to collecting the user's unique or chosen WiFi network
21 name (SSID information), the unique number given to the user's hardware used to broadcast a
22 user's WiFi signal (MAC address), the GSV data collection systems also collected data
23 consisting of all or part of any documents, emails, video, audio, and VOIP information being
24 sent over the network by the user ("payload data"). In addition it collected electronic information
25 from cell phones that included, but was not limited to, the equivalent of the serial number of each
26 phone. Google collected and stored other personal information.
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1 11. After Google collected and decoded / decrypted users' payload data, it stored the
2 information on its servers. On information and belief, hundreds if not thousands of Google
3 employees throughout the United States and the world have access to data maintained on
4 Google's servers, including the decoded / decrypted payload data collected by the GSV vehicles.

5 12. Users had an expectation of privacy with respect to the payload data collected and
6 decrypted/decoded by Google. Because the GSV packet sniffing data collection was done in
7 secret, users could not, and did not give their consent to Google's activities. Google's Rick
8 Schimdt recently said Internet users should not worry about privacy unless they have something
9 to hide.

10 13. Since the time Google began collecting users' payload data with its GSV vehicles,
11 plaintiff Reyas has consistently maintained an open wireless internet connection at her
12 residence.

13 14. Reyas' residence is located on and adjacent to a street for which a GSV vehicle
14 has collected data on at least one occasion since May 25, 2007.

15 15. Reyas transmits and receives a substantial amount of data from and to her
16 computer over her wireless internet connection ("wireless data").

17 16. Unauthorized access to Reyas' personal and work-related data invades her
18 objectively reasonable expectations of privacy, and invades the right to privacy granted to him
19 by the California Constitution.

20 17. On information and belief, a GSV vehicle has collected, and defendant has stored,
21 and decoded / decrypted Reyas' wireless data on at least one occasion.

22 18. On information and belief, the defendant has sold decoded/decrypted users' data
23 obtained by the GSV vehicles to Motorola, Verizon and other companies.

1 19. Google has also used this information in developing and researching other Google
2 products.

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4 **CLASS ALLEGATIONS**

5 20. Plaintiff Reyas brings this action on her own behalf, and on behalf of the
6 following Class: All residents within all the states of the United States, except Oregon and
7 Washington, whose wireless data was captured, stored, and decoded / decrypted by defendant.

8 21. Excluded from this class are defendant, any person, firm, trust, corporation,
9 officer, director, or other individual or entity in which defendant has a controlling interest or
10 which is related to or affiliated with defendant, and the legal representatives, heirs, successors-in-
11 interest or assigns of any excluded party.

12 22. Plaintiff and members of the Class are so numerous that joinder of all members
13 individually, in one action or otherwise, is impractical.

14 23. This action involves questions of law and fact common to plaintiff Reyas and all
15 members of the Class which include:

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17 (a) Whether defendant's conduct violated of one or more of the provisions of the
18 Stored Communications Act;

19 (b) Whether defendant's conduct violated of one or more of the provisions of the
20 Computer Fraud and Abuse Act;

21 (c) Whether defendant has engaged in an unlawful invasion of plaintiff's and class
22 members' privacy interests;

23 (d) Whether defendant has engaged in an unlawful public disclosure of plaintiff's
24 and class members' private information

25 (e) Whether defendant's conduct violated of one or more of the provisions of 18
26 U.S.C. § 2511 et seq.;

1 (f) Whether defendant's conduct was an Unfair Business Practice under California
2 Business and Professions Code §17200;

3 (g) Whether defendant's conduct violated California Civil Code §1798.81.5;

4 (h) Whether defendant's conduct constituted conversion of plaintiff and class
5 members' property;

6 (i) The appropriate damages under the Stored Communications Act;

7 (j) The appropriate damages under the Computer Fraud and Abuse Act;

8 (k) The appropriate amount of nominal damages to compensate plaintiff and the
9 class members for defendant's invasion of their privacy interests;

10 (l) The appropriate amount of punitive damages under California law necessary
11 punish defendant for its conduct, and prevent further, similar conduct by defendant and others in
12 the future;

13 (m) The appropriate amount of statutory damages that should be awarded to
14 plaintiff and the class members under 18 U.S.C. § 2520;

15 (n) The appropriate amount of punitive damages necessary to punish defendant
16 for its conduct, and prevent further, similar conduct, pursuant to 18 U.S.C. § 2520;

17 (o) Whether plaintiff and the class members are entitled to injunctive relief
18 enjoining defendant from destroying their wireless data collected by defendant;

19 (p) Whether plaintiff and the class members are entitled to injunctive relief
20 enjoining defendant from obtaining any wireless data from any wireless network within the state
21 of California;

22 (q) Whether plaintiff and the class members are entitled to injunctive relief
23 relating to the proper and appropriate time and manner of disposition of the wireless data
24 captured by defendant and belonging to plaintiff and the class members.
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1 24. Plaintiff Reyas' claims are typical of the claims of the members of the Class.

