

1 Robert C. Schubert S.B.N. 62684
2 Willem F. Jonckheer S.B.N. 178748
3 Amber L. Schubert S.B.N. 278696
SCHUBERT JONCKHEER & KOLBE LLP
4 2001 Union Street, Suite 200
5 San Francisco, CA 94123
6 Tel.: (415) 788-4220
7 Fax: (415) 788-0161
8 rschubert@sjk.law
9 wjonckheer@sjk.law
10 aschubert@sjk.law

11 Christian Levis (*pro hac vice* forthcoming)
12 Amanda Fiorilla (*pro hac vice* forthcoming)
13 Rachel Kesten (*pro hac vice* forthcoming)
14 Yuanchen Lu (*pro hac vice* forthcoming)
15 **LOWEY DANNENBERG, P.C.**
16 44 South Broadway, Suite 1100
17 White Plains, NY 10601
18 Tel.: (914) 997-0500
19 Fax: (914) 997-0035
20 clevis@lowey.com
21 afiorilla@lowey.com
22 rkesten@lowey.com
23 ylu@lowey.com

24 *Attorneys for Plaintiffs and the Proposed Class*

25
26
27
28
**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

PHILIP MCDONALD, STEVE DELLASALA,
BOB WARDEN, and VINCE TOPHONEY
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

SAMBA TV, INC.

Defendant.

Case No. _____

**CLASS ACTION COMPLAINT AND
DEMAND FOR JURY TRIAL**

1 Plaintiffs Philip McDonald, Steve DellaSala, Bob Warden, and Vince Tophoney individually and
2 on behalf of all other similar situated individuals, assert the following against Defendant Samba TV, Inc.
3 (“Samba TV”) based upon personal knowledge, information and belief (where applicable), and the
4 investigation of counsel.

5 **SUMMARY OF ALLEGATIONS**

6 1. Nearly 80% of U.S. households own a Smart TV, which enables them to access
7 traditional cable television, as well as streaming services, like Hulu and Amazon Prime.

8 2. What they don’t know is one company—Samba TV—has been embedding its chip set in
9 popular Smart TVs since 2011. This chip set enables (among other things) Samba TV’s patented
10 Automatic Content Recognition (“ACR”) technology, which uses video fingerprinting and machine
11 learning to accurately identify what the viewer is watching on their Smart TV.

12 3. This business practice isn’t just creepy, it’s extremely lucrative. Samba TV has a
13 stronghold on video-viewing data, and it sells access to this data to advertisers and other companies.

14 4. Samba TV’s ACR data is particularly valuable because of its ability to uniquely identify
15 *individual consumers and each of their devices*.

16 5. Samba TV can identify and target people at the individual-level because of the Samba TV
17 Identity Graph and its closely related SambaID—its proprietary universal identifier.

18 6. Samba TV uses probabilistic and deterministic algorithms that match signals (IP address,
19 operating system, etc.) from Plaintiffs’ and Class Members’ Smart TVs to their other devices, such as
20 smart phones and tablets. Through this process, Samba TV can identify which devices belong to which
21 specific individuals. It assigns a SambaID to each individual and each of their respective devices, which
22 it uses to enable cross-device tracking and advertising.

23 7. This type of targeting is particularly sought out by advertisers today, as many companies
24 have begun to move away from traditional user-based online tracking in recognition that it is privacy
25 invasive. This began in the early 2010s when Apple Inc. announced it would no longer allow companies
26 to collect UDID, which is a permanent device identifier that was used for online advertising. Similar
27 changes followed in the next decade, with the roll out of additional privacy-preserving features like
28 Apple Inc.’s “Do Not Track” setting, which sought to prevent the collection of advertising IDs from

1 mobile device users, as well as updates by several browsers to block “third-party” cookies (i.e., text
2 files placed on a user’s device from domains they are not visiting), which are used to track users across
3 multiple websites.

4 8. Through Samba TV’s identity solution—and complimentary ACR product—Samba TV
5 has been secretly harvesting and monetizing identifiable video-viewing data from tens of millions of
6 U.S. residents without their knowledge and consent.

7 9. Individuals have a baseline expectation of privacy, in which they do not expect any
8 company to engage in wide-spread surveillance of all their video-viewing habits or to market their
9 identifiable video-viewing data to third parties for profit.

10 10. Plaintiffs and Class Members had no knowledge that Samba TV was using a unique,
11 persistent identifier to track them across their devices, or that it was using this identifier and their private
12 video-viewing history to facilitate highly specific targeted advertising.

