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13 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
14 COUNTY OF SAN MATEO  
15 UNLIMITED JURISDICTION

16 LEAH BALLEJOS, AUDREY ELLIS, and  
17 TAMEIKA MARTIN,

18 Plaintiffs,

19 v.

20 FACEBOOK, INC., a Delaware corporation,  
21 and DOES 1 through 100,

22 Defendants.

Case No.:

**18 CIV 03607**

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

(1) Violation of Bus. & Prof. Code §17200, *et seq.*

(2) Violation of Bus. & Prof. Code §17500, *et seq.*

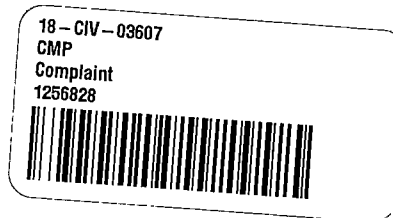
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**SAN MATEO COUNTY**

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A&P | AUDET & PARTNERS  
LLP



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1 Plaintiffs Leah Ballejos, Audrey Ellis, and Tameika Martin (“Plaintiffs”), bring this action  
2 against Facebook, Inc. (“Facebook” or the “Company”) seeking declaratory and injunctive relief based  
3 on personal knowledge of the facts pertaining to themselves and on information and belief as to all  
4 other matters. Plaintiffs allege as follows:

5 **I. NATURE OF THE ACTION**

6 1. This action arises from the massive and ongoing breach of the public’s trust by  
7 Facebook. The Company has repeatedly disregarded Californians’ right to privacy – an inalienable  
8 right under the Constitution of the State of California. For years, Facebook has made empty promises  
9 about doing more to respect and protect users’ privacy, but that has not happened, as evidenced by  
10 several recent revelations. Plaintiffs bring this action, for the benefit of the general public, seeking the  
11 reform of Facebook’s unlawful, misleading, and unfair business practices that have led to the repeated  
12 privacy violations.

13 2. On March 17, 2018, the public learned that Facebook allowed a third-party to obtain  
14 and misuse the personal data of Facebook users. The user data was collected through an application  
15 called “This is Your Digital Life” (“the App”). The App presented Facebook users with a personality  
16 test that purportedly collected data for academic research. Approximately 300,000 users accessed the  
17 App using their Facebook login information.<sup>1</sup> However, the App also could access the personal data  
18 of these users’ Facebook friends, **without their consent**, thereby extending the data breach to affect  
19 over **70 million** Facebook users in the United States. Some or all of that data was then sold to a political  
20 consulting firm, Cambridge Analytica, which used it to target advertising during the 2016 Presidential  
21 campaign.

22 3. Though Facebook learned that the App violated Facebook’s policies as early as 2015,  
23 the Company did not immediately inform the affected Facebook users or seek to recover their personal  
24 data. Only after the data breach became publicly known did Facebook CEO Mark Zuckerberg  
25 acknowledge that the Company failed to provide adequate data security:

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27  
28 <sup>1</sup> Testimony of Mark Zuckerberg at the Hearing Before the U.S. Senate Committee on the Judiciary and the U.S. Senate  
Committee on Commerce, Science and Transportation (April 10, 2018),  
<https://www.judiciary.senate.gov/imo/media/doc/04-10-18%20Zuckerberg%20Testimony.pdf>

1 [I]t's clear now that we didn't do enough. We didn't focus enough on  
2 preventing abuse and thinking through how people could use these tools  
3 to do harm as well. That goes for fake news, foreign interference in  
4 elections, hate speech, in addition to developers and data privacy. We  
5 didn't take a broad enough view of what our responsibility is, and that  
6 was a huge mistake. It was my mistake.<sup>2</sup>

7 4. In April 2018, Zuckerberg was summoned to testify before Congress to explain how  
8 Cambridge Analytica was able to obtain the enormous amount of data Facebook users thought was  
9 private. As it turns out, until 2014, Facebook considered open data access to be a "feature" it gladly  
10 provided to third-party app developers. Zuckerberg assured lawmakers that Facebook discontinued  
11 that feature and "locked down [the] platform to prevent developers from accessing this information  
12 around 2014."<sup>3</sup>

13 5. However, even Zuckerberg's Congressional testimony failed to fully disclose the  
14 extent to which Facebook engaged in unauthorized data sharing. On June 3, 2018, it was revealed that  
15 the Company had data-sharing arrangements with at least 60 device makers, including Apple,  
16 Amazon, Samsung, BlackBerry, and Microsoft.<sup>4</sup> "Some device makers could retrieve personal  
17 information **even from users' friends** who believed they had barred any sharing," reported *The New*  
18 *York Times*.<sup>5</sup>

19 6. Then, on June 8, 2018, additional information at odds with Zuckerberg's Congressional  
20 testimony became publicly known. The *Wall Street Journal* reported that Facebook granted extensive  
21 access to the data of users' friends long after the practice supposedly ended: "[The] data-sharing deals  
22 that gave select companies special access to user records well after the point in 2015 that the social  
23

24  
25 <sup>2</sup> "Hard Questions: Q&A with Mark Zuckerberg on Protecting People's Information" (April 4, 2018),  
<https://newsroom.fb.com/news/2018/04/hard-questions-protecting-peoples-information/>

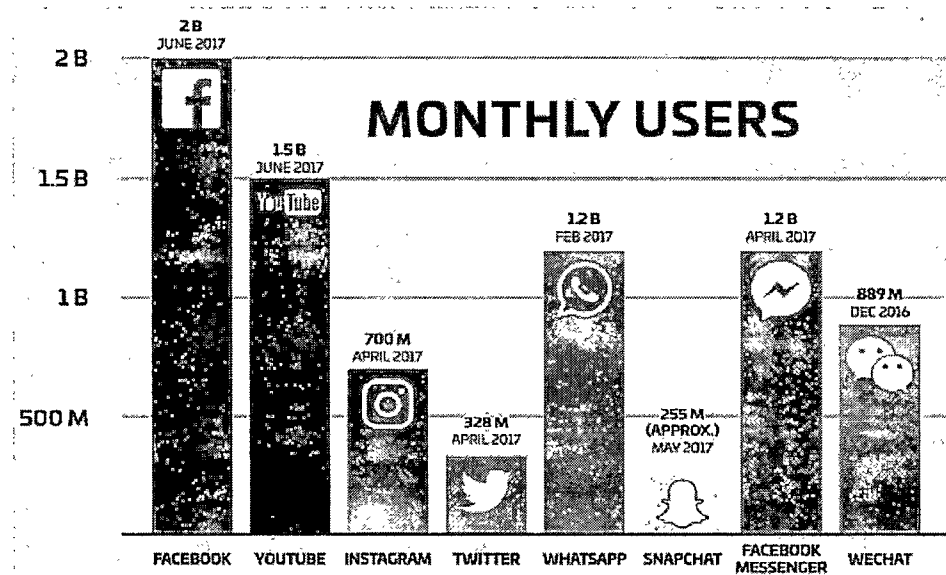
26 <sup>3</sup> Transcript of Mark Zuckerberg's Senate Hearing (April 10, 2018), [https://www.washingtonpost.com/news/the-switch/wp/2018/04/10/transcript-of-mark-zuckerbergs-senate-hearing/?utm\\_term=.553ee52c26d8](https://www.washingtonpost.com/news/the-switch/wp/2018/04/10/transcript-of-mark-zuckerbergs-senate-hearing/?utm_term=.553ee52c26d8)

27 <sup>4</sup> Gabriel J.X. Dance, Nicholas Confessore, and Michael LaForgia, "Facebook Gave Device Makers Deep Access to Data  
28 on Users and Friends," *The New York Times* (June 3, 2018),  
<https://www.nytimes.com/interactive/2018/06/03/technology/facebook-device-partners-users-friends-data.html>

<sup>5</sup> *Id.* (Emphasis added.)

1 network has said it walled off that information.”<sup>6</sup> Disturbingly, Facebook “also allowed certain  
 2 companies to access additional information about a user’s Facebook friends[.]”<sup>7</sup>

3 7. Facebook’s lax regard for privacy rights is a matter of significant public concern. The  
 4 Company collects, maintains, and monetizes an unprecedented amount of personal data, including  
 5 “religion and political views, relationship status, relationship details,...friend list, ... education  
 6 history, work history, [personal] website URL, book reading activity, fitness activity, music listening  
 7 activity, video watch activity, news reading activity, [and] games activity.”<sup>8</sup> Facebook has more than  
 8 2 billion monthly users.<sup>9</sup> The four social media and messaging platforms owned by the Company –  
 9 Facebook, WhatsApp, Facebook Messenger, and Instagram – have a combined reach of an even larger  
 10 number of monthly users.



