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10
11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 LILLIAN JURDI., individually and on
behalf of all others similarly situated,

14 Plaintiff,

15 v.

16 CHARLOTTE'S WEB, INC., a Colorado
17 Corporation; and DOES 1 through 25,
18 inclusive,

19 Defendants.

CASE NO. 2:24-cv-2446

**DEFENDANT CHARLOTTE'S WEB,
INC.'S NOTICE OF REMOVAL**

(Los Angeles Superior Court
Case No. 24STCV04402)

Action Filed: February 22, 2024
Trial Date: None Set

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1 TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
2 CENTRAL DISTRICT OF CALIFORNIA AND TO PLAINTIFF AND HER
3 COUNSEL OF RECORD:

4 PLEASE TAKE NOTICE THAT Defendant Charlotte’s Web, Inc. removes to the
5 United States District Court for the Central District of California the above-captioned state
6 court action, originally filed as Case No. 24STCV04402 in the Superior Court of the State
7 of California, County of Los Angeles. Removal is proper on the following grounds:

8 **TIMELINESS OF REMOVAL**

9 1. On February 22, 2024, Plaintiff Lillian Jurdi filed a Complaint on behalf of a
10 putative class against Charlotte’s Web in the Superior Court of the State of California,
11 County of Los Angeles. Under 28 U.S.C. § 1446(a), true and correct copies of the
12 Complaint, Civil Case Cover Sheet, Summons, and all state court process and orders are
13 attached to this notice of removal. *See* Declaration of John D. W. Partridge (Partridge Decl.)
14 Exs. A–H.

15 2. Plaintiff served Charlotte’s Web through its registered agent for service of
16 process on February 27, 2024. *See* Partridge Decl. ¶ 10. This notice of removal is therefore
17 timely under 28 U.S.C. § 1446(b), because it is filed within 30 days after service was
18 completed. *See Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347–48 (1999)
19 (holding time to remove is triggered by service of the complaint and summons).

20 **SUMMARY OF ALLEGATIONS AND GROUNDS FOR REMOVAL**

21 3. Plaintiff’s Complaint alleges that Charlotte’s Web aided and abetted violations
22 of the California Invasion of Privacy Act (CIPA) by selecting a chatbot vendor that it
23 purportedly knew would record conversations that took place on the chat function of its
24 website. *See* Partridge Decl. Ex. A (Compl.). Specifically, Plaintiff alleges that Charlotte’s
25 Web contracted with Ochatbot, a company that designs and maintains AI chatbot
26 functionality for ecommerce and support websites, knowing that Ochatbot would record
27 user communications as part of its service. *Id.* ¶ 11. Plaintiff further alleges that Ochatbot
28 collected conversations within the chat function as well as the personal information of

1 customers who used the chatbot and then sold this information to third parties. *Id.* ¶¶ 14–
2 16. Plaintiff alleges that Charlotte’s Web never disclosed to her or other putative class
3 members that these conversations were being recorded. *Id.* ¶ 23. In her sole cause of
4 action, Plaintiff alleges that Charlotte’s Web violated CIPA, Cal. Penal Code § 631(a), by
5 aiding and abetting Ochatbot’s recording of internet communications. *Id.* ¶ 33. She seeks
6 disgorgement of her personal data, an injunction against the conduct she alleges in her
7 complaint, and statutory damages under CIPA. *Id.* at 7–8.

8 4. Plaintiff and the members of the putative class she purports to represent are
9 “[a]ll persons within California who within the statute of limitations period:
10 (1) communicated with Charlotte’s Web via the chat feature on its Website using cellular or
11 landline telephony, and (2) whose communications were recorded and/or eavesdropped
12 upon without prior consent.” Compl. ¶ 24. Plaintiff alleges that “the number of Class
13 Members” is “in the thousands, if not more.” *Id.* ¶ 25.

14 5. As explained below, removal is proper under the Class Action Fairness Act of
15 2005 (CAFA), 28 U.S.C. § 1332(d).

16 **THIS COURT HAS SUBJECT MATTER JURISDICTION UNDER CAFA**

17 6. Removal is proper under CAFA because Plaintiff and Charlotte’s Web are
18 citizens of different states, there are at least 100 alleged putative class members, and the
19 combined claims of all alleged putative class members exceed \$5 million, exclusive of
20 interest and costs. 28 U.S.C. § 1332(d).

