

EXTRACT FOR THE CENTRAL REGISTER OF COLLECTIVE ACTIONS IN THE SENSE OF ART. 1018C SUB 2 RV

of the writ of summons pursuant to article 305a of Book 3 DCC, as issued on 12 September 2023 by:

STICHTING BESCHERMING PRIVACYBELANGEN,

a foundation having its registered office in Amsterdam,
plaintiff,

represented by: J.H. Lemstra LLM and G.J. Zwenne LLM,

versus:

1. **ALPHABET INC.**, a company incorporated and existing under foreign law, having its registered office in Mountain View, California, United States of America ("**Alphabet**");
2. **GOOGLE LLC.**, a company incorporated and existing under foreign law, having its registered office in Mountain View, California, United States of America ("**Google LLC**");
3. **GOOGLE IRELAND LIMITED**, a company incorporated and existing under foreign law, having its registered office in Dublin, Ireland ("**Google Ireland**");
and
4. **GOOGLE NETHERLANDS B.V.**, a private company with limited liability [*B.V.*], having its registered office in Amsterdam ("**Google Netherlands**"),

defendants, hereinafter collectively referred to as "**Google**,"

before the Amsterdam District Court, effective a first docket date of 17 January 2024.



1. INTRODUCTION

- 1.1. This extract contains the main elements of the summons issued by Stichting Bescherming Privacybelangen (the "**Foundation**") on 12 September 2023 against Google, by which collective proceedings are initiated pursuant to article 305a of Book 3 DCC (the "**Summons**").
- 1.2. The obligation to file an extract of the Summons follows from article 1018c (2) DCCP (as amended as of 25 June 2023). According to the parliamentary history of this article, the extract must enable others to *"make a balanced decision as to whether they too wish to bring an action for the same event against the same defendant."* It should be clear *"what the collective action seeks to achieve, on what factual contentions it is based, what the names of the plaintiff and defendant are, and provide the most accurate description possible of the persons whose interests the collective action seeks to protect."*¹ With this extract from the Summons, the Foundation provides the required information.
- 1.3. The structure of this extract is as follows:
 - In paragraph 2, the Foundation describes the parties involved in the proceedings and the group of persons on whose behalf it has brought the proceedings (hereinafter the "**Aggrieved Users**");
 - Paragraph 3 sets out the essence of the case;
 - In paragraph 4, the Foundation further explains Google's unlawful practices, including that the various Google entities are joint controllers, which data and consumer protection rules have been violated by Google, and that Google has been unjustly enriched; while
 - In paragraph 5, the Foundation briefly explains the immaterial and material damages that have been and are suffered by the Aggrieved Users.
- 1.4. The extract concludes in paragraph 6 with the integral demand (the entire 'claim for relief') as contained in the Summons, listing the various claims brought by the Foundation.

2. THE PARTIES TO THE PROCEEDINGS

- 2.1. The Foundation is a non-profit foundation based in the Netherlands established in 2021. The object of the Foundation is to represent the interests of those who have been harmed by Google's privacy violations. The Foundation has an independent board and a supervisory board, consisting of advocates and experts in the field of privacy protection and collective actions of social importance.

¹ *Parliamentary Papers II 2021/22*, 36034, no. 3 (Explanatory Memorandum), pp. 34 - 35.



- 2.2. In these proceedings, the Foundation specifically represents the interests of consumers who, from 1 March 2012 until the date of the final judgment in these proceedings (the "**Relevant Period**"), while residing in the Netherlands, have at any time used Google's products and services and have thus been harmed by Google's violations of data protection law and consumer law. The Foundation refers to this group as the Aggrieved Users. The Foundation brings this case on their behalf.
- 2.3. The Dutch Consumers' Association (The Consumentenbond) supports the Foundation and the Aggrieved Users in this collective action against Google. The Consumentenbond and the Foundation work together here to best represent the interests of the Aggrieved Users.
- 2.4. The Foundation is assisted by, among others, experienced lawyers specialized in the field of collective action law and privacy law. The Foundation is also supported by the funder Lief Cabraser Heimann Bernstein LLP.
- 2.5. The Foundation and its lawyers operate independently of the funder and other third parties.²
- 2.6. The Foundation has issued this Summons against Alphabet, Google LLC, Google Ireland and Google Netherlands.

3. THE ESSENCE OF THE CASE

- 3.1. This case is about Google's pervasive surveillance of Dutch citizens. Google collects and processes on an unprecedented scale personal data in violation of the law, via the ubiquitous infiltration of its products and services into the daily lives of the of nearly every person in the Netherlands. The intrusive nature, scope and impact of Google's data processing practices on the private life of individuals now and in the future, is opaque to ordinary persons. Moreover, it affects society as a whole, such that Google's conduct cannot be excused by the purported "consent" of individuals, nor has it any other basis in law. Google's data processing practices are unlawful.

Google collects data from everyone

- 3.2. Google is by far the most dominant online service provider and the largest data company in the world. It supplies many useful and attractive products and services to consumers. Two of Google's services - Google Search and YouTube, the world's largest video platform - are the most popular websites in the Netherlands. Google Analytics is used by more than 80 percent of websites and, as a result, is the most widely used analytics service in the Netherlands. Google's Chrome browser comprises

² More information about the Foundation, its directors, supervisors and partners, can be found at www.stichtingbeschermingprivacybelangen.com.



just under two-thirds of the global browser market and is by far the biggest player in this field, including in the Netherlands. Google Maps is the most downloaded navigation app in the Netherlands and is installed as the default navigation tool in various types of cars. Google's omnipresence in the online world is so complete that consumers in fact have no choice but to use its products and services. Google's products and services have become inextricably linked with the average Dutch person's life.

- 3.3. A large part of our daily lives takes place online. We conduct commerce, interact with health and financials service providers, browse websites, read papers online, make use of social media, use Google Maps and frequently use online services for work-related matters. And even when we are not aware of it, our devices remain connected to the Internet. Whether we are asleep or awake, watching TV or playing sports, users' internet-connected devices are in a constant dialogue of network data traffic with the millions of servers in the online world of commerce. Google is positioned at each step of this process in every major part of the Internet (internet browser, navigation app, e-mail system, video services, etc.), including through its hardware and/or software on almost every mobile phone. As a result, Google is at the receiving end of this continuous stream of user data from almost everyone virtually every hour of every day.
- 3.4. Google not only constantly collects data from users of its ubiquitous products and services, but also from users navigating third-party websites and apps that secretly use Google's advertising and development tools. For example, Google continually collects its users' location data in this way (through its own products and services and through apps built with its Firebase SDK software), as well as data about their online behaviour (including through Google Chrome and through the use of third-party cookies). Moreover, the data collected can be highly sensitive: data showing an in-person visit to a synagogue may indicate a certain religious belief, while data showing use of certain online dating sites or apps may indicate a person's sexual orientation.