Source: TechCrunch, <https://techcrunch.com/2017/06/27/facebook-2-billion-users/>

25 <sup>6</sup> Deepa Seetharaman and Kirsten Grind, “Facebook Gave Some Companies Special Access to Additional Data About  
 26 Users’ Friends,” The Wall Street Journal (June 8, 2018).

27 <sup>7</sup> *Id.* (Emphasis added.)

28 <sup>8</sup> Aja Romano, “Facebook warns ‘most users’ have had their data harvested by third-party apps,” Vox Media (April 5,  
 2018), <https://www.vox.com/technology/2018/4/5/17201946/facebook-warns-most-users-had-data-scraped>

<sup>9</sup> Facebook press release, “Two Billion People Coming Together on Facebook (June 27, 2017)  
<https://newsroom.fb.com/news/2017/06/two-billion-people-coming-together-on-facebook/>

1 8. Facebook has a clear financial motive to value data-sharing over user privacy.  
 2 Substantially all of the Company's revenue comes from using the collected data to sell the targeted  
 3 advertising shown to Facebook users. According to the financial results in Facebook's 2017 Annual  
 4 Report to shareholders, 98% of Facebook's revenue is derived from targeted ads.<sup>10</sup>

	Year Ended December 31,		
	2017	2016	2015
	(in millions)		
Advertising	\$ 39,942	\$ 26,885	\$ 17,079
Payments and other fees	711	753	\$49
Total revenue	\$ 40,653	\$ 27,638	\$ 17,928

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9 9. Given the lucrative nature of this business model, the Company faces an inherent  
 10 conflict with regard to privacy. Facebook on the one hand must safeguard the immense amount of  
 11 personal and private data it collects yet, at the same time, continue to grow its business by sharing and  
 12 monetizing data. As a corporate entity beholden to shareholders, this is a conflict with one clear winner  
 13 (sharing and monetizing data) and one clear loser (protecting users' private and personal information).  
 14 Facebook employees recognize this, as Sandy Parakilas, who worked at Facebook enforcing privacy  
 15 and other rules until 2012, stated: "The people whose job is to protect the user always are fighting an  
 16 uphill battle against the people whose job is to make money for the company."<sup>11</sup> In fact, Facebook has  
 17 informed investors that privacy regulations pose a significant risk to the Company's business model.<sup>12</sup>  
 18 Thus, the extent to which Facebook will voluntarily change its practices is doubtful.

19 10. Facebook's repeated apologies and promises "to do better"<sup>13</sup> in the future ring hollow,  
 20 as new privacy concerns keep arising on a regular basis. This action arises from Facebook's repeated  
 21 misrepresentations to the general public and longstanding business practice of not making user privacy  
 22  
 23

24  
25 <sup>10</sup> Facebook, Inc., Form 10-K for the Fiscal Year ended December 31, 2017, filed with the SEC on February 1, 2018, at p.  
 43 ("Annual Report"), <https://www.sec.gov/Archives/edgar/data/1326801/000132680118000009/fb-12312017x10k.htm>

26 <sup>11</sup> Nicole Perloth, Sheera Frenkel and Scott Shane, "Facebook Exit Hints at Dissent on Handling of Russian Trolls," The  
 27 New York Times (March 19, 2018), <https://www.nytimes.com/2018/03/19/technology/facebook-alex-stamos.html?mtref=undefined>

28 <sup>12</sup> Annual Report, at pp. 6, 16.

<sup>13</sup> Sheena McKenzie, "Facebook's Mark Zuckerberg says sorry in full-page newspaper ads," CNN (March 25, 2018),  
<https://www.cnn.com/2018/03/25/europe/facebook-zuckerberg-cambridge-analytica-sorry-ads-newspapers-intl/index.html>

1 a top priority. Plaintiffs seek, for the benefit of the general public, a declaration that Facebook has  
2 engaged in unlawful conduct and requiring Facebook to:

3 (a) Permanently cease and desist the unlawful and unfair acts alleged herein;

4 (b) Strictly limit apps' access to data so they obtain only the minimum amount  
5 needed for an app's legitimate functionality;

6 (c) Prevent third-party apps from obtaining any data regarding a user's "friends"  
7 unless a friend affirmatively and knowing chooses to permit sharing with a specific app;

8 (d) Implement settings that treat data as "private" by default and requires users to  
9 affirmatively and knowingly choose to make it public;

10 (e) Implement the principle of "privacy by design" into all new services, tools, and  
11 products and to fullest extent possible in existing services, tools, and products;

12 (f) Make all data that does not serve a legitimate ongoing business purpose be  
13 ephemeral, *i.e.*, it has an expiration date and disappears once there is no longer a current need for its  
14 collection, storage, or use;

15 (g) Establish a whistleblower hotline answered by a third-party compliance agent  
16 so employees, advertising partners, app developers, or others who suspect data is being misused can  
17 report it anonymously;

18 (h) Maintain data inventories and flow mapping, which is then used to proactively  
19 identify potential misuse and/or unintended uses of data by identifying the types and categories of data  
20 collected, the transfer methods, the technical and organizational safeguards taken, and an appropriate  
21 data lifecycle;

22 (i) Only allow apps for which that have received verification from an independent  
23 third-party that the app satisfies privacy best practices; and

24 (j) Submit to an annual audit by an independent third-party to ensure that Facebook  
25 is fully complying with these requirements.

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1 **II. PARTIES**

2 11. Plaintiff Leah Ballejos is a natural person and resident of Temescal Valley, California.  
3 Ms. Ballejos has a Facebook account and received notification that her personal data may have been  
4 accessed by the App without her consent.

5 12. Plaintiff Audrey Ellis is a natural person and resident of Elk Grove, California. Ms.  
6 Ellis has a Facebook account and received notification that her personal data may have been accessed  
7 by the App without her consent.

8 13. Plaintiff Tameika Martin is a natural person and resident of Stockton, California. Ms.  
9 Ellis has a Facebook account and received notification that her personal data may have been accessed  
10 by the App without her consent.

11 14. Defendant Facebook, Inc. is a Delaware Corporation with its headquarters in Menlo  
12 Park, California.

13 15. Plaintiffs are ignorant of the true names and capacities of Does 1 through 100. Plaintiffs  
14 will amend this Complaint under Code of Civil Procedure §474 to insert the true names and capacities  
15 of these Defendants when their identities are ascertained.

16 **III. JURISDICTION AND VENUE**

17 16. This Court has jurisdiction because Facebook is headquartered in Menlo Park,  
18 California. Facebook operates its business in San Mateo County and throughout the State of California.

19 17. Venue is proper in this Court under Code of Civil Procedure §410.10. The unlawful  
20 actions and practices alleged in this Complaint were committed in or emanated from the Company's  
21 headquarters in San Mateo County. In addition, Facebook systematically and continuously transacts  
22 business in San Mateo County. Facebook's terms of service also provide that any disputes brought by  
23 Facebook users "will be resolved exclusively in the U.S. District Court for the Northern District of  
24 California or a state court located in San Mateo County" and that the laws of the State of California  
25 govern any such disputes.<sup>14</sup>

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<sup>14</sup> Facebook website, Terms of Service, <https://www.facebook.com/legal/terms/update>



1 **IV. FACTUAL ALLEGATIONS**

2 **A. Facebook’s Business Model Is Based On Monetizing User Data Through Targeted**  
3 **Advertising**

4 18. Facebook is a popular social media platform with more than 2.19 billion users around  
5 the globe.<sup>15</sup> *USA Today* estimates that 58% of the adult population in the United States use Facebook,<sup>16</sup>  
6 suggesting more than 17 million users in California alone.<sup>17</sup> In addition to the Facebook social media  
7 platform, the Company owns Instagram, Facebook Messenger, WhatsApp, and Oculus.<sup>18</sup>

8 19. Each Facebook user has an individualized profile page where the person can post his  
9 or her current city of residence, hometown, work history, relationship status, education, and photos.  
10 Users can also add information about their favorite books, music, television shows, games, and sports  
11 teams, as well as religious and political views. The following image shows part of the profile page and  
12 timeline for Facebook’s founder and CEO, Mark Zuckerberg:

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24 <sup>15</sup> Statista, Inc., “Number of monthly active Facebook users worldwide as of 1<sup>st</sup> quarter 2018,  
25 <https://www.statista.com/statistics/264810/number-of-monthly-active-facebook-users-worldwide/>

26 <sup>16</sup> Elizabeth Wise, “Your mom and 58% of Americans are on Facebook” (January 9, 2015),  
27 <https://www.usatoday.com/story/tech/2015/01/09/pew-survey-social-media-facebook-linkedin-twitter-instagram-pinterest/21461381/>

28 <sup>17</sup> United States Census Bureau, California population estimates (July 1 2017),  
<https://www.census.gov/quickfacts/fact/table/CA#viewtop>

<sup>18</sup> Facebook 2017 Annual Report at p. 5.