21 7. To be clear, Charlotte’s Web denies any liability in this case, both as to
22 Plaintiff’s individual claim and as to the claims she seeks to pursue on behalf of the putative
23 class. Charlotte’s Web also denies that Plaintiff and the putative class are entitled to any
24 relief or amount of alleged damages. Charlotte’s Web intends to oppose class certification
25 and expressly reserves all rights to oppose class certification, to object to the scope of the
26 class, and to contest the merits of the claim asserted in the Complaint. Nevertheless, for
27 purposes of the jurisdictional requirements *only*, the allegations in Plaintiff’s Complaint
28

1 identify a putative class of more than 100 members and put in controversy, in the aggregate,
2 an amount that exceeds \$5 million. *See* 28 U.S.C. § 1332(d)(6).

3 **A. The Proposed Class Consists of More Than 100 Members**

4 8. Based on Plaintiff's allegations, this action satisfies CAFA's requirement that
5 the putative class contains at least 100 members. *See* 28 U.S.C. § 1332(d)(5)(B). Plaintiff
6 alleges that the number of individuals who fall within her proposed class is "in the
7 thousands, if not more." Compl. ¶ 25. Accordingly, while Charlotte's Web denies that class
8 treatment is permissible or appropriate, as alleged, the proposed class consists of over 100
9 members.

10 **B. Charlotte's Web and Plaintiff Are Not Citizens of the Same State**

11 9. Under CAFA's minimum diversity of citizenship requirement, the plaintiff or
12 any member of the putative class must be a citizen of a different state from any defendant.
13 *See* 28 U.S.C. § 1332(d)(2)(A). For purposes of CAFA, the plaintiff's citizenship is
14 determined "as of the date of filing of the complaint or amended complaint." 28 U.S.C.
15 § 1332(d)(7).

16 10. A person is a citizen of the state in which he or she is domiciled. *Kantor v.*
17 *Wellesley Galleries, Ltd.*, 704 F.2d 1088, 1090 (9th Cir. 1983). The Complaint alleges that
18 Plaintiff "is a citizen of California residing within the Central District of California." Compl.
19 ¶ 5. Therefore, based on information and belief, Plaintiff is domiciled in California for
20 purposes of removal under CAFA. *See Ehrman v. Cox Commc'ns, Inc.*, 932 F.3d 1223, 1227
21 (9th Cir. 2019), *cert. denied*, 140 S. Ct. 2566 (2020) (holding that defendant's "short and plain
22 statement alleging that [plaintiff] and the putative class members were citizens of California"
23 was "sufficient" to establish jurisdiction for removal under CAFA because "allegations of
24 citizenship may be based solely on information and belief").

25 11. A corporation is a citizen of its state of incorporation and the state of its
26 principal place of business. 28 U.S.C. § 1332(c)(1). Charlotte's Web is a corporation
27 organized under the laws of Delaware. *See* Corporate Disclosure Statement (Dkt. 3).

28

1 12. The Supreme Court has interpreted the phrase “principal place of business”
2 in 28 U.S.C. § 1332(c)(1) and (d)(2)(A) to mean “the place where a corporation’s officers
3 direct, control, and coordinate the corporation’s activities,” i.e., its “nerve center”; this
4 “should normally be the place where the corporation maintains its headquarters-provided
5 that the headquarters is the actual center of direction, control, and coordination.” *Hertz*
6 *Corp. v. Friend*, 559 U.S. 77, 92–93 (2010). Charlotte’s Web’s headquarters, which are located
7 in Louisville, Colorado, *see* Dkt. 3, constitutes its “nerve center” under *Hertz*. Plaintiff
8 agrees, as she alleges in her complaint that Charlotte’s Web is “a Colorado corporation.”
9 Compl. ¶ 6. As such, Charlotte’s Web is a citizen of Delaware and Colorado. *See* U.S.C.
10 § 1332(c)(1).

11 13. Accordingly, Charlotte’s Web and Plaintiff are citizens of different states, and
12 CAFA’s minimal diversity requirement is met. 28 U.S.C. § 1332(d)(2)(A).