Google exploits the data collected from its users

- 3.5. Google makes many of its products and services available to the public "free of charge", providing an incentive for consumers to use them. The use of those products and services (and third-party products and services that use Google's advertising and development tools) generates large amounts of user data, which Google 'harvests,' i.e., collects and commercially exploits.
- 3.6. Google has enormous algorithmic computing power, which it uses to create in-depth profiles about its users from the data it constantly



collects. With this, Google creates products and services that it sells to third parties. User data represents the basis for Google's global advertising services and related products. In 2022, Google's global advertising revenue was nearly USD 225 billion, about 80 percent of its total revenue.

- 3.7. In the Netherlands, sales in online advertising represented approximately EUR 3.2 billion in 2021. Google has a dominant position in this market and is the most widely used starting point for advertisers (parties that buy advertising space) and publishers of online media (parties that sell advertising space). In other words, Google has a dominant presence with its products and services on both the supply and the demand side of the online advertising market. Google has also placed itself in the middle of that system, by building an advertising platform (marketplace for online advertisements) through which billions of online ads are sold. Google's real-time bidding ("**RTB**") advertising platform Google Ad Exchange, also called Google AdX, constitutes the main source of Google's huge ad revenues. It is the most widely used RTB advertising platform in the Netherlands and globally.
 - 3.8. RTB is "the buying and selling of ads in real time - that is, during the time it takes for a Web page to load in a user's browser - based on an auction pricing mechanism." RTB auctions take place when a person visits a website or application that contains advertising space. Through an automated online auction system, bids are placed on the advertising space during the loading of the website or application - in 'real-time' - without the visitors' knowledge. In RTB auctions, profiles containing those visitors' personal data are sent by Google to online auction participants who, within a millisecond, are invited to submit a bid for a digital ad for a specific visitor (a so-called bid-request). The highest auction bidder wins the right to send the ad and pays for the privilege. Every auction participant - including those who do not bid or who did not "win" the auction - receives data about the visitor (so-called bidstream data), including (special) personal data.
 - 3.9. Through RTB auctions, personal data collected by Google is made available to large numbers of third parties. Google is integrally involved in and responsible for preparing, transmitting and receiving the bid requests and bidstream data. It is unclear exactly how many parties receive the personal data, or special personal data, shared through Google's RTB advertising platform.
- Google violates Dutch and European law with its data processing practices*
- 3.10. Google's powerful position and the unprecedented amounts of personal data it processes means that Google must responsibly exercise a duty of care towards consumers. However, Google breaches this duty of care each



day, by systematically allowing its own commercial interests to prevail over its duty of care to its users. It even goes so far as to violate Dutch and European law with its' data processing practices.

- 3.11. Google's limitless pursuit of data for its advertising services over the past 25 years has effectively created a panoptic *surveillance network* that observes and records the private activities and thoughts of billions of people worldwide. The growth and extent of Google's surveillance system stems from numerous choices it has made over the years at the expense of user privacy, and especially by its March 2012 policy - expanded in 2016 - to link its systems and all user data it collects from its numerous products and services. This new policy allowed Google to track users more easily, to create better profiles and to improve its targeted advertising services. However, this also increases Google's ability to constantly know what you are doing, where you are, what you might want to do and what you are thinking about. The impact of this on the lives of individual consumers and society as a whole is concerning. Google's data processing practices are a gross invasion of everyone's privacy.
- 3.12. Privacy is a fundamental right. The importance of a high level of protection of the right to privacy and of data protection law has been confirmed time and again by the Court of Justice of the European Union (the "CJEU"). The General Data Protection Regulation (the "GDPR"), introduced in May 2018, therefore gives data subjects - those whose data is being processed - broad control over their personal data and requires that the processing of personal data should be confined to what is strictly necessary.
- 3.13. Google shows little or no concern for privacy protection, the rights of data subjects to understand how their data is used and exercise control over their data, relevant legal rules and obligations, or the effect of its behaviour on democratic standards. Google systematically violates the fundamental right to privacy by continuously and excessively collecting and processing personal data and systematically tracking and mapping its data subjects' behaviour. With its data processing practices, Google furthermore violates various consumer and data protection rights.
- 3.14. First, Google's data processing practices clearly violate the principle of data minimisation and the requirements of privacy by design and privacy by default, as set forth in the law. Google pursues data maximization rather than data minimization. In so doing, Google violates its duty of care to consumers to limit the processing of personal data to what is strictly necessary.
- 3.15. In addition, Google is not transparent about how it processes personal data, and Google's activities are so vast, comprehensive, and opaque that even privacy and data specialists struggle to grasp and fully understand the nature and extent of Google's data processing practices, not to



mention the typical user of Google's products and services, who are not privacy experts.

- 3.16. The objectively reasonable user has absolutely no reasonable means to sufficiently understand of how Google processes their personal data. Users do not know that their data is being exposed to untold external parties, let alone the identity of those parties. They have no knowledge of the countless ways in which their personal data will be combined, aggregated and analysed by thousands of companies over the years, nor can they be expected to be aware of the various ways in which seemingly innocuous data about themselves can be associated with vast amounts of other data that, with the power of artificial intelligence and sophisticated, exceptionally powerful algorithms, will reveal aspects about them that can be used to track and influence their commercial and political behaviour. In short, Google does not inform its users about its actions, at least not adequately. This is particularly objectionable, as it is nearly impossible for users to avoid Google's products and services in their daily lives.
- 3.17. In fact, certain statements and representations by Google about how its products and services collect and process data subjects' personal data are highly misleading, masking the true nature and extent of Google's practices, something that is acknowledged by Google's own employees: "*[O]ur messaging around this is enough to confuse [me,] a privacy focused (Google software engineer). That's not good.*" Google puts its data subjects under the impression that they can keep certain activities private, but that turns out not to be the case.
- 3.18. Some examples:
- Google collects and processes users' location data through numerous avenues, but until 2018 promised that users could prevent this by switching off the 'Location History' setting. In reality, this was false. Google continues to collect and process users' location data, even when this setting is switched off, because Google also obtains location data through other means, including through the *Web & App Activity* setting. Google also obtains location data through thousands of third-party apps.
 - Google collects and processes the browsing history and internet activity of Dutch data subjects using the Chrome browser. Google even does so when the user activates the privacy mode ("*Incognito*") and/or has activated the 'Sync' setting.
 - *Firebase SDK* is Google's own software development kit, embedded in millions of third-party mobile apps. With it, Google automatically



collects and processes data from the users of those apps, even when the *Web & App Activity* setting is deactivated.