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Source: <https://www.facebook.com/zuck>

20. Facebook collects and stores personal data that users post on the site.<sup>19</sup> The Company uses that data to help advertisers deliver targeted ads.<sup>20</sup> Advertisers can focus on particular audiences based on age, gender, relationship status, hobbies, or other personal interests.<sup>21</sup>

21. Facebook offers more than 1,300 categories for ad targeting<sup>22</sup> based on dozens of data points available to the Company, including:

(a) **Demographics**, allowing advertisers to “[f]ind people based on traits like age, gender, relationship status, education, workplace, job titles and more.”

(b) **Location**, helping advertisers to “[r]each people in areas where you want to do business. You can even create a radius around a store to help create more walk-ins.”

<sup>19</sup> Alvin Chang, “The Facebook and Cambridge Analytica scandal, explained with a simple diagram” (May 2, 2018), <https://www.vox.com/policy-and-politics/2018/3/23/17151916/facebook-cambridge-analytica-trump-diagram>

<sup>20</sup> Facebook 2017 Annual Report, at p. 5.

<sup>21</sup> Facebook website, “Choose your audience,” <https://www.facebook.com/business/products/ads/ad-targeting>

<sup>22</sup> Julia Anguin, Terry Parris Jr., and Surya Mattu, “What Facebook Knows About You,” ProPublica (September 28, 2016) <https://www.propublica.org/article/breaking-the-black-box-what-facebook-knows-about-you>

1 (c) **Interests**, allowing advertisers to “[f]ind people based on what they’re into, like  
2 hobbies, favorite entertainment and more.”

3 (d) **Behaviors**, helping advertisers to “[r]each people based on their purchase  
4 behaviors, device usage and other activities.”<sup>23</sup>

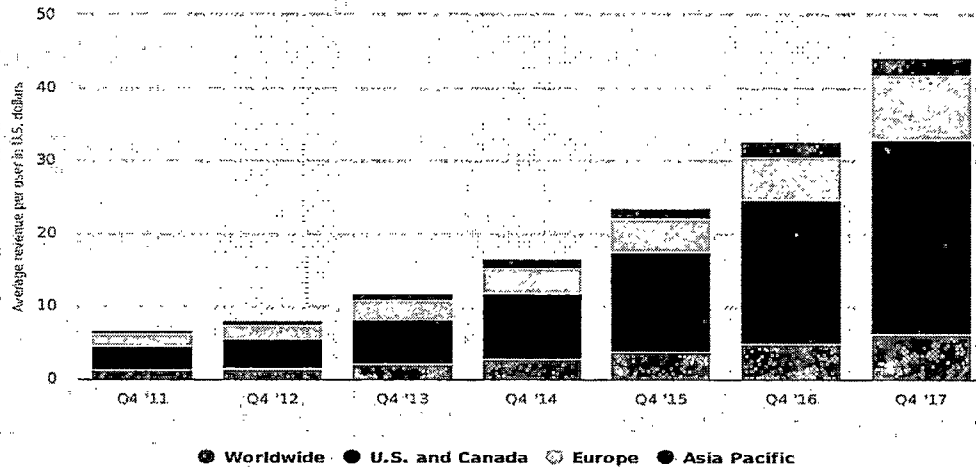
5 22. Beyond the basic demographic, location, interest, and behavior data, “[t]he company  
6 also makes inferences about users by linking bits of information. Those inferences can place a user  
7 into one or more of ... 98 categories previously reported by the *Washington Post*, such as income or  
8 home ownership, or ... 52,000 attributes identified by *ProPublica*, such as breastfeeding in public.”<sup>24</sup>

9 23. Facebook earns revenue by selling advertising that is shown to users. In 2017, the  
10 Company had gross revenue of \$40.65 billion, with \$39.94 billion (98%) coming from third-party  
11 advertising.<sup>25</sup> In other words, each Facebook received approximately \$26.76 in revenue per user in  
12 North America, with approximately \$26.22 of that amount derived from using the person’s data for  
13 advertising purposes. This figure is expected to grow and, even when limited only to the millions of  
14 California Facebook users, represents a significant revenue stream for Facebook. The profitable nature  
15 of this model has continued to grow on a year-to-year basis with no sign of slowing down.

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26 <sup>23</sup> Facebook website, “Choose your audience,” [https://www.facebook.com/business/products/ads/ad-](https://www.facebook.com/business/products/ads/ad-targeting#core_audiences)  
27 [targeting#core\\_audiences](https://www.facebook.com/business/products/ads/ad-targeting#core_audiences)  
28 <sup>24</sup> Nitasha Tiku, “What’s *Not* Included In Facebook’s ‘Download Your Data’,” *Wired* (April 23, 2018)  
<https://www.wired.com/story/whats-not-included-in-facebooks-download-your-data/>  
<sup>25</sup> Facebook 2017 Annual Report at p. 34.

Facebook's average revenue per user as of 4th quarter 2017, by region (in U.S. dollars)



Source: Statista, <https://www.statista.com/statistics/251328/facebooks-average-revenue-per-user-by-region/>

## B. Third-Party Apps Contribute To Facebook's Ability To Collect And Monetize User Data

24. In 2007, Facebook had “the vision that more apps should be social. Your calendar should be able to show your friends’ birthdays, your maps should show where your friends live, and your address book should show their pictures. To do this, we enabled people to log into apps and share who their friends were and some information about them.”<sup>26</sup>

25. Many Facebook applications or “apps” are created by third-party developers. The apps allow Facebook users to play games, communicate with friends, and otherwise interact with Facebook content. Fun or useful apps increase “user engagement,” which is a critical component of the Company’s business model. User engagement refers to the amount of time a Facebook user spends on the social networking site.

26. Key metrics tracked by Facebook include the number of daily active users, number of monthly active users, and average revenue per user. These numbers affect Facebook’s revenue because they reflect how many ads are viewed and the value of the ads to marketers. Accordingly, the Company




<sup>26</sup> Facebook posting made by CEO Mark Zuckerberg on March 21, 2018, <https://www.facebook.com/zuck/posts/10104712037900071>

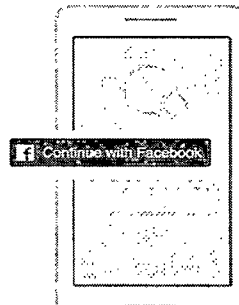
1 looks for ways to provide engaging content that keeps users returning and spending more time on  
2 Facebook.

3 27. Recognizing that apps help increase user engagement, Facebook offers tools that third-  
4 party developers can incorporate into their apps. For example, “Facebook Login” is a tool that allows  
5 people to login to an app or website with their Facebook credentials, rather than creating a new  
6 username and password.<sup>27</sup>

### 7 Add Facebook 8 Login to Your App 9 or Website

10 Facebook Login is a secure, fast and  
11 convenient way for people to log into your app  
12 or website.

- 13  iOS
- 14  Android
- 15  Websites or mobile websites
- 16  More platforms



17 Source: <https://developers.facebook.com/docs/facebook-login/>

### 18 C. Facebook’s Strategic Deployment of its “Facebook Login” Intentionally Exposed 19 User Data to Risks in Return for Market Dominance

20 28. The purpose of “Facebook Login” is more than providing a simple “tool” for users to  
21 quickly access third-party apps. Facebook Login represented the culmination of Facebook’s strategy  
22 to make Facebook an indispensable tool to people who want continued access to many aspects of the  
23 internet.<sup>28</sup>

24 29. For example, “up until very recently you were required to have a Facebook account to  
25 use Tinder, so the vast majority of Tinder’s **50 million users**”<sup>29</sup> were required to use the associated  
26 Facebook Login in order to access Tinder’s services. Likewise for Spotify, a music-streaming service

27 Kurt Wagner, “Here’s how Facebook allowed Cambridge Analytica to get data for 50 million users” (March 17, 2018),  
28 <https://www.recode.net/2018/3/17/17134072/facebook-cambridge-analytica-trump-explained-user-data>

29 Aja Romano, “How Facebook made it impossible to delete Facebook” (March 22, 2018)  
<https://www.vox.com/culture/2018/3/22/17146776/delete-facebook-difficult>

<sup>29</sup> *Id.*

1 with over 60 million users today and growing,<sup>30</sup> started off by requiring new users of its music services  
2 to log in through their respective Facebook accounts.<sup>31</sup>

3 30. Having Facebook as a requirement is not limited to consumer products and services,  
4 but extends to a person's family life, love life, and even their school life: "Your parents are on  
5 Facebook. Your prospective parents are on Facebook. Your Alumni are on Facebook. You must be on  
6 Facebook too to be part of the conversation."<sup>32</sup> Thus, it is not surprising that Facebook can impact  
7 educational success as well because many schools check social media profiles to learn more about  
8 applicants.<sup>33</sup> "One student described on Twitter that she facilitated an LGBTQ panel for her school,  
9 which wasn't in her application. This made us more interested in her overall and encouraged us to  
10 imagine how she would help out the community," said a college admissions officer.