13 **C. The Amount in Controversy Exceeds \$5 Million**

14 14. CAFA requires that the amount in controversy in a class action exceed
15 \$5 million, exclusive of interest and costs. 28 U.S.C. § 1332(d)(2). In calculating the amount
16 in controversy, a court must aggregate the claims of all individual class members. 28 U.S.C.
17 § 1332(d)(6).

18 15. “[A] defendant’s notice of removal need include only a plausible allegation
19 that the amount in controversy exceeds the jurisdictional threshold.” *Dart Cherokee Basin*
20 *Operating Co. v. Owens*, 574 U.S. 81, 89 (2014). To satisfy this burden, “[a]s is inescapable at
21 this early stage of litigation,” a defendant may rely on a “chain of reasoning” so long as the
22 “reasoning and underlying assumptions are reasonable.” *Jauregui v. Roadrunner Transportation*
23 *Servs., Inc.*, 28 F.4th 989, 993 (9th Cir. 2022) (internal quotation marks omitted). “An
24 assumption may be reasonable if it is founded on the allegations of the complaint.” *Arias*
25 *v. Residence Inn by Marriott*, 936 F.3d 920, 925 (9th Cir. 2019); *see also Salter v. Quality Carriers,*
26 *Inc.*, 974 F.3d 959, 964 (9th Cir. 2020) (“[A] removing defendant’s notice of removal need
27 not contain evidentiary submissions but only plausible allegations of jurisdictional
28 elements.” (internal quotation marks and citations omitted)). That is because “[t]he amount

1 in controversy is simply an estimate of the total amount in dispute, not a prospective
2 assessment of a defendant’s liability,” and as such a defendant “need not concede liability
3 for the entire amount.” *Lewis v. Verizon Commc’ns, Inc.*, 627 F.3d 395, 400 (9th Cir. 2010).
4 “[W]hen a defendant seeks federal-court adjudication, the defendant’s amount-in-
5 controversy allegation should be accepted when not contested by the plaintiff or questioned
6 by the court.” *Dart Cherokee*, 574 U.S. at 87.

7 16. In assessing whether the amount in controversy requirement has been
8 satisfied, “a court must assume that the allegations of the complaint are true and assume
9 that a jury will return a verdict for the plaintiff on all claims made in the complaint.”
10 *Campbell v. Vitran Express, Inc.*, 471 F. App’x 646, 648 (9th Cir. 2012) (internal quotations
11 and citation omitted)). In other words, the focus of the Court’s inquiry must be on “what
12 amount is put ‘in controversy’ by the plaintiff’s complaint, not what a defendant will *actually*
13 owe.” *Fawcett v. Ford Motor Company*, No. 5:23-CV-1443-SP, 2023 WL 6161030, at *3 (C.D.
14 Cal., Sept. 21, 2023) (quoting *Korn v. Polo Ralph Lauren Corp.*, 536 F. Supp. 2d 1199, 1205
15 (E.D. Cal. 2008)).

16 17. Again, Charlotte’s Web denies that Plaintiff’s action has any merit. But for
17 the purposes of meeting the jurisdictional requirements for removal *only*, if Plaintiff were to
18 prevail on every claim and allegation in her Complaint on behalf of the putative class, the
19 recovery would exceed \$5 million. Plaintiff’s Complaint includes a prayer for “[s]tatutory
20 damages under CIPA.” Compl. at 8. Here, Plaintiff is referring to CIPA’s provision
21 allowing “[a]ny person who has been injured by a violation of this chapter” to bring an
22 action for “[f]ive thousand dollars (\$5,000) per violation.” Cal. Pen. Code § 637.2(a). This
23 statutory damages amount, combined with Plaintiff’s allegation that there are “thousands,
24 if not more” class members, Compl. ¶ 25, means that the alleged amount in controversy
25 easily exceeds CAFA’s \$5 million amount in controversy threshold (i.e., \$5,000 per violation
26 multiplied by “thousands, if not more” alleged violations associated with putative class
27 members).

THIS COURT HAS JURISDICTION AND REMOVAL IS PROPER

18. Based on the foregoing facts and allegations, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because:

- (a) This is a civil action which is a putative class action within the meaning of § 1332(d)(1)(b);
- (b) Plaintiff alleges that the action involves a putative class of at least 100 persons as required by § 1332(d)(5)(B);
- (c) The alleged amount in controversy exceeds \$5 million, exclusive of interest and costs as required by § 1332(d)(2); and
- (d) A member of the proposed class is a citizen of a state different from any defendant as required by § 1332(d)(2)(A).