13 11. Samba TV’s interception of the contents of Plaintiffs’ and Class Members’ video-viewing
14 history violates (at least) the Video Privacy Protection Act (“VPPA”), and its installation of a tracking
15 device on Plaintiffs’ and Class Members’ televisions violates Cal. Penal Code § 638.51(a), as well as
16 other laws.

17 **PARTIES**

18 **A. Plaintiff McDonald**

19 12. Plaintiff Philip McDonald is a resident of Shelby County, Tennessee.

20 13. Plaintiff McDonald owns Sony XR-55X90J and Sony KD-43X85J televisions. Plaintiff
21 McDonald watches video-viewing content on his Sony televisions, including content through streaming
22 services. He also previously viewed video content through cable television on his Sony televisions.

23 14. Unbeknownst to Plaintiff McDonald, Samba TV used its chip set embedded in Plaintiff
24 McDonald’s televisions to intercept unique identifiers, including his IP address. Samba TV used Plaintiff
25 McDonald’s IP address and other information to identify him as the owner of his televisions, as well as
26 his other devices, including his computers, iPhone and iPad.

27 15. Samba TV used each of these identifiers to create an identity graph for Plaintiff
28 McDonald that contained each of his identifiers and devices—which Samba TV tied to a universal

1 SambaID.

2 16. Samba TV intercepted Plaintiff McDonald’s private video-viewing data in real time,
3 including what he watched on cable television and streaming services. This information was tied to each
4 of the identifiers—including the SambaID—associated with Plaintiff McDonald.

5 17. Samba TV used this data to facilitate targeted advertising. Samba TV made this data
6 available to advertisers and publishers so they could serve Plaintiff McDonald ads across his TV,
7 phones, computers, and tablets. Samba TV also used this data to place Plaintiff McDonald in custom
8 audiences and its lucrative panel product (defined further below).

9 18. Plaintiff McDonald did not consent to Samba TV intercepting his unique identifiers and
10 other personal data, assigning and using unique identifiers to track him across internet-enabled services
11 and devices, or intercepting and using the contents of his private communications for-profit.

12 **B. Plaintiff DellaSala**

13 19. Plaintiff Steve DellaSala is a resident of Burk County, North Carolina.

14 20. Plaintiff DellaSala owns Sony XDR-65A8H and Sony XR-55A80J televisions. Plaintiff
15 DellaSala watches video-viewing content on his Sony televisions, including content on streaming
16 services.

17 21. Unbeknownst to Plaintiff DellaSala, Samba TV used its chip set embedded in Plaintiff
18 DellaSala’s televisions to intercept unique identifiers, including his IP address. Samba TV used Plaintiff
19 DellaSala’s IP address and other information to identify him as the owner of his televisions, as well as
20 his other devices, including his iPhone, tablets, and computers.

21 22. Samba TV used each of these identifiers to create an identity graph for Plaintiff DellaSala
22 that contained each of his identifiers and devices—which Samba TV tied to a universal SambaID.

23 23. Samba TV intercepted Plaintiff DellaSala’s private video-viewing data in real time,
24 including what he watched on cable television and streaming services. This information was tied to each
25 of the identifiers—including the SambaID—associated with Plaintiff DellaSala.

26 24. Samba TV used this data to facilitate targeted advertising. Samba TV made this data
27 available to advertisers and publishers so they could serve Plaintiff DellaSala ads across his TV, phones,
28 computers, and tablets. Samba TV also used this data to place Plaintiff DellaSala in custom audiences

1 and its lucrative panel product.

2 25. Plaintiff DellaSala did not consent to Samba TV intercepting his unique identifiers and
3 other personal data, assigning and using unique identifiers to track him across internet-enabled services
4 and devices, or intercepting and using the contents of his private communications for-profit.

5 **C. Plaintiff Warden**

6 26. Plaintiff Bob Warden is a resident of Tulsa County, Oklahoma.

7 27. Plaintiff Warden owns Sony XBR-55X850C television. Plaintiff Warden watches video-
8 viewing content on his Sony television, including content on cable television and through streaming
9 services.

10 28. Unbeknownst to Plaintiff Warden, Samba TV used its chip set embedded in Plaintiff
11 Warden's television to intercept unique identifiers, including his IP address. Samba TV used Plaintiff
12 Warden's IP address and other information to identify him as the owner of his television, as well as his
13 other devices, including his Android mobile phone and computers.