- 3.19. Google thus wrongly tells users they can choose greater privacy protections, when in reality this is not the case. With misleading and indecipherable 'settings' or 'options' for specific apps or functions, Google gives its users a false sense of privacy and control. However, rather than providing any reasonable ability to manage or protect their data these settings and options have negligible or even damaging effect. Google continues to collect massive amounts of data through other channels, data that data subjects (wrongly) understood to be in their control.
- 3.20. Meanwhile, Google also uses so-called dark patterns: design techniques by which Google manipulates users into taking actions that negatively impact their privacy, such as unknowingly providing access to certain personal data. In doing so, Google induces consumers into making certain choices that they might not otherwise have made. This also makes Google's practices unfair within the meaning of the Unfair Commercial Practices Act.
- 3.21. Its own annual reports demonstrate the great interest Google has in this systematic deception and concealment of its practices (deliberate or otherwise): after all, any curtailment of data collection and processing undermines Google's business model, which depends on it. Over the past years and again in 2023, Google identified "*data privacy practices, including "new" laws that further restrict the collection, processing and/or sharing of advertising-related data,*" and "*privacy laws*" in general, as a business risk.
- 3.22. Due to Google's (market) dominance, consumers virtually have no choice but to use Google's products and services. Therefore, no value should be attached to the so-called 'consent' that Google claims to have obtained from its users for the processing of their personal data, for this 'consent' is not informed or freely given, in violation of data protection legislation. No reasonable Dutch consumer can be said to have consented to Google's data collection and processing practices. Also, Google cannot invoke the processing basis of 'legitimate interest' to support its data processing. This means that the basis for processing personal data required by law is lacking. Also, Google cannot invoke the processing basis of 'legitimate interest' to support its data processing. This applies even more so to special personal data processed by Google, which is subject to heightened protections, which Google ignores.
- 3.23. Finally, Google transfers its users' personal data to the United States (the "**U.S.**") without effective protection against surveillance by the U.S. government. Google's servers - the computer hardware that Google needs to host its programs - are primarily located in the U.S. Google Analytics,



for example, is one of the services in which data from Dutch users is transferred to the U.S.

The aim of these proceedings

- 3.24. Regulators around the world have repeatedly condemned and fined Google for its unlawful data processing practices. As recently as late 2022, Google settled in the U.S. for nearly USD 400 million for its misleading practices regarding location data collection alone. However, even though Google has been forced to change certain of its practices in specific locales, pay fines, and promise to be more transparent, Google continues to act unlawfully in the Netherlands and, apart from that, has not compensated the Aggrieved Users for the damage they have suffered and continue to suffer.
- 3.25. This case addresses privacy and consumer law violations through evidence common to the collective. There is a collective interest: every Dutch user of Google's products and services has a right to privacy and therefore has the same or a similar interest in Google ceasing its unlawful practices and in being compensated for the harm they have suffered and continue to suffer.
- 3.26. Against that background, the Foundation in these collective proceedings requests a ruling that Google has acted unlawfully against the Aggrieved Users and, in addition, has unjustly enriched itself at their expense. The Foundation demands that Google fundamentally change its practices for the future and provide compensation for past and present harm.
- 3.27. The importance of this procedure is underlined by the large number of consumers who have actively joined this action, in which the Foundation is cooperating with and supported by the Consumentenbond. After publicly announcing these proceedings, more than 80,000 consumers registered support for the Foundation within a period of three months. The number of participants increases daily.

The run-up up to these proceedings

- 3.28. The Foundation has consulted with Google on several occasions and met with Google's counsel in-person to explore whether Google would satisfy the Foundation's demands without the Foundation having to commence legal proceedings. This effort did not lead to an amicable collective resolution. For this reason, the Foundation proceeded to issue the Summons on 12 September 2023.



4. GOOGLE'S UNLAWFUL PRACTICES

- 4.1. Google's practices result in ongoing, effective surveillance of its users. Google continuously and excessively processes personal data through its location-tracking practices and by systematically tracking its users' online behaviour. Google subsequently exploits the processed data by making it widely available to advertisers through its RTB advertising platform and also unlawfully transfers personal data to the U.S.
- 4.2. With its practices, Google violates its users' fundamental right to privacy, the fundamental right to the protection of personal data, and Dutch and European data protection and consumer law. Google's practices are thus unlawful towards the Aggrieved Users.
- 4.3. More specifically, during the Relevant Period, Google:
 - failed to fulfil its duty of care by violating the principle of data minimization and the requirements of *privacy by design* and *privacy by default*, amongst other things, by using so-called "dark patterns". This is a violation of section 10 (1) Wbp and article 25 (1) GDPR in conjunction with article 25 (2) GDPR in conjunction with article 5 (1) (c) GDPR.
 - did not or did not correctly inform the Aggrieved Users about the processing of their personal data. This is a violation of sections 33 and 34 Wbp, article 12 - 14 GDPR and section 11.7a (1) (a) Tw.
 - processed personal data without having obtained consent from the Aggrieved Users, or at least without any other valid basis for processing. This is a violation of section 8 Wbp, article 6 GDPR and section 11.7a (1) (b) Tw.
 - in violation of the processing ban, processed special personal data of the Aggrieved Users in the context of its advertising services. This is in violation of section 16 Wbp and article 9 GDPR.
 - transferred the personal data of the Aggrieved Users to the U.S. This is in violation of the transfer prohibition of section 76 (1) Wbp and article 44 GDPR.
 - engaged in unfair and/or deceptive trade practices. In doing so, Google violated Section 6:193b of the Civil Code.

Google is a joint controller

- 4.4. Alphabet, Google LLC, Google Ireland and Google Netherlands are joint controllers within the meaning of section 1 (b) Wbp and article 4 (7) GDPR. Alphabet is the parent company and ultimately controls the way in which personal data are processed. Google LLC and Google Ireland offer Google's products and services in the European Economic Area (the "EEA") and



both have far-reaching control over the purpose for which and the means by which the Aggrieved Users' personal data are processed. Google Netherlands provides marketing and sales support services in the Netherlands, including data analysis. Google Netherlands is thus also involved in and has control over the processing of personal data.