11 31. Facebook's strategy has been not only domineering, but very successful. As one  
12 analytics site puts it: "Facebook is the runaway leader in terms of social login market share, as 92%  
13 of websites prefer to provide Facebook as a social login option.... High traffic platforms such as  
14 Netflix, Spotify, Yelp, ESPN and Uber support Facebook as the only social login option.... In many  
15 ways, Facebook is becoming the consumer's online identity, as the same 'login' is used across multiple  
16 platforms that span a variety of purposes."<sup>34</sup> A vast network of websites, internet services, and online  
17 access platforms utilize Facebook Login to provide a more user-friendly experience.

18 32. Facebook's choice to mass market and promote Facebook Login came with clear risks,  
19 which now have materialized.<sup>35</sup> Despite these concerns, Facebook has essentially shifted its  
20

21 <sup>30</sup> Caroline Cakebread, "With 60 million subscribers, Spotify is dominating Apple Music," Vox Media (August 1, 2017)  
22 <http://www.businessinsider.com/spotify-vs-apple-music-subscribers-chart-2017-8>

23 <sup>31</sup> Steve Kovach, "Why You Shouldn't Be Surprised Spotify Requires A Facebook Account To Sign Up," *Business*  
24 *Insider* (September 26, 2011) <http://www.businessinsider.com/spotify-requires-users-to-have-facebook-accounts-2011-9>

25 <sup>32</sup> Enrollment Catalyst website, "You, Your School, and Facebook,"  
26 <https://www.enrollmentcatalyst.com/2011/02/16/you-your-school-and-facebook/>

27 <sup>33</sup> Darian Somers, "Do Colleges Look at Your Social Media Accounts?" *U.S. News & World Report* (February 10, 2017)  
28 <https://www.usnews.com/education/best-colleges/articles/2017-02-10/colleges-really-are-looking-at-your-social-media-accounts>

<sup>34</sup> L&F Capital Management, "Facebook And Social Login: Your New Identity," Seeking Alpha (August 15, 2016)  
<https://seekingalpha.com/article/3999738-facebook-social-login-new-identity>

<sup>35</sup> Steven Englehardt, "No boundaries for Facebook data: third-party trackers abuse Facebook Login," Freedom to Tinker  
(April 18, 2018) <https://freedom-to-tinker.com/2018/04/18/no-boundaries-for-facebook-data-third-party-trackers-abuse-facebook-login/>

1 responsibility to prevent the unauthorized use of personal data onto users, but users who want to secure  
2 their data face an often convoluted process.<sup>36</sup>

3 **D. Facebook’s Purported Actions to Protect User Data Belie Recent News Headlines**

4 33. In April 2014, Facebook announced that it was updating its platform to no longer allow  
5 apps to reach beyond the person who directly accessed the app.<sup>37</sup> This was supposedly done “to prevent  
6 abusive apps” and apps could “no longer ask for data about a person’s friends unless their friends also  
7 authorized the app.”<sup>38</sup>

8 34. Following the platform update, Facebook also revised its Platform Policy in June 2014.  
9 The Platform Policy revision also required that app developers “[r]espect privacy” and “not mislead,  
10 confuse, defraud, or surprise users.”<sup>39</sup> In addition, developers were obligated to “[p]rotect the  
11 information you receive from us against unauthorized access or use.” The June 2014 Platform Policy  
12 expressly prohibited the transfer or sale of data: “[d]on’t sell, license, or purchase any data obtained  
13 from us or our services” and “[d]on’t transfer any data that you receive from us (including anonymous,  
14 aggregate, or derived data) to any ad network, data broker or other advertising or monetization-related  
15 service.”

16 35. However, Facebook’s 2014 measures to protect user data have been called into doubt  
17 given the recent headlines about Facebook continuing to share user data with unauthorized and  
18 unknown third-parties. In April 2018, Facebook CEO Mark Zuckerberg assured lawmakers that  
19 Facebook users have the ability to see exactly what data the Company has collected about them. “We  
20 have a ‘download your information’ tool. . . . You can go to it in your settings and download all of the  
21  
22  
23

24 <sup>36</sup> Paul Bischoff, “How to remove apps from Facebook for better privacy,” Comparitech (December 3, 2015)  
25 <https://www.comparitech.com/blog/vpn-privacy/how-to-remove-apps-from-facebook-for-better-privacy/>

26 <sup>37</sup> Josh Constine, “Facebook Is Shutting Down Its API For Giving Your Friends’ Data To Apps” (April 28, 2014),  
27 <https://techcrunch.com/2015/04/28/facebook-api-shut-down/#.6jo95c:qljA>

28 <sup>38</sup> Facebook posting made by CEO Mark Zuckerberg on March 21, 2018,  
<https://www.facebook.com/zuck/posts/10104712037900071>

<sup>39</sup> Internet Archive, showing Facebook’s Platform Policy as of December 23, 2009,  
<https://web.archive.org/web/20140512215731/https://developers.facebook.com/policy>

1 content that you have on Facebook,” Zuckerberg testified.<sup>40</sup> But this was untrue, as technology  
2 journalists have explained:

3 ...“Download Your Data” hardly tells you everything Facebook knows  
4 about you. Among the information not included:

- 5 • information Facebook collects about your browsing history
- 6 • information Facebook collects about the apps you visit and your  
7 activity within those apps
- 8 • the advertisers who uploaded your contact information to  
9 Facebook more than two months earlier
- 10 • ads that you interacted with more than two months prior

11  
12 Download Your Data is particularly spotty when it comes to the  
13 information Facebook taps to display ads. Typically, Facebook uses  
14 information it collects or buys to place users into categories that  
15 advertisers can target. This can include data a user provides explicitly  
16 (your age), implicitly (which browser you use) or unknowingly  
17 (information on purchases from loyalty cards).<sup>41</sup>

18 36. The Download Your Data tool also highlights the startling depth and nature of  
19 Facebook’s data collection practices. As another journalist discovered:

20 A file named Contact\_info will blow your mind, and probably not in a  
21 good way, by reliably displaying **every single phone number and email**  
22 **you’ve corresponded with since the dawn of the smartphone era.**  
23 Something called Security will show the specs of every single connected  
24 device on which you’ve ever logged in to Facebook.<sup>42</sup>

25 37. On June 3, 2018, *The New York Times* broke the story that Facebook had long struck  
26 undisclosed agreements with electronic device manufacturers that granted “access to vast amounts of

27 <sup>40</sup> Nitasha Tiku, “What’s *Not* Included In Facebook’s ‘Download Your Data,’” *Wired* (April 23, 2018)  
<https://www.wired.com/story/whats-not-included-in-facebooks-download-your-data/>

28 <sup>41</sup> *Id.*

<sup>42</sup> Joe Kukura, “How to See All Your Facebook Data,” *SF Weekly* (April 13, 2018), <http://www.sfweekly.com/news/how-to-see-all-your-facebook-data/> (emphasis added)



1 its users' personal information."<sup>43</sup> Facebook, through these agreements, "allowed the device  
2 companies access to the data of users' friends without their explicit consent, even after declaring that  
3 it would no longer share such information with outsiders. Some device makers could retrieve personal  
4 information even from users' friends who believed they had barred any sharing." The device  
5 manufacturers included multinational corporations such as Apple, Amazon, BlackBerry, Microsoft,  
6 and Samsung with their own corporate interests and their own agenda in terms of using collected  
7 personal data.