14 29. Samba TV used each of these identifiers to create an identity graph for Plaintiff Warden
15 that contained each of his identifiers and devices—which Samba TV tied to a universal SambaID.

16 30. Samba TV intercepted Plaintiff Warden's private video-viewing data in real time,
17 including what he watched on cable television and streaming services. This information was tied to each
18 of the identifiers—including the SambaID—associated with Plaintiff Warden.

19 31. Samba TV used this data to facilitate targeted advertising. Samba TV made this data
20 available to advertisers and publishers so they could serve Plaintiff Warden ads across his TV, phones,
21 and tablets. Samba TV also used this data to place Plaintiff Warden in custom audiences and its lucrative
22 panel product.

23 32. Plaintiff Warden did not consent to Samba TV intercepting his unique identifiers and
24 other personal data, assigning and using unique identifiers to track him across internet-enabled services
25 and devices, or intercepting and using the contents of his private communications for-profit.

26 **D. Plaintiff Tophoney**

27 33. Plaintiff Vince Tophoney is a resident of Wake County, North Carolina.

28 34. Plaintiff Tophoney owns Sony XBR-75X800H television. Plaintiff Tophoney watches

1 video-viewing content on his Sony television, including content on cable television and through
2 streaming services.

3 35. Unbeknownst to Plaintiff Tophoney, Samba TV used its chip set embedded in Plaintiff
4 Tophoney's television to intercept unique identifiers, including his IP address. Samba TV used Plaintiff
5 Tophoney's IP address and other information to identify him as the owner of his television, as well as his
6 other devices, including his iPhone and computer.

7 36. Samba TV used each of these identifiers to create an identity graph for Plaintiff Tophoney
8 that contained each of his identifiers and devices—which Samba TV tied to a universal SambaID.

9 37. Samba TV intercepted Plaintiff Tophoney's private video-viewing data in real time,
10 including what he watched on cable television and streaming services. This information was tied to each
11 of the identifiers—including the SambaID—associated with Plaintiff Tophoney.

12 38. Samba TV used this data to facilitate targeted advertising. Samba TV made this data
13 available to advertisers and publishers so they could serve Plaintiff Tophoney ads across his TV, phone,
14 and computer. Samba TV also used this data to place Plaintiff Tophoney in custom audiences and its
15 lucrative panel product.

16 39. Plaintiff Tophoney did not consent to Samba TV intercepting his unique identifiers and
17 other personal data, assigning and using unique identifiers to track him across internet-enabled services
18 and devices, or intercepting and using the contents of his private communications for-profit.

19 **E. Defendant**

20 40. Samba TV is a Delaware corporation with its principal place of business located in San
21 Francisco, California.

22 41. Samba TV knowingly and intentionally incorporated its chip set into televisions to track
23 Plaintiffs' and Class Members' video-viewing history and other activity.

24 42. Samba TV knowingly and intentionally developed a persistent, unique identifier designed
25 to accurately link Plaintiffs' and Class Members' video-viewing history and online activity to their
26 individual identities.

27 43. Samba TV knew that its unique identifier and identity graph solution were inconsistent
28 with expectations of privacy because it had publicly stated that tracking individuals in such a manner

1 raised privacy concerns.

2 44. Samba TV knowingly and intentionally used its identifiers, and video-viewing data
3 associated with it, to facilitate targeted advertisements for profit.

4 **JURISDICTION AND VENUE**

5 45. Jurisdiction is proper under 28 U.S.C. § 1331 because Plaintiffs bring claims under the
6 Video Privacy Protection Act, 18 U.S.C. § 2710, *et seq.* The Court may exercise supplemental
7 jurisdiction under 28 U.S.C. § 1367(a) over Plaintiffs’ and Class Members’ state law claims because
8 these claims arise from a common nucleus of operative facts relating to Samba TV’s interception and
9 use of Plaintiffs’ and Class Members’ unique identifiers and other personal data.

10 46. Jurisdiction is also proper under 28 U.S.C § 1332(d) because: (1) the amount in
11 controversy for the Class exceeds \$5,000,000 exclusive of interest and costs, (2) there are more than 100
12 putative members of the Class, and (3) a significant portion of Class Members are citizens of a state
13 different from Samba TV.