Google has violated the controller's duty of care, the PbD&D principle and the data minimization obligation

- 4.5. Article 5 (1) (c) GDPR states, among other things, that the processing of personal data must be limited to "*what is necessary in relation to the purposes for which they are processed.*" Section 10 Wbp contained the same obligation of data minimization. Article 25 (1) GDPR furthermore details the obligation that data protection must be by default and applied "by design." This is called the *Privacy by Design and by Default obligation* ("**PbD&D**"). In the Dutch Parliamentary History of the GDPR, the legislator describes this principle as "*a duty of care on the part of the data controller to achieve the least possible invasion of privacy when processing personal data.*"
- 4.6. Google failed to comply with the data minimization and PbD&D obligations:
- Google's **business model and design choices** violate these principles. They run counter to any form of data minimization and PbD&D. Combining personal data obtained from different services (including personal data obtained through cookies) means that, even if Google were to process no more data from a user than strictly necessary from a given service (and thus would (in theory), comply with the data minimization principle for that service), Google still combines it with all the other data it collects from that user obtained via other services. Collectively, Google's data processing does not comply with the principle of data minimization.
 - Google's **collection of location data** violates these principles. Google's location tracking practices occur at detailed levels, are comprehensive and intrusive. Google provides information and uses techniques, options, and settings that are misleading, manipulative, coercive and/or steering (so-called '*dark patterns*') and that move users to take certain actions, so that Google can gain access to their location information. Two examples of *dark patterns* used by Google are: (i) the login screen for a Google Account, where users are induced to leave the 'Web & App Activity' setting 'on,' but Google only identifies the virtues of the 'Web & App Activity' and 'Location History' settings (without identifying the privacy invasive consequences), and (ii) the so-called 'click-flow' where users are



induced via repeated blue 'next' buttons to turn on the 'Location History' setting.

- Google's use of, amongst others things, (third party) cookies and similar technologies to **monitor online behaviour**, violates these principles. As a result, virtually all of the Aggrieved Users' Internet behaviour is tracked by Google.

Moreover, the information and options provided by Google to process data about its users' Internet activity qualify as *dark patterns*. Google makes it conspicuously easy for users to switch on the 'Web and App activity,' 'YouTube history' and 'Ad personalization' settings when creating a Google Account, allowing Google to track their online behaviour, and makes it needlessly complicated for users to avoid these invasive settings.

- The **RTB auctions** that take place on Google's RTB advertising platform violate these principles. The RTB auctions involve a constant flow of *bidstream data* to participants in those auctions. In this way, Google processes large amounts of personal data and makes it available to many third parties, without any (objectively determinable) need to do so. Further, Google offers insufficient guarantees that the receiving party complies with all data protection rules (including data minimization and purpose limitation). Google itself must ensure appropriate technical and organizational means to ensure that personal data are processed in accordance with the GDPR. Google has not done so and cannot shift the responsibility for this to the recipients of the data.

4.7. Instead of applying data minimization and PbD&D, Google's default position is to collect and process as much data as possible, which Google subsequently shares with a huge number of third parties. That practice is incompatible with Google's duty of care as a data controller.

4.8. Google's conduct violates section 10 (1) and section 13 Wbp and article 25 (1) GDPR in conjunction with article 25 (2) GDPR in conjunction with article 5 (1) (c) GDPR. Google acts/has thereby acted unlawfully towards the Aggrieved Users in the Relevant Period.

Google has violated its duties of disclosure

4.9. Pursuant to sections 33 and 34 Wbp, articles 12 - 14 GDPR and section 11.7a Tw, a controller should inform data subjects in a transparent, understandable and easily accessible way about the processing of their personal data. Among other things, Information about the processing operations with the greatest impact for a given data subject and an overview with (detailed) information about the processing of personal data have to be shown to users in the first information layer.



4.10. Google has violated these duties of disclosure towards the Aggrieved Users. The violations concern Google's:

- **General Privacy Policy and Terms of Service:** Google does not sufficiently or clearly communicate to users the nature and extent of its practices in these documents. For example, Google's Privacy Policy and Terms of Service are complex and confusing and contain unclear and vague language.
- **Location tracking:** Google does not sufficiently and clearly communicate to users the scope and purpose of its location data processing. For example, Google does not provide information about location tracking in the first information layer made available to users. Google only refers to the Privacy Policy in a general sense, which is not sufficient. Google does not actively disclose in the first information layer, before it processes location data, that location data is processed by default, on what basis it processes that data, and whether, and how the Google service could be used without location data being processed. In addition, the processing of location data is inadequately addressed in the Privacy Policy. Google's Privacy Policy uses manifold hyperlinks to refer to other webpages that include important information and the method of providing information is neither unambiguous nor consistent.

Google actually misled its users about its processing of location data until at least 2018. Google created the false impression, with information on support web pages, that turning off the Location History setting would mean that no location data was processed and stored. Additionally, until 2018, Google left Android users under the delusion that by turning off Location History, they could prevent their Android device from sharing location data with Google. That information turned out to be incorrect.

- **Tracking online behaviour:** Google does not provide sufficiently clear information to users about the processing of personal data in the context of their Internet activity, including through the use of (i) the tracking cookies of Google that are placed, (ii) Google Chrome, and (iii) apps using Google's Firebase SDK.

The way Google informs its users about these issues was not unambiguous and consistent. Essential information is scattered across many different web pages. In addition, the most important information about the tracking of online behaviour is not in the first information layer visible to users before the specific data processing occurs.



- **Incognito mode:** Google does not inform users, and at least not adequately, that it will continue to track their online behaviour even when they are browsing in Incognito mode. Instead, the information provided about Incognito mode represents that Google Chrome's Incognito mode would prevent Google from processing their personal data. That information was misleading. The information screen that users see when opening Incognito mode does not mention that Google continues to process user data, including information derived from browser history.
 - **RTB auctions:** Google did not inform its' users that it shares their personal data with countless third parties in the context of RTB auctions. The information that Google does provide about sharing data with third parties is incorrect and in any case clearly inadequate. In the context of RTB auctions, Google shares users' personal data with countless auction participants. Indeed, the group of recipients is indeterminate. It is therefore also not possible to clearly or comprehensively inform users. Moreover, the RTB auctions are inherently complicated and not transparent. This stands in the way of Google providing clear, transparent and easily accessible information to its' users. Google did not attempt to do. Google did not provide information about the RTB auctions at all in its Privacy Policy or Terms of Service, or in any other policy document addressed to its users. In fact, the "How Our Business Works" page explicitly stated that Google does not share 'personal information' with third parties for advertising purposes.
- 4.11. This conduct by Google constitutes a violation of sections 33 and 34 Wbp and articles 12 - 14 GDPR as well as section 11.7a (1) (a) Tw. Google acts/has thereby acted unlawfully towards the Aggrieved Users in the Relevant Period.

Google processed personal data without a valid processing basis

- 4.12. Lawfully processing personal data requires at least one of the processing bases provided for in the Wbp and the GDPR. A data controller must have a basis for each processing operation and purpose. In the Relevant Period, the following processing bases existed pursuant to section 8 (a) – (f) Wbp and article 6 (1) (a) – (f) GDPR:
- a. Consent;
 - b. Contractual Necessity;
 - c. Legal obligation;
 - d. Vital interests;



- e. Carrying out a task in the public interest; and
 - f. Legitimate interest.
- 4.13. Google alleges that its users have provided consent, (basis (a)), and/or that a legitimate interest would be served by the processing (basis f). Processing bases (b) to (e) are irrelevant in these proceedings for that reason alone. Google is also not entitled to rely on (a) consent and (f) legitimate interest.