19. Accordingly, this action is properly removable under 28 U.S.C. §§ 1332(d), 1446, and 1453.

20. The United States District Court for the Central District of California is the federal judicial district embracing the Superior Court of California for the County of Los Angeles, where the suit was originally filed, 28 U.S.C. § 84(c). *See* 28 U.S.C. § 1441(a).

21. Upon filing the Notice of Removal, Charlotte’s Web will furnish written notice to Plaintiff’s counsel and will file and serve a copy of this Notice with the Clerk of the Superior Court of California for the County of Los Angeles, pursuant to 28 U.S.C. § 1446(d).

Charlotte’s Web therefore removes this action from the Superior Court of California for the County of Los Angeles.

1 Dated: March 25, 2024

2 JOHN D. W. PARTRIDGE
3 ABBEY A. BARRERA
4 GIBSON, DUNN & CRUTCHER LLP

5 By: /s/ John D. W. Partridge
6 John D. W. Partridge

7 Attorneys for Defendant
8 CHARLOTTE'S WEB, INC.
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EXHIBIT-A

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County of Los Angeles
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David W. Slayton,
Executive Officer/Clerk of Court,
By J. Covarrubias, Deputy Clerk

Attorneys for Plaintiff
Lillian Jurdi

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

LILLIAN JURDI, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

CHARLOTTE’S WEB, INC., a Colorado
Corporation; and DOES 1 through 25,
inclusive,

Defendants.

Case No. **24STCV04402**

CLASS ACTION COMPLAINT FOR:

- 1. VIOLATIONS OF THE CALIFORNIA INVASION OF PRIVACY ACT (CAL. PENAL CODE § 631)**

COMPLAINT

1 **JURISDICTION**

2 1. Subject matter jurisdiction is proper in this Court because the amount in
3 controversy is within this Court’s jurisdictional limit.

4 2. This Court has personal jurisdiction over Defendant because, on information and
5 belief, Defendant conducts substantial business in Los Angeles County.

6 3. Venue is proper in the Los Angeles County Superior Court pursuant to Code of
7 Civil Procedure, §§ 394, 395, and 395.5. Wrongful conduct occurred and continues to occur in this
8 County. Defendant conducted and continues to conduct business in this County as it relates to its
9 illegal wiretapping.

10 4. Defendant has sufficient minimum contacts in the State of California or otherwise
11 purposefully avails itself of the California market. Exercising jurisdiction over Defendant would
12 be consistent with traditional notions of fair play and substantial justice.

13 **PARTIES**

14 5. Plaintiff Lillian Jurdi (“Plaintiff”) is a citizen of California residing within the
15 Central District of California.

16 6. Charlotte’s Web, Inc. (“Defendant”) is a Colorado corporation that owns, operates,
17 and/or controls icharlotte.com.

18 7. The above-named Defendant, along with its affiliates and agents, are collectively
19 referred to as “Defendants.” The true names and capacities of the Defendants sued herein as DOE
20 DEFENDANTS 1 through 25, inclusive, are currently unknown to Plaintiff, who therefore sues
21 such Defendants by fictitious names. Each of the Defendants designated herein as a DOE is legally
22 responsible for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the
23 Complaint to reflect the true names and capacities of the DOE Defendants when such identities
24 become known.

25 8. Plaintiff is informed and believes that at all relevant times, every Defendant was
26 acting as an agent and/or employee of each of the other Defendants and was acting within the
27 course and scope of said agency and/or employment with the full knowledge and consent of each
28

COMPLAINT

1 of the other Defendants, and that each of the acts and/or omissions complained of herein was
2 ratified by each of the other Defendants.

3 **FACTUAL ALLEGATIONS**

4 9. Charlotte's Web, Inc. (hereafter referred to as "the Defendant") is a CBD
5 corporation that owns www.icharlotte.com. The CBD corporation harvests botanicals to produce
6 products such as hemp topicals, oils and gummies. Customers from across the country, including
7 California residents, access and use the website to explore and buy the products offered by
8 Defendant.