2 25. The named plaintiff is willing and prepared to serve the Court and proposed Class
3 in a representative capacity with all of the required material obligations and duties. Plaintiff
4 will fairly and adequately protect the interests of the Class and have no interests adverse to or
5 which directly and irrevocably conflict with the other members of the Class.
6

7 26. The self-interests of the name Class representatives are co-extensive with, and not
8 antagonistic to those of the absent Class members. The proposed representative will represent
9 and protect the interests of the absent Class members.

10 27. The named Plaintiff has engaged the services of the counsel listed below. Counsel
11 are experience in litigation, complex litigation, and will protect the rights of and otherwise
12 effectively represent the named Class representative and absent Class members.
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14 28. A class action is superior to all other available methods for the fair and efficient
15 adjudication of this controversy because joinder of all parties is impracticable. The damages
16 suffered by individual class members may be relatively small, the expense and burden of
17 individual litigation makes it inefficient and ineffective for members of the Class to individually
18 redress the wrongs done to them. There will be no difficulty in the management of this case as a
19 class action.
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21 29. The prosecution of separate actions by individual Class members would create a
22 risk of inconsistent or varying adjudications with respect to individual members, which would
23 establish incompatible standards of conduct for defendant. Defendant has acted on grounds that
24 apply generally to the Class, making equitable and monetary relief appropriate to the Class as a
25 whole.
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FIRST CLAIM FOR RELIEF
(Stored Communications Act, 18 U.S.C. § 2701 et seq.)

30. Plaintiff repeats and reaffirms the assertions of fact contained in paragraphs 1 through 29 above.

31. By engaging in the forgoing acts and omissions, Defendant Google exceeded its authorization to access and control the private information of Plaintiff and all class members, and/or knowingly divulged the electronic communications of Plaintiff and all class members, in violation of Stored Communications Act, 18 U.S.C. s 2701 et seq.

32. Plaintiff seeks declaratory, injunctive and monetary relief as provided for by the Stored Communications Act for herself and on behalf of the class.

SECOND CLAIM FOR RELIEF
(Computer Fraud and Abuse Act, 18 U.S.C. § 1030 et seq.)

33. Plaintiff repeats and reaffirms the assertions of fact contained in paragraphs 1 through 29 above.

34. By engaging in the forgoing acts and omissions. Defendant Google intentionally accessed a protected computer without authorization and/or knowingly caused the transmission of information resulting in a loss to one or more persons in violation of the Computer Fraud and Abuse Act, 18 U.S.C. s 1030 et seq.

35. Plaintiff seeks declaratory, injunctive and monetary relief as provided for by the Computer Fraud and Abuse Act for herself and on behalf of the class.

THIRD CLAIM FOR RELIEF
(Invasion of Privacy)

36. Plaintiff repeats and reaffirms the assertions of fact contained in paragraphs 1 through 29 above.

1 37. Defendant's conduct was an intentional intrusion upon Plaintiff and class
2 members' private affairs or concerns, and would be offensive to a reasonable person.

3 38. Defendant's conduct constituted the tort of invasion of privacy with respect to
4 Plaintiff and class members.

5 39. Plaintiff and class members are entitled to an award of nominal damages to
6 compensate for defendant's invasion of their privacy.
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8 40. The Class is entitled to recover punitive damages in an amount to be determined
9 by the jury, but sufficient to prevent the same or similar conduct by defendant and others in the
10 future.

11 41. Plaintiff repeats and reaffirms the assertions of fact contained in paragraphs
12 1 through 46 above.

13 42. By engaging in the forgoing acts and omissions, Defendant Google committed the
14 common law tort of Public Disclosure of Private Facts as recognized by California
15 common law. The GSV program resulted in the public disclosure of private facts which would be
16 offensive and objectionable to a reasonable person, and which facts are not of legitimate public
17 concern.
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20 **FOURTH CLAIM FOR RELIEF**
 (18 U.S.C. § 2511 et seq.)

21 43. Plaintiff repeats and reaffirms the assertions of fact contained in paragraphs
22 1 through 29 above.

23 44. Defendant's conduct was a violation of 18 U.S.C. § 2511.

24 45. Pursuant to 18 U.S.C. § 2520, the plaintiff and each class member is entitled to
25 damages and relief as follows:
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27 (a) for each plaintiff and each class member, statutory damages of whichever is
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1 the greater of \$100 each day that person's data was obtained by defendant, or
2 \$10,000 per violation suffered by that plaintiff or class member;

3 (b) punitive damages in an amount to be determined by the jury, but sufficient to
4 prevent the same or similar conduct by defendant and others in the future;

5 (c) a reasonable attorney's fee and other litigation costs reasonably incurred.
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7 **FIFTH CLAIM FOR RELIEF**
8 **(Unfair Business Practices Under Business & Professions Code §17200)**

9 46. Plaintiff repeats and reaffirms the assertions of fact contained in paragraphs
10 1 through 29 above.