Re (a) Google does not have the consent of the Aggrieved Users for the processing of their personal data

- 4.14. Consent under both the Wbp and the GDPR is subject to four requirements. Consent must be (i) free, (ii) specific, (iii) informed, and (iv) given with an (unambiguous) expression of will.
- 4.15. However, the nature and extent of Google's data processing practices make it nearly impossible for the Aggrieved Users to: (i) avoid using Google's products and services, and (ii) truly understand how Google processes personal data and make informed choices about it. Because of Google's dominant position, it is nearly impossible not to use Google products and services. In addition, Google continues to process personal data when a person uses the Internet, even if that person does not use specific Google products and services. Google's data processing practices are also incredibly complicated and complex. Added to this, Google has misled its users about the alleged control they have over their personal data. These circumstances show that Aggrieved Users did not provide informed and freely given consent to Google.
- 4.16. As users do not understand the nature and scope of Google's data processing, they cannot possibly be 'informed', thus preventing valid consent from being given to Google by them. Moreover, Google's practices intrude so grievously upon the individual and collective autonomy of Dutch citizens, so that users could not have legally consented to Google's practices, including from a public policy perspective.
- 4.17. Next, Google violated its duties of disclosure. Google did not, or at least did not correctly, inform the Aggrieved Users about, among other things,: (i) the combining of data; (ii) the collection of location data; (iii) the tracking of online behaviour, including with the use of cookies and via Google Chrome and (iv) the processing of personal data in the context of the RTB advertising platform. This implies that no valid consent has been or could have been given for these four processing operations either. Indeed, without being correctly informed, an Aggrieved User never really knows what he or she is purportedly consenting to in each instance.



4.18. Moreover, for these processing operations (i) - (iv), Google has not sought consent in a valid manner. Even if its provision of information were adequate, it is not entitled to rely on consent as a basis for its processing.

4.19. First, Google asks for 'general' consent and subsequently uses certain default settings. Thus, a user is not asked for consent for each processing operation and/or for each service. For that reason too, any alleged consent from the Aggrieved Users was not freely and specifically given. In addition:

- **Consent to combine data** was never requested by nor provided to Google. Google indicated to the Dutch DPA (then known as College bescherming persoonsgegevens or "CBP") on 19 September 2013 that it would infer consent from a user agreeing to the Terms of Service or continuing to use a website. It is clear under the Wbp and the GDPR that consent cannot be inferred from passive actions or from a 'general consent' in the Terms of Service.
- **Consent for location tracking** was wrongly inferred by Google solely because users kept their 'Web & App activity' setting on and turning on the 'Location history' setting. This does not come close to providing specific and unambiguous consent for Google's processing of that location data, because Google itself does not mention it. In addition, Google uses misleading settings that encourage users to turn these settings on.
- **Consent to track Internet behaviour** was never requested by nor provided to Google for processing user data from certain tracking cookies, including Google Analytics. Google's consent mechanism for other tracking cookies is also inadequate. Google made it more complicated not to consent to cookies than to consent to them. This is not permitted by law, because it does not lead to freely given consent. Since 2022, the cookie pop-up screen on Google's own web pages offers the possibility to choose for 'reject all' and 'accept all' cookies. That selection does not produce an act of valid consent. The information provided by Google is incomplete and fails to include information about the processing operations with the greatest impact on data subjects. If someone clicks on 'accept all', it thus remains unclear what that person accepted. Moreover, even when clicking 'reject all,' Google continues to process personal data through Google Analytics.

Finally, permission cannot be inferred from accepting the (default) 'Web and App activities' setting either. This applies both when this setting is on by default and when it may be subsequently selected. Accepting default settings does not constitute informed, free, specific and unambiguous consent. But, even when the settings are



turned 'on' by a user, Google does not provide sufficient information to infer true consent to the tracking of online behaviour and its use for advertising purposes.

These issues also apply to the data Google processes via cookies when users browse in Incognito mode.

- **Consent for data sharing in the RTB process** was never requested by nor provided to Google, nor is it possible to validly seek consent for data processing in RTB auctions. The so-called '*consent management platforms*' used by Google do not provide free, specific, informed and unambiguous consent for the processing of personal data in the context of RTB auctions.

Re (f) *Google is not entitled to rely on 'legitimate interest' as a basis for processing data*

4.20. The 'legitimate interest' processing basis can only be used, if a controller can demonstrate that it meets the following 'three-step assessment' successfully:

- (i) **Step 1:** the interest to be served must be legitimate;
- (ii) **Step 2:** the processing of personal data must be necessary to satisfy this legitimate interest; and
- (iii) **Step 3:** the interests or fundamental rights of data subjects must not be disproportionately affected by such data processing.

4.21. Google cannot rely on 'legitimate interest' as its processing basis. Google's interest in its extensive data processing is purely commercial. Serving a purely commercial interest does not qualify as a 'legitimate interest.' In addition, Google's processing of personal data goes (far) beyond what is necessary to pursue its alleged interest: the data processing does not meet the requirements of 'proportionality' and, what is known as 'subsidiarity'. Finally, the interests of the Aggrieved Users are disproportionately harmed. The impact on the Aggrieved Users is significant, especially as the nature of the data processed is extremely sensitive and the scale of the processing is enormous. The Aggrieved Users do not expect this extensive processing to be performed, nor can they, because Google does not (sufficiently) inform the Aggrieved Users about this. There are clear imbalances between Google and an individual user as to both power and access to information, which Google exploits. Google's constant surveillance, its profiling and making of data available to third parties violates the right of the Aggrieved Users to decide for themselves about their personal data and to protect their privacy. As a result, Google's commercial (business) interests do not justify Google's far-reaching infringement of the privacy rights and freedoms of the Aggrieved Users.



Conclusion: Google processes data without a processing basis

- 4.22. Google does not have a valid processing basis for processing personal data from the Aggrieved Users. With this, Google has acted in violation of section 8 Wbp (until 25 May 2018), article 6 GDPR (as of 25 May 2018) and section 11.7a (1) Tw, and acts/ has acted unlawfully towards the Aggrieved Users in the Relevant Period.