8 38. Even more disturbing, some of the device manufacturers with access to Facebook's  
9 user data are suspected of undue influence by foreign governmental interests.<sup>44</sup> Huawei Technologies  
10 Co., Ltd., for example, not only had access to Facebook user data but represents a clear threat to  
11 misusing the average Facebook user's personal information.<sup>45</sup> An October 2012 report by the House  
12 Intelligence Committee indicated that Huawei and another foreign company, ZTE, must be blocked  
13 from "acquisitions, takeover or mergers" in the United States and "cannot be trusted to be free of  
14 foreign state influence."<sup>46</sup>

15 39. Despite the clear danger involved in sharing user data with these device manufacturers,  
16 and the recent privacy issues involving Cambridge Analytica, most of these data-sharing agreements  
17 are still in place as of 2018.<sup>47</sup>

18  
19  
20 <sup>43</sup> Gabriel J.X. Dance, Nicholas Confessore, and Michael LaForgia, "Facebook Gave Device Makers Deep Access to Data  
21 on Users and Friends," *The New York Times* (June 3, 2018),  
<https://www.nytimes.com/interactive/2018/06/03/technology/facebook-device-partners-users-friends-data.html>

22 <sup>44</sup> Ben Brody and Sarah Frier, "Facebook Discloses It Shared Data With Chinese Device Makers," Bloomberg (June 6,  
23 2018), <https://www.bloomberg.com/news/articles/2018-06-05/facebook-discloses-data-sharing-deals-with-chinese-device-makers>

24 <sup>45</sup> David E. Sanger and Nicole Perloth, "N.S.A. Breached Chinese Servers Seen as Security Threat," *The New York  
25 Times* (March 22, 2014), <https://www.nytimes.com/2014/03/23/world/asia/nsa-breached-chinese-servers-seen-as-spy-peril.html>

26 <sup>46</sup> U.S. House of Representatives, "Investigative Report on the U.S. National Security Issues Posed by Chinese  
27 Telecommunications Companies Huawei and ZTE (October 8, 2012),  
[https://intelligence.house.gov/sites/intelligence.house.gov/files/documents/huawei-zte%20investigative%20report%20\(final\).pdf](https://intelligence.house.gov/sites/intelligence.house.gov/files/documents/huawei-zte%20investigative%20report%20(final).pdf)

28 <sup>47</sup> Gabriel J.X. Dance, Nicholas Confessore, and Michael LaForgia, "Facebook Gave Device Makers Deep Access to Data  
on Users and Friends," *The New York Times* (June 3, 2018)  
<https://www.nytimes.com/interactive/2018/06/03/technology/facebook-device-partners-users-friends-data.html>

1           40. Additional information conflicting with Zuckerberg’s Congressional testimony was  
2 made public on June 8, 2018. Facebook reportedly gave certain companies extensive access to data of  
3 users’ friends after the Company has said the practice ended:

4                   Facebook Inc. struck customized data-sharing deals that gave select  
5 companies special access to user records well after the point in 2015 that  
6 the social network has said it walled off that information . . .

7                   Some of those and other agreements, collectively known internally as  
8 “whitelists,” also allowed certain companies to **access additional**  
9 **information about a user’s Facebook friends**, the people familiar with  
the matter said.<sup>48</sup>

10           41. The *Wall Street Journal* reported that the information provided to those companies  
11 “included information like phone numbers and a metric called ‘friend link’ that measured the degree  
12 of closeness between users and others in their network.”<sup>49</sup>

13                   **E. Data From Millions Of Facebook Users Was Improperly Transferred To Cambridge**  
14                   **Analytica**

15           42. A particularly egregious collection and misuse of data is attributable to an app-based  
16 personality test that utilized Facebook Login called “This Is Your Digital Life.” The App was created  
17 by Aleksandr Kogan (“Kogan”), a data scientist and University of Cambridge lecturer. Facebook users  
18 who took the test gave Kogan permission to collect data about their location, Facebook friends, and  
19 “liked” content.<sup>50</sup> Initially, the App’s terms and conditions represented that it was collecting data for  
20 academic research.<sup>51</sup>

24 <sup>48</sup> Deepa Seetharaman and Kirsten Grind, “Facebook Gave Some Companies Special Access to Additional Data About  
25 Users’ Friends,” *The Wall Street Journal* (June 8, 2018) (emphasis added), <https://www.wsj.com/articles/facebook-gave-some-companies-access-to-additional-data-about-users-friends-1528490406>

26 <sup>49</sup> *Id.*

27 <sup>50</sup> Sheera Frenkel, “Facebook Privacy Changes Leave Developers Steaming,” *New York Times* (April 30, 2018),  
<https://www.nytimes.com/2018/04/30/technology/facebook-privacy-developers.html>

28 <sup>51</sup> Lauren Etter and Sarah Frier, “Facebook Developer Kogan Defends His Actions With User Data,” *Bloomberg* (March  
21, 2018), <https://www.bloomberg.com/news/articles/2018-03-21/facebook-app-developer-kogan-defends-his-actions-with-user-data>

1           43.     In 2013, Kogan was approached by London-based SCL Group – a firm that provides  
2 “data analytics and strategy for behavior change.”<sup>52</sup> SCL Group expressed interest in obtaining  
3 Kogan’s data for use in its commercial consulting work.<sup>53</sup> To engage in transactions with SCL Group,  
4 Kogan formed a company called Global Science Research (“GSR”). By early 2014, Kogan and GSR  
5 had an agreement to make commercial use of their data for SCL Group’s American subsidiary,  
6 Cambridge Analytica. Kogan also changed the App’s terms of service to reflect that data was being  
7 collected for commercial purposes.<sup>54</sup>

8           44.     Approximately 300,000 people used Facebook Login to access Kogan’s personality  
9 test.<sup>55</sup> Through those people, Kogan also had access to all of their Facebook friends. Initially, some  
10 estimated that this affected 50 million users.<sup>56</sup> That number has grown to as many as 87 million,  
11 according to Facebook CEO Zuckerberg, who added: “We don’t actually know how many people’s  
12 information Kogan actually got. We don’t know what he sold to Cambridge Analytica, and we don’t  
13 know today what they have in their system.”<sup>57</sup>

14           45.     Even though they never authorized Kogan to have their data, he had access to much of  
15 the information posted by those users, including place of residence, status updates, photos, and  
16 personal interests. The App collected enough information that Kogan could match users with other  
17 records create 30 million psychographic profiles of voters.<sup>58</sup>

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20  
21 <sup>52</sup> SCL Group website, “Mission Statement” (undated) <https://sclgroup.cc/missionstatement>

22 <sup>53</sup> Lauren Etter and Sarah Frier, “Facebook Developer Kogan Defends His Actions With User Data,” Bloomberg (March  
23 21, 2018), <https://www.bloomberg.com/news/articles/2018-03-21/facebook-app-developer-kogan-defends-his-actions-with-user-data>

24 <sup>54</sup> *Id.*

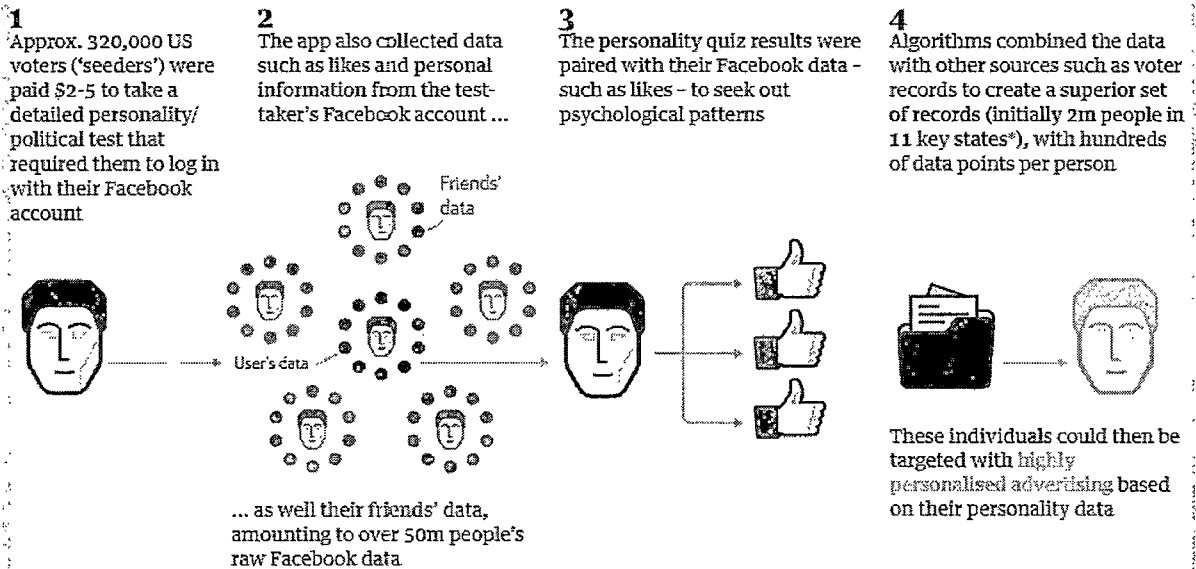
25 <sup>55</sup> Testimony of Mark Zuckerberg at the Hearing Before the U.S. Senate Committee on the Judiciary and the U.S. Senate  
26 Committee on Commerce, Science and Transportation (April 10, 2018),  
<https://www.judiciary.senate.gov/imo/media/doc/04-10-18%20Zuckerberg%20Testimony.pdf>