14 47. This Court has personal jurisdiction over Samba TV because its principal place of
15 business is in California. Additionally, this Court has personal jurisdiction over Samba TV because a
16 substantial part of the events and conduct giving rise to Plaintiffs’ claims occurred in California,
17 including Samba TV’s interception and use of Plaintiffs’ unique identifiers and other personal data.

18 48. Venue is proper under 28 U.S.C. §1391(b), (c), and (d) because a substantial portion of
19 the conduct described in this Class Action Complaint was carried out in this District. Furthermore,
20 Samba TV is headquartered in this District and subject to personal jurisdiction in this District.

21 49. This action arises in San Francisco County, in that a substantial part of the events which
22 gave rise to the claims asserted herein occurred in San Francisco County. Pursuant to L.R. 3-2(e), all
23 actions that arise in San Francisco County shall be assigned to the San Francisco or Oakland Division.

24 **BACKGROUND OF USER TRACKING**

25 50. Over a decade ago, Apple announced it would no longer allow app developers to
26 intercept “UDIDs” which are unique, device-specific identifiers. These persistent identifiers were
27 deprecated because they are seen as privacy intrusive—they cannot be reset and were used to facilitate
28 device-specific targeted advertising.

1 51. This trend only continued. Starting in 2020, Apple and Google announced the eventual
2 deprecation of advertising identifiers (IDFA and ADID) and third-party cookies in favor of more
3 privacy-preserving mechanisms.

4 52. The loss of some of the most common unique identifiers raised serious concerns within
5 the multi-billion-dollar digital advertising industry. Digital advertisers relied on these identifiers and
6 cookies to uniquely identify individuals who use their products and services—and other entities’
7 products and services—to serve targeted advertisements to individuals based on profiles of information
8 reflecting web and app activity indexed to unique identifiers present in third-party cookies.

9 53. For instance, a mobile app developer would use identifiers like the IDFA and ADID
10 created by iOS and Android phones to track user activity across their mobile application, understand
11 what actions users took and their preferences, interests, and other information. The company would then
12 send that information to an advertising company, such as Google, to serve targeted advertisements to
13 that customer using this unique identifier.

14 54. Proposed solutions to make up for these unique identifiers and third-party cookies were
15 not nearly as effective. For instance, some companies sought to track user “sessions” (i.e., one
16 interaction with the webpage until the user closes out) in lieu of other unique identifiers. However, this
17 alternative was not nearly as powerful as directly tracking an individual at the user or device-level.

18 **SAMBA TV’S UNIQUE IDENTIFIER**

19 55. Samba TV was well aware of the privacy implications associated with tracking users at
20 an individual level, as well as Google’s plan to deprecate these types of identifiers on its own platform.

21 56. Its SVP & Head of Data Products, Chris Squire, authored an article on May 25, 2021,
22 confirming this:

23 The loss of some identifiers will inhibit the ability to deliver one-to-one targeted
24 advertising compared to the ways of old. *Truth be told, this may actually be good for
advertisers in the long run. Reaching individuals is fraught with privacy implications.*

25 57. Samba TV’s co-founder and CEO echoed these concerns about the lack of first-party
26 cookies and mobile IDs:

27 Cookie and mobile ID deprecation is coming faster than advertisers would like to
28 believe, and many simply aren’t prepared for a world where they’ll lose the identifier
they’ve relied on thus far *Without these IDs* to deliver and measure campaigns,

1 *advertiser’s budgets will be wasted* on campaigns that fail to coordinate messaging for
 2 target audiences across devices. This gets even more complicated as TV consumption
 3 shifts towards OTT. *There is plenty of opportunity for advertisers to target and*
 4 *message their desired consumers, but they need an identifier that will survive the*
 5 *death of cookies and help them understand omniscreeen performance.*

6 58. Despite that Samba TV’s own executive recognized that tracking users at the individual-
 7 level raises “privacy implications[,]” Samba TV sought to fill the hole left by Google and others by
 8 creating a unique, user-level identifier of its own: SambaID—which is powered by Samba TV’s Identity
 9 Graph.