9 10. CIPA prohibits both wiretapping and eavesdropping of electronic communications
10 without the consent of all parties to the communication. Compliance with CIPA is simple, and the
11 vast majority of website operators comply by conspicuously warning visitors if their conversations
12 are being recorded or if third parties are eavesdropping on them.

13 11. The Defendant has engaged in deceptive practices by surreptitiously implanting
14 code on its website allowing for the unauthorized recording and creation of transcripts of private
15 conversations. In order to facilitate this invasive eavesdropping, Defendant has entered into
16 financial agreements with ochatbot.com ("Ochatbot") to embed code into Defendant's website chat
17 function. In contracting with Ochatbot, Defendant chooses which functionalities of the software
18 to deploy, including how data is transferred, what data to track, and how chats are stored by
19 Ochatbot. Thus, Defendant is aware that Ochatbot records user communications as part of its
20 functionality.

21 12. The code enables Ochatbot to covertly intercept and monitor a website visitor's chat
22 conversation in real-time, without their knowledge or consent. The chats that users like Plaintiff
23 believe are taking place on Defendant's website are really taking place on Ochatbot, as can be seen
24 from the iframe code seen below:

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```

1 <div class="ochatbot-container" style="position: fixed; z-index: 2147483647; box-sizing: content-box; overflow: hidden; right: 20px; bottom: 20px; border-
2 ><style> @</style>
3 ><div style="background: rgb(158, 152, 96); height: 40px; line-height: 30px; font-size: 20px; display: flex; justify-content: space-between; padding: 5px
4 ><div style="display: block; height: 450px;">
5 ><iframe id="chatBotManFrame" src="https://ochatbot.ometrics.com/ochatbot/chat/3741335964?conf=%7B%22cha_2%3Afalse%2C%22wrapperHeight%22%3A450%2C%22mob
6 </div>
7 </div>
8 </div>
9 </div>
10 <script src="//assets.adobedtm.com/ccaea5e9f79d/8da0f485d65d/launch-055b944481ef.min.js"></script>
11 <script type="text/javascript" src="https://www.icharlotte.com/static/version1700194517/frontend/Gorilla/charlottes-web/en_US/Shoprunner_Connect/js/shoprunn
12 <script type="text/javascript" src="https://static.klaviyo.com/onsite/js/klaviyo.js?company_id=ifUbeY"></script>

```

13. Once the chat occurs, Ochatbot uses various digital surveillance tools to monitor user behavior, most notably a line of code called an “event listener” which aids in listening in on the chat:

```

13 } catch (t) {
14   if ("json" !== e.responseType)
15     throw t
16 }
17 "function" == typeof e.onDownloadProgress && h.addEventListener("progress", e.onDownloadProgress)
18 "function" == typeof e.onUploadProgress && h.upload && h.upload.addEventListener("progress", e.on
19 e.cancelToken && e.cancelToken.promise.then(function onCancel(e) {
20   h && (h.abort(),
21     C(e),
22     h = null)
23 })

```

14. Chat conversations with Ochatbot are also automatically collected and shared by Ochatbot and Defendant. Ochatbot and others use the collected data of these chat communications along with other information obtained through the chat, including IP address, geolocation, browsing history, and search history. Ochatbot then keeps the information it collects and uses it in conjunction with other data they have collected about the user from other sources. Ochatbot also provides some of these details about chat users back to Defendant, Ochatbot also uses the data gathered from chats for its own business and commercial purposes.

15. Ochatbot records and stores transcripts of each chat conversation, which it will compile into a report that is used by Ochatbot and Defendant to evaluate the performance of both companies. Ochatbot gathers the transcripts from live chat histories using AI and machine learning that enables Ochatbot to understand and analyze real-time “conversational inputs.”

16. Ochatbot’s privacy policy (never disclosed to users) allows them to share and sell personal information with third parties without obtaining explicit consent from the end users.

1 Ochatbot also uses “cookies” and similar tracking tools to analyze user behavior and usage patterns
2 for its business purposes. Ochatbot therefore combines and shares this user data and behavior,
3 obtained without consent, with “interested” third parties such as Ochatbot’s partners, completely
4 disregarding consumer consent and privacy rights. This opens the door for the dissemination of
5 personal data to other entities, potentially for cross-context behavioral advertising purposes,
6 further compromising the privacy and control of the users’ information.

7 17. Again, Defendant is aware that communications with its chat feature are occurring
8 on Ochatbot servers. Defendant is also aware that Ochatbot collects and stores chats recordings
9 as they occur, and that Ochatbot also collects a bevy of personal information obtained from a user
10 without their consent or knowledge.

11 18. Defendant's conduct regarding consumer privacy rights is highly egregious.
12 Visitors to the Defendant's website often disclose sensitive personal data via the website chat
13 feature, which goes beyond mere record information like name and address.

14 19. By engaging in this data collection, the defendant enables the creation of detailed
15 profiles about individuals, allowing the delivery of targeted advertisements specifically tailored to
16 their personal interests. This invasive practice not only compromises individuals' privacy but also
17 subjects them to relentless advertising campaigns across multiple platforms.

18 20. The defendant even acknowledges that the use of tracking technology is used on
19 the icharlotte.com website. The tracking technology is placed on a visitor’s computer when the
20 access the website and is used to gather and store user data. Defendant shares this information with
21 third parties so that both Defendant and the third parties can benefit from the users’ interactions
22 on the website.

23 21. These extensive data sharing arrangements leave consumers exposed to potential
24 privacy risks, as their personal information is shared with a wide range of entities without clear
25 limitations or safeguards, let alone the consent of users.

26 22. Within the statute of limitations period, Plaintiff visited Defendant’s Website.
27 Defendant did not inform Plaintiff, or any of the Class Members, that Defendant was secretly
28

COMPLAINT

1 wiretapping or recording their communications or aiding, abetting, and paying third parties to
2 eavesdrop on them, despite website users having a reasonable expectation of privacy in using the
3 seemingly harmless chat box feature.

4 23. Defendant did not obtain Class Members' express or implied consent to wiretap or
5 allow third parties to eavesdrop on visitor conversations, nor did Class Members know at the time
6 of the conversations that Defendant was secretly wiretapping her and allowing third parties to
7 eavesdrop on them.

8 **CLASS ALLEGATIONS**

9 24. Plaintiff brings this action individually and on behalf of all others similarly
10 situation (the "Class") defined as follows:

11 **All persons within California who within the statute of limitations**
12 **period: (1) communicated with Defendant via the chat feature on**
13 **Defendant's Website using cellular or landline telephony, and (2)**
14 **whose communications were recorded and/or eavesdropped upon**
15 **without prior consent.**

16 25. NUMEROSITY: Plaintiff does not know the number of Class Members but
17 believes the number to be in the thousands, if not more. The exact identities of Class Members
18 may be ascertained by the records maintained by Defendant.

19 26. COMMONALITY: Common questions of fact and law exist as to all Class
20 Members, and predominate over any questions affecting only individual members of the Class.
21 Such common legal and factual questions, which do not vary between Class members, and which
22 may be determined without reference to the individual circumstances of any Class Member,
23 include but are not limited to the following:

- 24 a. Whether Defendant caused electronic communications from class