27 <sup>56</sup> Robinson Meyer, “My Facebook Was Breached by Cambridge Analytica. Was Yours?” The Atlantic (April 10, 2018),  
<https://www.theatlantic.com/technology/archive/2018/04/facebook-cambridge-analytica-victims/557648/>

28 <sup>57</sup> Sarah Gray, “How Facebook Users Can Tell If Their Information Was Shared With Cambridge Analytica,” Fortune  
(April 10, 2018), <http://fortune.com/2018/04/06/facebook-users-cambridge-analytica/>

<sup>58</sup> Robinson Meyer, “My Facebook Was Breached by Cambridge Analytica. Was Yours?” The Atlantic (April 10, 2018),  
<https://www.theatlantic.com/technology/archive/2018/04/facebook-cambridge-analytica-victims/557648/>

## Cambridge Analytica: how 50m Facebook records were hijacked



\*Arkansas, Colorado, Florida, Iowa, Louisiana, Nevada, New Hampshire, North Carolina, Oregon, South Carolina, West Virginia

Source: *The Guardian*<sup>59</sup>

46. In 2015, Facebook learned from journalists that Kogan had violated the Platform Policies governing developers’ use of data.<sup>60</sup> Facebook removed the App and asked Kogan to delete the data that the App had collected.<sup>61</sup> However, Facebook did not adequately follow up to ensure that the data was actually deleted.

47. Several months later, Facebook’s attorneys sent a letter to Kogan stating that his use of data for commercial purposes violated the Platform Policies.<sup>62</sup> The letter asked that Kogan destroy the data collected for GSR and cautioned that “it cannot be used legitimately in the future and must be deleted immediately.”<sup>63</sup> Again, Facebook failed to confirm that the data was deleted.

<sup>59</sup> Carole Cadwalladr and Emma Graham-Harrison, “How Cambridge Analytica turned Facebook ‘likes’ into a lucrative political tool” (March 17, 2018), <https://www.theguardian.com/technology/2018/mar/17/facebook-cambridge-analytica-kogan-data-algorithm>

<sup>60</sup> Facebook posting by CEO Mark Zuckerberg made on March 21, 2018, <https://www.facebook.com/zuck/posts/10104712037900071>

<sup>61</sup> *Id.*

<sup>62</sup> Carole Cadwalladr and Emma Graham-Harrison, “Revealed: 50 million Facebook profiles harvested for Cambridge Analytica in major data breach,” *The Guardian* (March 17, 2018), <https://theguardian.com/news/2018/mar/17/cambridge-analytica-facebook-influence-us-election>

<sup>63</sup> *Id.*

1           48.     In 2016, Cambridge Analytica was retained as a consultant for Donald Trump’s  
2 presidential campaign to help target its messaging.<sup>64</sup> Kogan and GSR shared their Facebook data with  
3 Cambridge Analytica for that purpose.

4           49.     Facebook contends that, until March 2018, it was unaware that Kogan had not deleted  
5 the data.<sup>65</sup> However, the Company had failed to implement any meaningful way to discover and act  
6 on the misuse of data.<sup>66</sup> A former employee of Cambridge Analytica recently said, “[t]hat was the  
7 most astonishing thing. [Facebook] waited two years and did absolutely nothing to check that the data  
8 was deleted. All they asked me to do was tick a box on a form and post it back.”<sup>67</sup>

9           50.     Facebook’s Chief Operating Officer, Sheryl Sandberg, acknowledged on April 6, 2018,  
10 “[w]hat we didn’t do is the next step of an audit and we’re trying to do that now.”<sup>68</sup> Despite that  
11 representation, Facebook’s audit is not proceeding in deference to a government investigation  
12 underway by officials in the United Kingdom.<sup>69</sup>

13                   **F. Facebook Assures Users That Their Data Will Be Collected And Used Only As**  
14                   **Specified In The Terms Of Service**

15           51.     Facebook has repeatedly assured users that the Company takes privacy seriously and  
16 wants users to feel in control of their data. On May 24, 2010, *The Washington Post* published an op-

17  
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21           <sup>64</sup> Sheera Frenkel, “Facebook’s Privacy Changes Leave Developers Steaming,” *The New York Times* (April 30, 2018),  
22 <https://www.nytimes.com/2018/04/30/technology/facebook-privacy-developers.html>

23           <sup>65</sup> Charles Riley, “What you need to know about Facebook’s data debacle,” CNN (March 20, 2018),  
<http://money.cnn.com/2018/03/19/technology/facebook-data-scandal-explainer/index.html?iid=EL>

24           <sup>66</sup> Sandy Parakilas, “I worked at Facebook. I know how Cambridge Analytica could have happened.” *The Washington*  
25 *Post*, Opinion section (March 20, 2018), [https://www.washingtonpost.com/opinions/i-worked-at-facebook-i-know-how-cambridge-analytica-could-have-happened/2018/03/20/edc7ef8a-2bc4-11e8-8ad6-fbc50284fce8\\_story.html?noredirect=on&utm\\_term=.6b7663440c0e](https://www.washingtonpost.com/opinions/i-worked-at-facebook-i-know-how-cambridge-analytica-could-have-happened/2018/03/20/edc7ef8a-2bc4-11e8-8ad6-fbc50284fce8_story.html?noredirect=on&utm_term=.6b7663440c0e)

26           <sup>67</sup> Carole Cadwalladr and Emma Graham-Harrison, “Revealed: 50 million Facebook profiles harvested for Cambridge  
27 Analytica in major data breach,” *The Guardian* (March 17, 2018),  
<https://theguardian.com/technology/2018/mar/17/cambridge-analytica-facebook-influence-us-election>

28           <sup>68</sup> “Facebook says it should have audited Cambridge Analytica,” Associated Press (April 6, 2018),  
<https://www.apnews.com/a8827337f55148f596164b5159ff15e3>

<sup>69</sup> *Id.*

1 ed written by CEO Mark Zuckerberg titled “From Facebook, answering privacy concerns with new  
2 settings.”<sup>70</sup> Zuckerberg wrote:

3 We have also heard that some people don't understand how their personal  
4 information is used and worry that it is shared in ways they don't want.  
5 I'd like to clear that up now. . . . [¶] Here are the principles under which  
6 Facebook operates:

- 7 • **You have control** over how your information is shared.
- 8 • **We do not share your personal information** with people or  
9 services you don't want.
- 10 • **We do not give advertisers access** to your personal information.
- 11 • **We do not and never will sell** any of your information to  
12 anyone....”<sup>71</sup>

13 52. Facebook also represented to users that their personal information would be used only  
14 in the manner indicated in its Data Use Policy. The November 15, 2013 iteration of the policy provided  
15 that:

16 While you are allowing us to use the information we receive about you,  
17 **you always own all of your information**. Your trust is important to us,  
18 which is why **we don't share information** we receive about you with  
19 others unless we have:

- 20 • **received your permission;**
- 21 • given you notice, such as by telling you about it in this policy; or
- 22 • removed your name and any other personally identifying information  
23 from it.<sup>72</sup>

24  
25  
26 <sup>70</sup> Mark Zuckerberg, “From Facebook, answering privacy concerns with new settings,” The Washington Post (May 24,  
27 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/05/23/AR2010052303828.html>

28 <sup>71</sup> *Id.* (Emphasis added.)

<sup>72</sup> Internet Archive, Facebook's Data Use Policy in effect as of November 15, 2013,  
[https://web.archive.org/web/20150107125814/https://www.facebook.com/full\\_data\\_use\\_policy](https://web.archive.org/web/20150107125814/https://www.facebook.com/full_data_use_policy) (Emphasis added.)

1           53.     Facebook’s Data Policy in effect on January 30, 2015 went even a step further, assuring  
2 users that the Company takes affirmative steps to protect their data from misuse:

3  
4                     ... We use the information we have to help verify accounts and activity,  
5                     and to promote safety and security on and off of our Services, such as by  
6                     investigating suspicious activity or violations of our terms or  
7                     policies....<sup>73</sup>

8           54.     Similarly, the September 29, 2016 version of Facebook’s Data Policy repeated that the  
9 Company “investigat[ed] suspicious activity or violations of our terms or policies.”<sup>74</sup>

10          55.     It was publicly reported on March 17, 2018 that Facebook shared user data in ways  
11 that grossly deviated from the Company’s public representations about privacy. The immediate public  
12 outrage reflects the degree to which the public felt deceived by Facebook’s business practices.