Google processed special personal data without the express consent of the Aggrieved Users

- 4.23. Special categories of personal data are categories of data that require more extensive protection. According to section 16 Wbp, these are personal data about someone's religion or belief, race, political affiliation, health, sexual preference and trade union membership. In article 9 (1) GDPR, the categories 'genetic data' and 'biometric data' have been added and it has been clarified that 'race' should also include personal data on ethnicity. Processing special categories of personal data is generally prohibited under article 9 (2) GDPR, unless the data subject has expressly consented to it or if another ground for exception applies.
- 4.24. During the Relevant Period, Google processed special personal data of the Aggrieved Users, including through its collection of location data and tracking of their Internet activity. Google did not seek consent from the Aggrieved Users for these processing operations, which automatically implies that Google did not obtain explicit consent for them either. Insofar as Google maintains that it has nevertheless obtained (implicit) consent, this consent does not meet the requirements set by the Wbp and the GDPR. Nor can Google invoke any other ground for exception.
- 4.25. Google has thus acted in violation of section 16 Wbp (until 25 May 2018) and article 9 of the GDPR (as of 25 May 2018), and has acted unlawfully towards the Aggrieved Users.

Google transferred personal data to the U.S. without sufficient safeguards

- 4.26. In the Netherlands and the rest of the EEA, the right to data protection and the right to privacy are protected by articles 7 and 8 of the Charter of Fundamental Rights of the EU (the "**Charter**"), article 8 of the European Convention on Human Rights ("**ECHR**"), (until 25 May 2018) the Wbp, (from 25 May 2018) the GDPR and the ePrivacy Directive. Chapter V of the GDPR (which is largely similar to Chapter 11 Wbp) sets out the conditions for transferring personal data to countries outside the EEA (so-called 'third countries'). In essence, this means that the transfer of personal data to countries outside the EEA is possible only if a level of protection can be guaranteed in that third country that is essentially equivalent to the level of protection afforded in the EEA.



- 4.27. During the Relevant Period, Google transferred Aggrieved Users' personal data to the U.S. by using its servers there, including via Google Analytics, even though the U.S. does not adequately protect their personal data from the actionable risk of interference by domestic authorities and/or intelligence agencies. This is and was prohibited on the basis of article 44 GDPR and section 76 Wbp, unless the controllers ensure that there are sufficient safeguards in place to guarantee that the personal data is processed adequately in the relevant third country.
- 4.28. Google does not provide these safeguards. The main additional measure that Google claims to have taken - namely, the encryption of data sent between data centers - is insufficient to rule out that this data may be accessed in the U.S. by domestic authorities, and/or intelligence agencies. In doing so, Google has not taken the requisite additional measures.
- 4.29. Google has therefore acted in violation of section 76 Wbp (until 25 May 2018), article 44 of the GDPR (as of 25 May 2018) and section 11.7a (1) of the Tw and acts/has acted unlawfully towards the Aggrieved Users in the Relevant Period.

Google engaged in unfair and misleading commercial practices

- 4.30. Google engaged in the following unfair, misleading and/or aggressive commercial practices during the Relevant Period:
- (iv) Using *dark patterns*, such as concealing certain account settings that afford greater privacy protections, presenting only the benefits of settings (and not the consequences for privacy), and maintaining general settings instead of specific settings per service. This is a misleading and/or aggressive commercial practice (within the meaning of article 193c (1) (b) and (c) in conjunction with article 193h (1) of Book 6 DCC);
 - (v) Using misleading settings, such as Location Data Settings and Incognito mode, making misleading representations about these settings, or failing to inform users about the impact these settings will have on their personal data, thereby giving users a misplaced sense of control. This is a misleading commercial practice (within the meaning of article 193c (1) (b) and (c) in conjunction with article 193d (1) of Book 6 DCC);
 - (vi) Selling, or selling access to, the personal data of the Aggrieved Users to third parties, or, as the case may be, making such data available to third parties, without informing the Aggrieved Users. This is a misleading commercial practice (within the meaning of article 193c (1) (b) and (c) in conjunction with article 193d (1) of Book 6 DCC);



- (vii) Violating Google's own code of conduct, which requires it to comply with the data protection rules. This is a misleading commercial practice (within the meaning of article 193c (2) (b) of Book 6 DCC); and
 - (viii) Acting contrary to the requirements of professional diligence (within the meaning of article 193b (2) of Book 6 DCC).
- 4.31. Because Google's commercial practices are unfair, misleading and/or aggressive within the meaning of article 193b of Book 6 DCC, Google acts/has acted unlawfully towards the Aggrieved Users in the Relevant Period.

Google has been unjustly enriched

- 4.32. Google has enriched itself by appropriating vast amounts of the Aggrieved Users' personal data, data which represent great value. This has dramatically increased Google's assets. The Aggrieved Users, in turn, have been impoverished as a result thereof: personal data represents value in economic terms and Google's practices have caused the value of the Aggrieved Users' personal data to decrease. Moreover, Google has appropriated the fruits of an exclusive right of the Aggrieved Users.
- 4.33. No valid justification underlies this enrichment, making it unjustified. Google unlawfully processes and exploits personal data and has caused the value of the Aggrieved Users' assets to reduce. The value of their personal data has decreased and Google infringed the Aggrieved Users' exclusive right to dispose of their personal data while wrongly appropriating the fruits thereof. The benefit that Google enjoyed through its unauthorized actions - the profit enjoyed by Google - unjustifiably derives from the assets of the Aggrieved Users.

With this, Google has been unjustly enriched within the meaning of article 212 of Book 6 DCC.

Injunctive relief to end Google's unlawful conduct

- 4.34. Apart from declaratory relief, the Foundation also requests specific injunctive relief. All injunctive relief sought is related to the declaratory relief sought that specific business practices of Google are unlawful towards the Aggrieved Parties. Google must structurally change and/or end those specific business practices. Having regard to the real risk that Google does not comply with the demanded injunctive relief, the Foundation asks the court to award penalty payments connected to the injunctions. The (maximum) amounts of the penalty payments are derived from art. 83 GDPR (*general terms for the awards of administrative fines*). See the entire claim for relief in paragraph 5. Next, the Foundation demands that the Aggrieved Users are compensated for the damages that they have and continue to suffer. This is addressed below.