10 59. Samba TV marketed its Identity Graph and SambaID precisely as a solution for the
 11 “changes with identity” currently taking place in the advertising industry. It calls its solutions “[f]uture
 12 proof” and adaptable to “ever-changing privacy regulations.”¹

13 **FIGURE 1²**

14 IDENTITY TODAY

15 **Unprepared for the changes with
 16 identity?**

17 As policies for mobile IDs and cookies evolve, advanced
 18 solutions are required for targeting and measurement.

- 19 • Lack of omniscreeen identity in media hinders campaign
 20 performance
- 21 • Shift towards cord-cutting is making modern TV measurement
 22 more challenging
- 23 • Firms struggle to match IDs across multiple datasets

24 IDENTITY TODAY

25 **Have confidence in your identity solution**

26 For years, Samba TV has leveraged a multi-identifier approach, using
 27 various types of digital identifiers as well as first party TV data. As a
 28 result, we can identify at 90%+ accuracy which phones, tablets, PCs,
 and TVs belong to an individual by using the SambaID identifier
 produced by our own proprietary identity platform.
[Read more on Forbes >](#)

60. SambaID and its Identity Graph are built on top of proprietary technology from Screen6,
 which Samba acquired in 2019.

61. The technology enables cross-device tracking through highly accurate deterministic and
 probabilistic algorithms. It processes over a dozen signals from a device (e.g., IP address, device ID,
 time stamp, operating system, hardware, etc.) and matches which devices (e.g., tablets, smartphones,
 TVs, and laptops) are owned by the same individual.

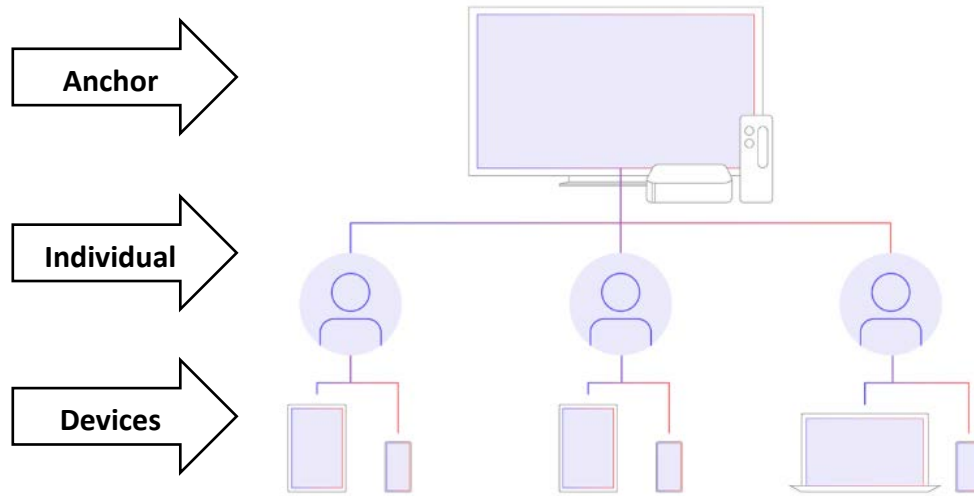
62. The “anchor” for the SambaID and Samba’s Identity Graph is its ACR technology
 (discussed further below), incorporated in the chip set of Smart TVs. Through this “anchor” (i.e., Smart
 TVs) Samba intercepts IP addresses and other device information directly from consumer’s Smart TVs,

¹ Samba TV, Bridge datasets in the evolving identity world, <https://www.samba.tv/business/identity>.

² *Id.*

1 which is how its proprietary technology can begin identifying which specific users are interacting with
 2 the Smart TV and their separate individual devices.

3 **FIGURE 2³**



13

14 63. According to Samba TV, this “multi-identifier pattern recognition model⁴ creates a
 15 “robust and accurate Identity Graph, ensuring that advertisers get a view into *all of the devices in a*
 16 *household.*” Samba TV refers to this as its “[f]irst-party data advantage.”

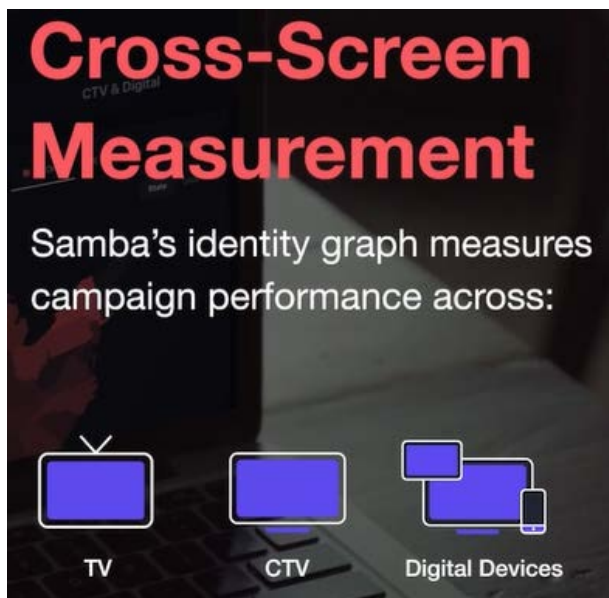
17 64. Samba TV offers advertisers and publishers access to its “[a]ccurate real-time private
 18 identity graph[s] across devices and all properties.” Through this technology, “advertisers can identify
 19 any type of TV viewer, target them based on how and when they consume TV, and then engage them on
 20 their phone, tablet, PC, or TV.”