13          56.     After the data misuse was revealed, multiple Congressional committees called for  
14 Zuckerberg to testify before Congress. Zuckerberg assured them that, “[e]very piece of content that  
15 you share on Facebook, you own, and you have complete control over who sees it, and how to share  
16 it,” Zuckerberg testified.<sup>75</sup>

17          57.     However, more and more reports questioning Facebook’s candor about privacy  
18 continue to arise. On June 3, 2018, *The New York Times* reported that Facebook had deals with several  
19 device manufacturers allowing them full access to data about both Facebook users and their friends:

20                     Facebook has reached data-sharing partnerships with at least 60 device  
21                     makers — including Apple, Amazon, BlackBerry, Microsoft and  
22                     Samsung — over the last decade . . .

23                     ... [T]he partnerships, whose scope has not previously been reported,  
24                     raise concerns about the company’s privacy protections and compliance  
25                     with a 2011 consent decree with the Federal Trade Commission.  
26                     Facebook allowed the device companies access to the data of users’  
27                     friends without their explicit consent, even after declaring that it would

28                     

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29 <sup>73</sup> Internet Archive, Facebook’s Data Use Policy in effect as of January 30, 2015,  
30 [https://web.archive.org/web/20150427164931/https://www.facebook.com/full\\_data\\_use\\_policy](https://web.archive.org/web/20150427164931/https://www.facebook.com/full_data_use_policy) (Emphasis added.)

31 <sup>74</sup> Facebook website, Data Policy last revised on September 29, 2016, [https://www.facebook.com/full\\_data\\_use\\_policy](https://www.facebook.com/full_data_use_policy)

32 <sup>75</sup> Transcript, Facebook CEO Mark Zuckerberg Testifies Before Congress (April 10, 2018),  
33 <http://transcripts.cnn.com/TRANSCRIPTS/1804/10/cnr.07.html>

1 no longer share such information with outsiders. Some device makers  
2 could retrieve personal information even from users' friends who  
3 believed they had barred any sharing, *The New York Times* found.

4 \* \* \*

5 "It's like having door locks installed, only to find out that the locksmith  
6 also gave keys to all of his friends so they can come in and rifle through  
7 your stuff without having to ask you for permission," said Ashkan  
8 Soltani, a research and privacy consultant who formerly served as the  
F.T.C.'s chief technologist.<sup>76</sup>

9 58. Following this newest revelation, Representative David Cicilline wrote on social  
10 media: "Sure looks like Zuckerberg lied to Congress about whether users have 'complete control' over  
11 who sees our data on Facebook."<sup>77</sup>

12 **G. Declaratory And Injunctive Relief Are Necessary Because Facebook Has Known**  
13 **About, But Failed To Adequately Address, Security Vulnerabilities**

14 59. The true scope of the data breaches permitted by Facebook remains to be determined.  
15 In March 2018, Facebook said it was undertaking an investigation regarding "apps with access to large  
16 amounts of information."<sup>78</sup> As of May 14, 2018, the Company had identified approximately 200 apps  
17 that require further investigation into whether they misused data.<sup>79</sup>

18 60. For years, Facebook executives have been on notice that app developers could easily  
19 misuse user data. Former Facebook employee Sandy Parakilas was a platform operations manager at  
20 the Company from 2011 to 2012. He was responsible for policing breaches by app developers.  
21 Parakilas recently explained, "My concerns were that all of the data that left Facebook servers to  
22

23  
24 <sup>76</sup> Gabriel J.X. Dance, Nicholas Confessore, and Michael LaForgia, "Facebook Gave Device Makers Deep Access to Data  
on Users and Friends," *The New York Times* (June 3, 2018),  
<https://www.nytimes.com/interactive/2018/06/03/technology/facebook-device-partners-users-friends-data.html>

25 <sup>77</sup> Posting on Twitter by David Cicilline, @davidcicilline (June 3, 2018 7:53 p.m.).

26 <sup>78</sup> Jessica Gynn, "Facebook CEO Mark Zuckerberg finally speaks on Cambridge Analytica: We need to fix 'breach of  
27 trust'," USA Today (March 21, 2018), <https://www.usatoday.com/story/tech/2018/03/21/facebook-ceo-mark-zuckerberg-finally-speaks-cambridge-analytica-we-need-fix-breach-trust/445791002/>

28 <sup>79</sup> Chaim Gartenberg, "Facebook has suspended around 200 apps so far in data misuse investigation," *The Verge* (May 14,  
2018), <https://theverge.com/2018/5/14/17351546/facebook-apps-suspended-data-misuse-investigation-cambridge-analytica>



1 developers could not be monitored by Facebook, so we had no idea what developers were doing with  
 2 the data[.]”<sup>80</sup> Parakilas added that:

3 ...Facebook had the following tools to deal with these cases: It could call  
 4 the developer and demand answers; it could demand an audit of the  
 5 developer’s application and associated data storage, a right granted in the  
 6 platform policies; it could ban the developer from the platform; it could  
 7 sue the developer for breach of the policies, or it could do some  
 8 combination of the above. During my 16 months at Facebook, I called  
 9 many developers and demanded compliance, but **I don’t recall the**  
 10 **company conducting a single audit of a developer** where the company  
 11 inspected the developer’s data storage. Lawsuits and outright bans were  
 12 also very rare. I believe the reason for lax enforcement was simple:  
 13 **Facebook didn’t want to make the public aware of huge weaknesses**  
 14 **in its data security.**<sup>81</sup> (Emphasis added.)

12 61. Parakilas states that he informed Facebook executives of the security gaps, but received  
 13 no response:

14 Concerned about the lack of protection for users, **in 2012 I created a**  
 15 **PowerPoint presentation that outlined the ways that data**  
 16 **vulnerabilities on Facebook Platform exposed people to harm,** and  
 17 the various ways the company was trying to protect that data. There were  
 18 many gaps that left users exposed. I also called out potential bad actors,  
 19 including data brokers and foreign state actors. **I sent the document to**  
 20 **senior executives at the company but got little to no response.** I had  
 21 no dedicated engineers assigned to help resolve known issues, and no  
 22 budget for external vendors. Facebook’s users were being protected by  
 23 whatever external partnerships I was able to strike without having to pay  
 24 those partners. The only time my team got any attention was when  
 25 negative articles appeared in the press.<sup>82</sup> (Emphasis added.)

25 <sup>80</sup> Paul Lewis, “‘Utterly horrifying’: ex-Facebook insider says covert data harvesting was routine,” *The Guardian* (March  
 26 20, 2018), <https://www.theguardian.com/news/2018/mar/20/facebook-data-cambridge-analytica-sandy-parakilas>

27 <sup>81</sup> Sandy Parakilas, “I worked at Facebook. I know how Cambridge Analytica could have happened.” *The Washington*  
 28 *Post*, Opinion section (March 20, 2018), [https://www.washingtonpost.com/opinions/i-worked-at-facebook-i-know-how-cambridge-analytica-could-have-happened/2018/03/20/edc7ef8a-2bc4-11e8-8ad6-fbc50284fce8\\_story.html?noredirect=on&utm\\_term=.6b7663440c0e](https://www.washingtonpost.com/opinions/i-worked-at-facebook-i-know-how-cambridge-analytica-could-have-happened/2018/03/20/edc7ef8a-2bc4-11e8-8ad6-fbc50284fce8_story.html?noredirect=on&utm_term=.6b7663440c0e)

<sup>82</sup> *Id.*

1           62.     In addition, Facebook has failed to uphold its obligations arising from a 2012 consent  
2 decree with the Federal Trade Commission (“FTC”).<sup>83</sup> Under the consent decree, Facebook was barred  
3 from making misrepresentations about the privacy or security of consumers’ data.<sup>84</sup> Facebook also  
4 was obligated to obtain a user’s express consent before his or her nonpublic user information was  
5 shared with any third-party.<sup>85</sup> Additionally, Facebook was required to establish and maintain a  
6 comprehensive program to address privacy risks related to the development and management of new  
7 and existing products and services.<sup>86</sup> However, Facebook’s failure to abide by these continuing  
8 obligations is what resulted in the data misuse alleged herein.