25 members with the Website to be recorded, intercepted, and/or monitored;
26 b. Whether Defendant aided and abetted a third party in eavesdropping on
27 such communications;

28 COMPLAINT

1 c. Whether Plaintiff and Class Members are entitled to statutory penalties;

2 and

3 d. Whether Class Members are entitled to injunctive relief.

4 27. TYPICALITY: As a person who visited Defendant’s Website and whose electronic
5 communication was recorded, intercepted and eavesdropped upon, Plaintiff is asserting claims that
6 are typical of the Class.

7 28. ADEQUACY: Plaintiff will fairly and adequately protect the interests of the
8 members of The Class. Plaintiff has retained attorneys experienced in the class action litigation.
9 All individuals with interests that are actually or potentially adverse to or in conflict with the class
10 or whose inclusion would otherwise be improper are excluded.

11 29. SUPERIORITY: A class action is superior to other available methods of
12 adjudication because individual litigation of the claims of all Class Members is impracticable and
13 inefficient. Even if every Class Member could afford individual litigation, the court system could
14 not. It would be unduly burdensome to the courts in which individual litigation of numerous cases
15 would proceed.

16 **FIRST CAUSE OF ACTION**

17 **Aiding and Abetting Violations of the California Invasion of Privacy Act**

18 **Cal. Penal Code § 631(a)**

19 30. Section 631(a) of California’s Penal Code imposes liability upon any entity that
20 “by means of any machine, instrument, contrivance, or in any other manner,” (1) “intentionally
21 taps, or makes any unauthorized connection, whether physically, electrically, acoustically,
22 inductively, or otherwise, with any telegraph or telephone wire, line, cable, or instrument,
23 including the wire, line, cable, or instrument of any internal telephonic communication system,”
24 or (2) “willfully and without the consent of all parties to the communication, or in any unauthorized
25 manner, reads, or attempts to read, or to learn the contents or meaning of any message, report, or
26 communication while the same is in transit or passing over any wire, line, or cable, or is being sent
27 from, or received at any place within this state” or (3) “uses, or attempts to use, in any manner, or

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COMPLAINT

1 for any purpose, or to communicate in any way, any information so obtained, or who aids, agrees
2 with, employs, or conspires with any person or persons to unlawfully do, or permit, or cause to be
3 done any of the acts or things mentioned above in this section”. Here, Defendant has violated the
4 third clause.

5 31. Section 631 of the California Penal Code applies to internet communications and
6 thus applies to Plaintiff’s and the Class’s electronic communications with Defendant’s Website.
7 “Though written in terms of wiretapping, Section 631(a) applies to Internet communications. It
8 makes liable anyone who ‘reads, or attempts to read, or to learn the contents’ of a communication
9 ‘without the consent of all parties to the communication.’ Cal. Penal Code § 631(a).” *Javier v.*
10 *Assurance IQ, LLC*, No. 21-16351, 2022 WL 1744107, at *1 (9th Cir. May 31, 2022).

11 32. The software embedded on Defendant’s Website to record and eavesdrop upon the
12 Class’s communications qualifies as a “machine, instrument, contrivance, or ... other manner” used
13 to engage in the prohibited conduct alleged herein.

14 33. At all relevant times, Defendant intentionally caused the internet communication
15 between Plaintiff and Class Members Defendant’s Website to be recorded. Defendant also aided,
16 abetted, and even paid third parties to eavesdrop upon such conversations.

17 34. Plaintiff and Class Members did not expressly or impliedly consent to any of
18 Defendant’s actions.

19 35. Defendant’s conduct constitutes aiding and abetting violations of Cal. Penal Code
20 § 631(a). *Nora Gutierrez v. Converse, Inc.*, Case No.: 2:23-cv-06547- RGK-MAR (C.D. Ct CA
21 10/27/23.). Therefore, Plaintiff and Class Members are entitled to injunctive relief and statutory
22 damages.

23 **PRAYER**

24 WHEREFORE, Plaintiff prays for the following relief against Defendant:

- 25 1. An order certifying the Class, naming Plaintiff as the representative of the Class
26 and Plaintiff’s attorneys as Class counsel;
- 27 2. An order declaring Defendant’s conduct violates CIPA;

28 COMPLAINT

- 1 3. An order requiring Defendant to disgorge all of Plaintiff’s personal data;
- 2 4. An order of judgment in favor of Plaintiff and the Class against Defendant on the
- 3 causes of action asserted herein;
- 4 5. An order enjoining Defendant’s conduct as alleged herein and any other
- 5 injunctive relief that the Court finds proper;
- 6 6. Statutory damages pursuant to CIPA; and
- 7 7. All other relief that would be just and proper as a matter of law or equity, as
- 8 determined by the Court.

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10 DATED: February 22, 2024

TAULER SMITH LLP

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13 By: /s/ Robert Tauler

14 Robert Tauler, Esq.

15 Attorneys for Plaintiff

16 Lillian Jurdi

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COMPLAINT

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DEMAND FOR JURY TRIAL

Plaintiff Lillian Jurdi hereby demands a trial by jury.

DATED: February 22, 2024

TAULER SMITH LLP

By: /s/ Robert Tauler
Robert Tauler, Esq.
Attorneys for Plaintiff
Lillian Jurdi

COMPLAINT

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Charlotte's Web Lawsuit Accuses CBD Co. of 'Highly Egregious' Online Privacy Abuses](#)