21 65. Additionally, advertisers can “easily share and match [their own] data” with the data
 22 offered by Samba TV. This “bridge” between datasets allows advertisers who already have extensive
 23 data on individuals to combine this data with Samba TV’s for even more advanced targeting,
 24 measurement, and optimization across devices through their existing ad solutions.

25 _____
 26 ³ Samba TV, Bridge datasets in the evolving identity world, <https://www.samba.tv/business/identity>.

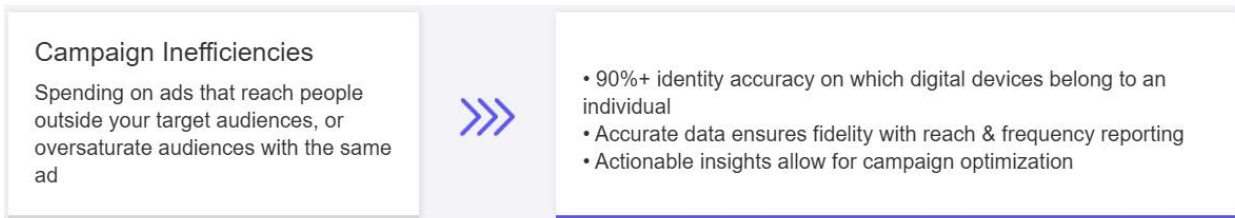
27 ⁴ Samba TV’s patents—including Patent No. 10,880,340—confirm the same. This patent describes how Samba TV’s
 28 technology matches identification data from the Smart TV to identification data from other devices on the network to identify
 and associate the information with a specific user. The purpose of this technology is because there is a “revenue opportunity”
 whereby an “interested party (e.g., a content creator, a retailer, a manufacturer, an advertiser)” can show the individual
 relevant content, i.e., advertisements.

FIGURE 3⁵



66. Samba TV’s identity solution gives it a significant advantage over competing ad tech companies—which is precisely how it markets this technology to advertisers.

FIGURE 4⁶



SAMBA’S ACR TECHNOLOGY

67. As described in above, the “anchor” for Samba TV’s identity solution is its ACR technology embedded in Smart TVs.

68. Samba TV’s ACR technology works by listening and recognizing content being viewed on the Smart TV—a process called video fingerprinting.

69. Through this technology, Samba TV can tell exactly what movie, show, episode, video game, or ad is being viewed, regardless of whether it is from a cable network, streaming service, or even a video game console. Samba TV intercepts and processes the content in real-time, often in just a few

⁵ Samba TV, True Reach & Frequency, <https://www.samba.tv/business/measurement-truereachandfrequency>.

⁶ *Id.*

1 seconds.

2 70. Samba TV bills itself as the “Heartbeat of Television” precisely because of the insights it
 3 gains through its ACR technology. It boasts that it “capture[s] second-by-second viewership data” from
 4 over 13 million households, which it “feeds into the largest TV data capture footprint in the industry” –
 5 all “owned and controlled by Samba TV.”

6 **FIGURE 5**⁷

Show	Episode	Channel
GAME OF THRONES	S4: E2	HBO
Household	Devices in Household	
E923875923	5 MAPPED	
Location	Date & Time	
LOS ANGELES, CA	8/25/17 8:06P	



18
19 71. As shown in Figure 5—which comes from Samba TV marketing materials—it can
 20 identify the exact show, season, and episode viewed by the user, as well as their household ID, location,
 21 the devices “mapped” in the household, and the time and date the material was viewed.

22 72. Using AI, Samba can now tell even more information about what specific viewers are
 23 watching. Samba TV advertises that the “second-by-second on-screen metadata” it captures can depict
 24 “actors, music, visual descriptions, and objects” all so it can have a “deeper understanding” of what the
 25 consumer is viewing.