5. DAMAGE THAT HAS BEEN AND IS SUFFERED BY THE AGGRIEVED USERS MUST BE COMPENSATED BY GOOGLE

- 5.1. Google's actions have resulted in both material and immaterial damage to the Aggrieved Users. Google must compensate the Aggrieved Users for causing this damage.
- 5.2. Google has been violating the fundamental right to data protection and the protection of the Aggrieved Users' privacy for years. Each day, Google, deliberately and unlawfully processes an excessive amount of the Aggrieved Users' personal data, including special personal data. In so doing, Google compiles detailed profiles about the Aggrieved Users and shares these with large numbers of third parties for its own commercial gain. In addition, the Aggrieved Users are subject to constant surveillance by Google, while they are furthermore exposed to (the risk of) surveillance by agencies and intelligence and security authorities in the U.S. As a result, Aggrieved Users have suffered immaterial damages because of Google's ongoing conduct described herein.
- 5.3. As a result of these practices, the Aggrieved Users have permanently lost control of their personal data. Google's ongoing breaches are so far-reaching that the adverse consequences are evident. These breaches may lead to feelings such as helplessness, frustration, indignation and concern (fear/stress) on the part of the Aggrieved Users. There has been a clear and emotionally distressing intrusion of the Aggrieved Users' personal life. This means that an 'offence against the person' may be assumed with respect to the Aggrieved Users. Also, it is likely that the damage suffered by each of them as a result can be quantified as at least a certain sum.
- 5.4. The Foundation asserts that compensation of EUR 750 per Aggrieved User is reasonable and appropriate, given the relevant circumstances and the nature of the violations. The amount claimed by the Foundation is conservative compared to the immaterial damages awarded so far in litigation concerning privacy violations committed by other companies. This is even more true when the exceptionally disproportionate economic relationships between the parties are also considered.
- 5.5. Moreover, Google's actions have caused material damage to the Aggrieved Users. Consumers' personal data has monetary value to them and is objectively valuable. However, Google does not pay the Aggrieved Users for their data and even causes the value of their data to decrease by making it accessible free of charge through its advertising products and services. Google has, without justification, appropriated the fruits of this exclusive right held by the Aggrieved Users, enabling it to earn large profits. The Foundation demands that the Aggrieved Users' material damages be assessed in accordance with article 104 of Book 6 DCC as



equal to the profits Google has made from its unlawful actions in the Netherlands during the Relevant Period.

The various Google entities are jointly and severally liable

- 5.6. The various Google entities are jointly and severally liable for the damage suffered by the Aggrieved Users, because they are joint controllers and/or because they have acted unlawfully as a group and/or because they have benefited from the unlawful conduct. In addition, effective and efficient enforcement under private law of the privacy rules also provides a basis for the joint and several liability of the various Google entities.

6. CLAIM FOR RELIEF

- 6.1. Inserted below is the entire claim for relief as set forth in the Summons. Consequently, the claim for relief reflects the Foundation's precise claims as filed in the proceedings against Google.

"The Foundation requests the district court, by provisionally enforceable judgment to the extent applicable and possible in law:

Exclusive representative

1. to designate the Foundation as the exclusive representative of the Foundation as referred to in article 1018e DCCP.

Possibility to opt in and opt out

2. to rule that, in accordance with article 1018f (1) DCCP, every Aggrieved User residing or domiciled in the Netherlands may give written notice to the registry of the court, within a period to be determined by the court of at least one month after the announcement (pursuant to article 1018f (3) DCCP) of the decision whereby the Foundation is appointed as the exclusive representative of the Aggrieved Users, that he or she wishes to be released from having his or her interests represented in this collective action.
3. to rule that, in accordance with article 1018f (5) DCCP, every member of the Aggrieved Users who is not residing or domiciled in the Netherlands may give written notice to the registry of the court, within a period to be determined by the court of at least one month after the announcement (pursuant to article 1018f (3) DCCP) of the decision whereby the Foundation is appointed as the exclusive representative of the Aggrieved Users, that he or she consents to having his or her interests represented in this collective action.

Declaratory decisions

4. to rule that Alphabet, Google LLC, Google Ireland and Google Netherlands, both jointly and/or each of them individually, has and/or have during the



Relevant Period, or at least during a period to be determined by your court in the proper administration of justice, acted unlawfully toward the Foundation's Aggrieved Users, and are liable for this, by:

- a. contrary to section 10 Wbp and/or section 13 Wbp and/or article 5 GDPR and/or article 25 GDPR, failing to have limited the processing of the Aggrieved Users' personal data to what is strictly necessary and to have taken appropriate technical and organisational measures for the purpose of effectively implementing the principles of data protection and by not having built in sufficient safeguards in compliance with the provisions of the Wbp and/or the GDPR and/or to protect the rights of the Aggrieved Users;
- b. contrary to sections 33 and 34 Wbp and/or articles 12 - 14 GDPR and/or section 11.7a (1) (a) Tw, not having informed the Aggrieved Users, or at least not in accordance with their statutory duty, and/or by having misled the Aggrieved Users about:
 - (i) the nature and extent of Google's data processing practices;
 - (ii) the processing of their location data;
 - (iii) the tracking of their internet activities, among other things through the use of cookies and other technologies;
 - (iv) the tracking of their internet activities, among other things through the use of cookies and other technologies, even when the incognito mode is switched on;
 - (v) sharing their personal data with third parties in the context of the RTB process;
- c. contrary to article 6 (1) GDPR and/or section 8 (1) Wbp and/or section 11.7a (1) (b) Tw, having processed personal data of the Aggrieved Users without a valid ground for processing, by:
 - (i) combining the personal data of the Aggrieved Users, obtained through the use of various Google products and services, without the Aggrieved Users having consented thereto and without any other valid ground for processing;
 - (ii) processing the Aggrieved Users' location data, without the Aggrieved Users having consented thereto and without any other valid ground for processing;
 - (iii) tracking the internet activities of the Aggrieved Users with the use of cookies and similar technologies, without the Aggrieved Users having consented thereto;
 - (iv) sharing personal data of the Aggrieved Users with third parties in the context of the RTB process, without the



Aggrieved Users having consented thereto and without any other valid ground for processing;

- d. contrary to the prohibition on processing of section 16 Wbp and/or article 9 GDPR, having processed special categories of personal data of the Aggrieved Users without their express consent and without being in a position to make use of any other valid ground for exception;
 - e. in violation of the transfer prohibition of article 44 GDPR and section 76 Wbp, having transferred personal data of the Aggrieved Users to the U.S.; and
 - f. having engaged in commercial practices towards the Aggrieved Users that are unfair within the meaning of article 193b (1) of Book 6 DCC and/or misleading within the meaning of 193c of Book 6 DCC and/or aggressive within the meaning of article 193h of Book 6 DCC.
5. to rule that Alphabet, Google LLC, Google Ireland and/or Google Netherlands collectively and/or each of them individually has been and/or have been unjustly enriched at the expense of the Aggrieved Users during the Relevant Period, or in any case for a period to be determined by this court in the proper administration of justice.
6. To rule that Alphabet, Google LLC, Google Ireland and Google Netherlands, jointly and/or individually, during the Relevant Period, or in any case during a period to be determined by the court in the proper administration of justice, is and/or are jointly and severally liable towards the Foundation's Aggrieved Users on the grounds of the unlawful conduct and/or unjust enrichment described in this summons, for the damage suffered and yet to be suffered by the Aggrieved Users as a result thereof.