11 47. An Unfair Competition Law civil action may be predicated on unfair, deceptive,
12 untrue or misleading advertising and/or any act prohibited by Cal. Bus. & Prof. Code §§ 17500-
13 17581.

14 48. The statutory violations pled herein constitute unfair business practices under
15 California Business and Professions Code § 17200

16 49. Plaintiff seeks relief for herself and on behalf of the class under California
17 Business and Professions Code § 17200 & 17203.
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19 **SIXTH CLAIM FOR RELIEF**
20 **(Disclosure of Consumer Records under California Civil Code §1798.81.5)**

21 50. Plaintiff repeats and reaffirms the assertions of fact contained in paragraphs
22 1 through 29 above.

23 51. Defendant's conduct was a violation of California Civil Code §1798.81.5.

24 52. Plaintiff seeks relief as provided for by for herself and on behalf of the class under
25 California Civil Code §1798.81.5
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2 **SEVENTH CLAIM FOR RELIEF**
3 **(Conversion)**

4 53. Plaintiff repeats and reaffirms the assertions of fact contained in paragraphs
5 1 through 29 above.

6 54. Defendant through its actions assumed unauthorized control over the property of
7 the plaintiff and of all the class members.

8 55. The plaintiff and of all the class members are entitled to immediate possession of
9 their property.

10 56. Plaintiff seeks relief from this conversion as permitted for herself and the class
11 members.

12 **EIGHTH CAUSE OF ACTION**
13 **(Unjust Enrichment)**

14 57. Plaintiff repeats and reaffirms the assertions of fact contained in paragraphs
15 1 through 29 above.

16 58. The defendant has been unjustly enriched as a result of its wrongful acts as
17 described herein. Contrary to equity and good conscience, and at plaintiff's and class member's
18 expense, defendant has unfairly benefited from the above-described conduct by selling the
19 information it wrongfully obtained from the plaintiff and class members.
20

21 59. Plaintiffs and the class members, in justice and fairness, are entitled to recover the
22 sales proceeds which unjustly enriched the defendant.
23

24 **NINTH CLAIM FOR RELIEF**
25 **(Trespass)**

26 60. Plaintiff repeats and reaffirms the assertions of fact contained in paragraphs
27 1 through 29 above.
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1 61. Defendant's actions constituted a trespass onto the property of the plaintiff and
2 the property of the class members.

3 62. Plaintiff seeks relief for this trespass as provided by law, for herself and for the
4 class members.

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6 **TENTH CLAIM FOR RELIEF**
7 **(Injunctive Relief)**

8 63. Plaintiff repeats and reaffirms the assertions of fact contained in paragraphs
9 1 through 29 above.

10 64. Defendant has, at various times and through various of its representatives,
11 claimed that it intends to destroy, as soon as possible, the payload data its GSV vehicles have
12 collected.

13 65. Destruction of the payload data collected from plaintiff and class members would
14 result in spoliation of evidence critical to proving (1) membership in the class, (2) the allegations
15 in their legal claims, and (3) the amount of damages.

16 66. Plaintiff moves this court, on behalf of herself and the class, for a preliminary and
17 permanent injunction barring defendant from destroying or altering any payload data collected.

18 67. Plaintiff further moves this court, on behalf of herself and the class for an
19 injunction requiring defendant to: (1) reveal to each class member the information that it has
20 collected about that class member; (2) provide a written explanation of how it has used the
21 information it collected about class members; (3) create an easy method for all individuals to opt
22 out of any future data collection; and (4) permanently delete all personal information it
23 wrongfully obtained through the GSV process, including images.
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JURY TRIAL

68. Plaintiff demands a jury trial.


REQUEST FOR RELIEF

Plaintiff requests a judgment:

- A. Certifying this action as a class action as set forth above;
- B. Awarding plaintiff and class members the injunctive relief requested in the Tenth Claim for Relief above;
- C. Awarding nominal damages for defendant's invasion of plaintiff's and all class members' privacy interests;
- D. Awarding punitive damages to Reyas and the class members for defendant's invasion of their privacy interests;
- E. Awarding statutory damages under 18 U.S.C. § 2520 to plaintiff and to each class members equal to the greater of \$100 for each day any plaintiff or class member's data was obtained by defendant, or \$10,000 per violation suffered by each plaintiff or class member;
- F. Awarding punitive damages under 18 U.S.C. § 2520 in an amount to be determined by the jury, but sufficient to prevent the same or similar conduct by defendant and others in the future;
- G. Awarding a reasonable attorney's fee and other litigation costs reasonably incurred;
- H. Awarding all other costs, relief, and damages legally available under the claims and allegations set forth in this complaint.

1 Dated: May 23, 2010

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By: 
Ilana Dotst
Counsel for Plaintiffs