26 73. Samba TV also supplements its actual data collection efforts with data it licenses from

27
28 ⁷ Sapna Maheshwari, *How Smart TVs in Millions of U.S. Homes Track More Than What’s On Tonight*, NY Times (July 5, 2018), available at, <https://www.nytimes.com/2018/07/05/business/media/tv-viewer-tracking.html>.

1 set-top box providers. Together, it claims to have access to 46 million TV households globally and 28
2 million in the United States.

3 74. Samba TV processes and stores this data on its own systems—which it uses to create
4 audiences, panels, and otherwise service advertising needs—all of which is tied back to the universal
5 SambaID identifiers it assigns to specific individuals.

6 **SAMBA TV SHARES AND SELLS ACCESS TO IDENTIFIABLE DATA FOR PROFIT**

7 75. Samba TV packages and shares this identifiable data in a number of ways, including
8 through its panel product and audience segments, as well as directly with advertisers and publishers.

9 76. *The Samba Panel.* Samba packages and normalizes all the data it obtains about
10 individuals—tied to SambaID—into a data panel, which it sells for profit. This panel is so extensive that
11 Samba TV actively markets is as comparable to U.S. census data. It claims the millions of individuals
12 represented in its panel have “between a .00003% and .01% delta compared to U.S. census for gender,
13 ethnicity, age & income.”

14 77. *Custom Audience Solution.* Samba TV places individual consumers into custom
15 audiences based on their unique video-viewing habits and other data Samba TV compiles about them.
16 Samba TV provides this information to advertisers and publishers so they can target the individuals
17 contained within these audiences with advertisements.

18 78. These audiences provide unique insights about Plaintiffs and Class Members, including
19 their demographics, hobbies, political beliefs, and more.

20 79. For instance, Samba TV can determine an individual’s political leanings based on their
21 TV viewing habits. Samba TV packages individuals with similar political leanings into the same
22 audience.

FIGURE 6⁸

Politics > 2024 State of the Union Address Reach TV households that have likely watched 2024 State of the Union Address.	Select a Platform ▼ Politics	Data Segment		15.6M
Politics > Heavy Viewers of Conservative News Reach TV households that have likely watched conservative-affinity news networks.	Select a Platform ▼ Politics	Data Segment	-	5.9M
Politics > Heavy Viewers of Liberal News Reach TV households that have likely watched liberal-affinity news networks.	Select a Platform ▼ Politics	Data Segment	-	5.3M
Politics > Liberal Affinity TV News Reach TV households that have likely watched TV networks most trusted by liberals (CNN, MSNBC, etc.)	Select a Platform ▼ Politics	CTV PMP	\$25	38.6M
Politics > Conservative Affinity TV News Reach TV households that have likely watched TV networks most trusted by conservatives (Fox News, etc.)	Select a Platform ▼ Politics	Online Video PMP	\$15	34M

80. As shown in Figure 6, Samba TV uses video-viewing habits to see who has an “affinity” for conservative or liberal news, as well as who it considers to be a “[h]eavy [v]iewers” of such content.

81. Samba TV also created custom audiences indicating who watched content in foreign languages, including Chinese-Mandarin, Japanese, and Korean TV.

FIGURE 7⁹

Demographics > TV Language > Chinese-Mandarin TV Reach TV households that have likely watched Chinese-Mandarin-speaking TV shows and movies.	Select a Platform ▼ Demographics	Data Segment	-	8.5M
Demographics > TV Language > Japanese TV Reach TV households that have likely watched Japanese-speaking TV shows and movies.	Select a Platform ▼ Demographics	Data Segment	-	10M
Demographics > TV Language > Korean TV Reach TV households that have likely watched Korean-speaking TV shows and movies.	Select a Platform ▼ Demographics	Data Segment	-	10.3M

82. It created even more specific audiences geared to niche content, like individuals who

⁸ Samba TV, Audiences, <https://www.samba.tv/business/audience/ui>.

⁹ *Id.*

1 watched content associated with Pride Month, Mother’s Day, and Black History Month.