Damages

7. to order Alphabet, Google LLC, Google Ireland and/or Google Netherlands jointly and/or severally to compensate the Aggrieved Users for the damage suffered by the Aggrieved Users and:

the immaterial damage

- principally, to assess and set the immaterial damage at an amount of EUR 750, or in any case at an amount to be determined by the court in the proper administration of justice;
- in the alternative, to assess and set the immaterial damage at an amount of EUR 62.50 for each year during the Relevant Period in which an Aggrieved User made use one of Google's products and services at any moment, or in any case at an amount to be determined by the court in the proper administration of justice;



- as a second alternative, to rule that the immaterial damage will be assessed in separate follow-up proceedings and be settled in accordance with the provisions of article 612 DCCP and to refer the case to the aforementioned follow-up proceedings;

the material damage

- principally, to assess and set the material damage at (a part of) the profit enjoyed by Google (pursuant to article 104 of Book 6 DCC), or in any case at an amount to be determined by the court in the proper administration of justice;
- in the alternative, to rule that the material damage will be assessed in separate follow-up proceedings and settled in accordance with the provisions of article 612 DCCP and to refer the case to the aforementioned follow-up proceedings;

both principally and in the alternative and as a second alternative, to increase these amounts by the addition of statutory interest from the date of the summons until the date payment is made in full.

Orders, injunctions, reporting obligation and penalty payments

8. to require Alphabet, Google LLC, Google Ireland and Google Netherlands jointly and/or individually to comply with their legal obligations, in particular by imposing the following orders and injunctions:
 - (i) to order Alphabet, Google LLC, Google Ireland and/or Google Netherlands, both jointly and/or individually, to comply with the principle of data minimization obligation and the PbD&D obligation;
 - (ii) to prohibit Alphabet, Google LLC, Google Ireland and Google Netherlands, both jointly and/or individually, from applying the default setting that personal data obtained from the Aggrieved Users for one service, can be processed for the benefit of another service, unless valid consent to do so has been obtained from the Aggrieved Users;
 - (iii) to prohibit Alphabet, Google LLC, Google Ireland and Google Netherlands, both jointly and/or individually, from causing (a) the 'Web and App activity', the 'YouTube history' and/or the 'Ad personalization' settings to be on by default, as well as (b) all other settings that involve the processing of personal data of the Aggrieved Users for the purpose of providing personalized ads, personalizing search results, and/or other Google products and services;



- (iv) to prohibit Alphabet, Google LLC, Google Ireland and Google Netherlands, both jointly and/or individually, from tracking the Aggrieved Users' online behaviour by using third-party cookies;
- (v) to prohibit Alphabet, Google LLC, Google Ireland and Google Netherlands, both jointly and/or individually, from processing the location data of the Aggrieved Users, unless such processing of location data is strictly necessary for the provision of the service for which the location data is processed;
- (vi) to prohibit Alphabet, Google LLC, Google Ireland and/or Google Netherlands, both jointly and/or individually, from processing the location data of the Aggrieved Users for advertising purposes, unless an Aggrieved User has given valid consent to do so;
- (vii) to prohibit Alphabet, Google LLC, Google Ireland and Google Netherlands, both jointly and/or individually, from sharing personal data of the Aggrieved Users with third parties in the context of RTB auctions, unless the Aggrieved Users has given valid consent to do so;
- (viii) to order Alphabet, Google LLC, Google Ireland and Google Netherlands, both jointly and/or individually, to comply with the general principles governing the international transfer of data (Chapter V GDPR), more in particular by:
 - (a) taking additional measures, so as to ensure that the personal data of the Aggrieved Users that Google transfers to the U.S. enjoy a level of protection that is broadly in line with the level of protection granted in the EU;
or
 - (b) ceasing the transfer of the personal data of the Aggrieved Users outside to the U.S.;
 - and
 - (c) returning the personal data of the Aggrieved Users that were transferred to the U.S. during the Relevant Period without adequate, additional measures having been taken, to Google Ireland and/or Google Netherlands, or by deleting the Aggrieved Users' personal data.
- (ix) to order Alphabet, Google LLC, Google Ireland and Google Netherlands, both jointly and/or individually, to comply with the orders and injunctions listed in (i) - (viii) within a period of six months from the date of the judgment to be given by the court in these proceedings, and to



make this order subject to the obligation to report on the matter to the Foundation, by submitting a thorough written substantiation within one week after the expiry of the above-mentioned period, showing that and how Google complies with the orders and injunctions, with concrete evidence thereof.

9. to order Alphabet, Google LLC, Google Ireland and/or Google Netherlands, both jointly and individually, to pay a penalty of EUR 5,000,000 for each individual violation of the relief claimed in 8 (i) - (ix), plus EUR 1,000.000 for each day that a violation continues, with a maximum of 4% of the worldwide annual sales of Alphabet, Google LLC, Google Ireland and/or Google Netherlands in the financial year preceding the judgment in these proceedings, and for a violation of the relief claimed in 8 (i) with a maximum of 2% of the worldwide annual sales of Alphabet, Google LLC, Google Ireland and/or Google Netherlands in the financial year preceding the judgment in these proceedings.

Reimbursement of the costs of the proceedings and other costs

10. to order Alphabet, Google LLC, Google Ireland and Google Netherlands, both jointly and/or individually, to reimburse the Foundation for:
 - a. the reasonable and proportionate legal costs and other costs of these proceedings, pursuant to article 1018I (2) DCCP, consisting in the full legal costs incurred by the Foundation, or in any case the legal costs incurred pursuant to article 237 DCCP, plus the statutory interest as from the date of the summons, until the date payment is made in full;
 - b. the full (extrajudicial) costs incurred by the Foundation pursuant to article 96 of Book 6 DCC, to be increased by the statutory interest as from the date of the summons, until the date payment is made in full;
 - c. the full amount of the agreed fee that is to be paid by the Foundation to the litigation funder, pursuant to article 96 of Book 6 DCC and article 1018I (2) DCCP;
 - d. the full costs to be incurred by the Foundation for the settlement of damage, at an amount further to be assessed, which amount, if exceeded, shall be supplemented by Alphabet, Google LLC, Google Ireland and Google Netherlands jointly and/or individually, with the remaining amount to be repaid to Alphabet, Google LLC, Google Ireland and Google Netherlands after settlement.

plus the subsequent costs in the amount of EUR 173 without service, or EUR 271 in the event that service has to be effected, all this to be paid



within fourteen days after the date of the judgment, and - in the event that the (additional) costs are not paid within the period stipulated - to be increased by the statutory interest on the (additional) costs, to be calculated from the aforementioned term for payment, until the day payment is made in full. "

* * *

This case is handled by J.H. Lemstra LLM and G.J. Zwenne LLM

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