9           63.     Following the recent data breaches, Facebook said it would start implementing  
10 additional privacy protections, yet there is little assurance that this will occur in a meaningful way. In  
11 its 2017 Annual Report to shareholders, the Company indicated that privacy regulations could harm  
12 its business<sup>87</sup> and that the Company faces risk because “some countries are considering or have passed  
13 legislation implementing data protection requirements.”<sup>88</sup> For example, on May 25, 2018, the General  
14 Data Protection Regulation (“GDPR”) took effect in European Union countries.<sup>89</sup> The GDPR imposes  
15 stringent requirements on companies that receive or process personal data of European Union  
16 residents. Facebook expressly described the GDPR as an example of a regulation that poses a risk to  
17 its business model.<sup>90</sup>

18           64.     Privacy experts are also skeptical about the changes. Zeynep Tufekci, an associate  
19 professor at the University of North Carolina who studies how technology affects society, said  
20  
21  
22

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23 <sup>83</sup> Decision and Order, *In the Matter of Facebook, Inc.*, FTC Docket No. C-4365 (July 27, 2012),  
24 <https://www.ftc.gov/sites/default/files/documents/cases/2012/08/120810facebookcmpt.pdf>

25 <sup>84</sup> *Id.* at pp. 3-4.

26 <sup>85</sup> *Id.* at p. 4.

27 <sup>86</sup> *Id.* at pp. 5-6.

28 <sup>87</sup> Facebook 2017 Annual Report, at p. 6.

<sup>88</sup> *Id.* at p. 16.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

1 Facebook “made similar promises many times before,” but the same concerns keep resurfacing.<sup>91</sup> “The  
2 past decade shows that user concerns over privacy appear to have little teeth on changing how the  
3 platform behaves, aside from a recycling of contrite statements and promises to do better from its  
4 C.E.O.,” Tufekci told *The New York Times*.<sup>92</sup>

5 65. Facebook promises to police its own activities when the Company faces potential new  
6 privacy regulations or receives negative press. As the repeated incidents of data misuse demonstrate,  
7 more is needed to make the essential changes. Accordingly, declaratory and injunctive relief are  
8 necessary to ensure some measure of privacy and control over the vast amounts of data collected by  
9 Facebook every day.

#### 10 FIRST CAUSE OF ACTION

##### 11 (Violation of Bus. & Prof. Code §17200, *et seq.*)

12 66. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

13 67. California’s Unfair Competition Law (“UCL”) is designed to protect consumers from  
14 unlawful, fraudulent, and/or unfair business practices. Facebook’s failure to adequately safeguard  
15 Plaintiffs’ personal data and properly notify those affected by the security breach constitute unlawful,  
16 fraudulent, and unfair business practices.

17 68. **Unlawful Practices:** A practice is “unlawful” if it violates a law other than the UCL.  
18 Facebook engaged in the following unlawful business acts and practices, each of which independently  
19 constitutes an unlawful practice:

20 (a) Facebook violated users’ right to privacy established in article I, section 1 of  
21 the Constitution of the State of California. Facebook users have a legally protected privacy interest in  
22 their personal data that they did not consent to have shared. They has a reasonable expectation of  
23 privacy under the circumstances, particularly for information that did not appear in a user’s public  
24 profile. Furthermore, Facebook’s business practices constitute a serious invasion of the affected users’  
25 privacy interests, as evidenced by the public outrage and government investigations.

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27  
28 <sup>91</sup> Sheera Frenkel and Natasha Singer, “Facebook Introduces Central Page for Privacy and Security Settings,” *The New York Times* (March 28, 2018), <https://www.nytimes.com/2018/03/28/technology/facebook-privacy-security-settings.html>

<sup>92</sup> *Id.*

1 (b) Facebook violated the California Customer Records Act (Civil Code §1798.80,  
2 *et seq.*), which requires that businesses conducting business in California and owning computerized  
3 data concerning California residents protect personal information from unauthorized access, use, or  
4 disclosure. Much of the data collected by the App included the Facebook users' first name or first  
5 initial and their last names, along with usernames or email addresses in combination with a password  
6 or security question that would permit access to the account. Facebook did not inform affected users  
7 of the data breach immediately after it was discovered in 2015, as required by Civil Code §1798.82(b).  
8 In fact, Facebook has publicly denied that the improperly accessed data constitutes a "data breach."<sup>93</sup>  
9 Facebook still has not notified affected users in the manner required by Civil Code §1798.82(d).

10 (c) Facebook breached the implied covenant of good faith and fair dealing. When  
11 establishing their Facebook accounts, users enter into a contractual agreement with the Company.  
12 Users agree to adhere to Facebook's terms of service and other policies, with the expectation that the  
13 Company will do the same. Facebook users performed what was contractually required of them,  
14 namely adhering to the Company's terms of service and other policies. The conditions for Facebook's  
15 performance of its contractual obligations occurred. However, Facebook unfairly interfered with  
16 users' right to receive the benefits of the Company's data use policies. Facebook users were harmed  
17 because their personal information was transferred to one or more third-parties without their consent.

18 69. **Fraudulent Practices:** A practice is "fraudulent" if members of the general public  
19 were or are likely to be deceived. Facebook's practice of representing that it only used data in the  
20 manner indicated in its terms of use and data use policies, and then failing to adhere to those policies,  
21 was likely to deceive the general public.

22 70. **Unfair Practices:** The UCL gives courts maximum discretion to address improper  
23 business practices that are "unfair." Facebook's business practices were, and continue to be, unfair  
24 because Facebook users were assured that their data would be used only in the manner indicated in  
25 the Company's terms of service and Data Use Policy. The gravity of the harmed caused to Facebook  
26

27 \_\_\_\_\_  
28 <sup>93</sup> Alex Sundby, "Facebook's fight against the phrase 'data breach,'" CBS News (March 19, 2018),  
<https://www.cbsnews.com/news/facebook-cambridge-analytica-was-it-a-data-breach/>

1 users far outweighs any business reason, justification, or motive Facebook may have had for engaging  
2 in its unfair business practices.

3 71. Plaintiffs have a property interest in the data collected by Facebook. Facebook's data  
4 use policy stated that users "always own all of your information." CEO Mark Zuckerberg recently  
5 affirmed that "[e]very piece of content that you share on Facebook, you own, and you have complete  
6 control over who sees it, and how to share it."

7 72. As a result of Facebook's unlawful, fraudulent, and/or unfair business practices,  
8 Plaintiffs suffered injury in fact and have lost a property interest.

9 **SECOND CAUSE OF ACTION**

10 **(Violation of Bus. & Prof. Code §17500, *et seq.*)**

11 73. Plaintiffs incorporate by reference all preceding paragraphs as if fully set forth herein.

12 74. Facebook intended to perform services for its users by providing users with a social  
13 networking platform on which they could play games, communicate with friends, and otherwise  
14 interact with Facebook content.

15 75. In connection with providing those services, Facebook made statements that were  
16 untrue or misleading. Facebook publicly represented, and represented in its data use policies, that it  
17 would protect and not permit the unauthorized transfer or use of personal data. Facebook also  
18 represented that the Company does not share information unless the user grants permission or  
19 Facebook provides notice to the user. Additionally, Facebook represented that the Company  
20 investigated suspicious activity or violations of its terms of use or policies. These representations were  
21 untrue and/or misleading because Facebook permitted personal user data to be accessed and shared  
22 without first obtaining users' permission or providing users with notice. Facebook also failed to  
23 adequately investigate conduct that the Company now acknowledges was in violation of its terms and  
24 policies.

25 76. When the extent of Facebook's data sharing practices became publicly known in March  
26 2018, the immediate public outrage and government investigation reflects the degree to which  
27 members of the public felt they were deceived by Facebook's business practices.  
28



1 (h) Maintain data inventories and flow mapping, which is then used to proactively  
2 identify potential misuse and/or unintended uses of data by identifying the types and categories of data  
3 collected, the transfer methods, the technical and organizational safeguards taken, and an appropriate  
4 data lifecycle;

5 (i) Only allow apps for which that have received verification from an independent  
6 third-party that the app satisfies privacy best practices; and

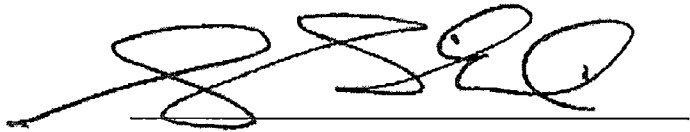
7 (j) Submit to an annual audit by an independent third-party to ensure that Facebook  
8 is fully complying with these requirements.

9 3. For attorneys' fees and costs incurred by counsel for Plaintiffs pursuant to Civil Code  
10 §1021.5.

11 4. For such other and further relief as the Court may deem just and proper.

12  
13 Dated July 10, 2018

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