2 **FIGURE 8¹⁰**

3

Holiday & Trending Events > Pride Month Specials					
Reach TV households that have likely watched movies or television programming associated to Pride Month	Select a Platform	Holiday & Trending Events	Data Segment	-	29.4M
What's included? ▾					
Holiday & Trending Events > Mother's Day Specials					
Reach TV households that have likely watched movies or television programming associated to Mother's Day	Select a Platform	Holiday & Trending Events	Data Segment	-	31.3M
What's included? ▾					
Holiday & Trending Events > Black History Month Specials					
Reach TV households that have likely watched movies or television programming associated to Black History Month	Select a Platform	Holiday & Trending Events	Data Segment	-	30.2M
What's included? ▾					

6

7

8

9

10

11

12

13

14

15 83. Samba TV also creates audiences beyond video-viewing data, including audiences
 16 reflecting what video games users play, like Skyrim, God of War, and the FIFA series.

17 **FIGURE 9¹¹**

18

Gaming Genre > Action > Skyrim Console Fans					
Reach households that have likely played Skyrim video games	Select a Platform	Video Gamers	Data Segment	-	8.3M
Gaming Genre > Action-Adventure > God of War Console Fans					
Reach households that have likely played God of War video games	Select a Platform	Video Gamers	Data Segment	-	8.8M

20

21

22

23

24 84. These audiences can be immediately incorporated into existing advertiser and data broker
 25 accounts, including Free Wheel, Google Ads, LiveRamp, the Trade Desk, and Yahoo. All an advertiser
 26 needs to do is copy the “Deal ID” into their platform of choice to start targeting these individuals in an

27 ¹⁰ *Id.*

28 ¹¹ *Id.*

1 advertising campaign. Samba TV routinely refreshes this data so these advertisers “have access to the
2 latest audiences available.”

3 85. Samba TV also helps its advertising partners create audiences that suit their own specific
4 business needs. For instance, Samba TV helped one client create audiences based on characteristics like
5 “25 to 40 year-old fitness enthusiasts.”

6 86. ***Audience Amplification Solution.*** Advertisers can also integrate Samba TV’s user
7 “attributes” with their “DSP of choice.” A “DSP” is an entity that sits on the demand-side of real-time
8 bidding and places bid requests on advertising space on behalf of the advertiser. Similar to its custom
9 audiences, advertisers can “[I]everage more than 2,800 attributes” about consumers in Samba TV’s
10 database to ensure they target the right individuals at the right time through their DSP.

11 87. ***Sync & Retarget Solution.*** Samba TV’s Sync & Retarget solution is used by advertisers
12 to connect with what Samba TV deems “[u]nreachables” i.e., users who the advertisers previously did
13 not have access to. More than 400 advertisers use this solution, which enables them to link their own
14 data to Samba TV’s extensive database to identify and then target individual consumers with
15 advertisements across devices.

16 88. ***Data Sharing Partnerships.*** Samba TV enters partnerships with other companies in the
17 advertising space to super-charge the data it already has on Plaintiffs and Class Members. For instance,
18 it recently announced a partnership with HyphaMetrics, through which the two companies will create a
19 “commingled multi-million device dataset” that they will make available to “brands, agencies,
20 publishers, and currency providers[.]” Thus, Plaintiffs’ and Class Members’ extensive data will end up in
21 the hands of even *more advertisers*.

22 **SAMBA TV MARKETS ITS PRODUCTS AS PRIVACY-PRESERVING**

23 89. Despite the above, Samba TV markets its identity solution and ACR technology as
24 *privacy-preserving*. It claims:

25 Since its inception, Samba TV has been *a proponent of the right to privacy* and
26 pioneered Smart TV opt-in and data protection policies in advance of General Data
27 Protection Regulation (GDPR), California Consumer Privacy Act (CCPA), and the
28 California Privacy Rights Act (CPRA).

90. Samba TV boldly asserts that “[p]rivacy” is “central” to its mission. Consistent with this

1 claim, it publicly asserts that its data sets are “*anonymized*” and only measure online activity at the
2 “household level.”

3 **FIGURE 10¹²**

4 **Our data sets are anonymized.** Privacy is central to all we do. All of our data sets are
5 anonymized, and we do not have contact with any opted-in users. We measure at a household
6 level, not individual users, and household information is measured without directly identifiable
information (such as names or email addresses) for maximum privacy.

7 91. These statements are patently false. Samba TV’s data is not anonymized by any definition
8 of the word. This is because Samba TV collects and shares IP addresses and other information
9 recognized—under both the California Consumer Privacy Act and the GDPR—as *identifiable data*.

10 92. The California Consumer Privacy Act defines “personal information” as “information
11 that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably
12 be linked, directly or indirectly, with a particular consumer or household.” It expressly includes “Internet
13 Protocol address[es]” and other “unique personal identifier[s]” as falling within this definition.

14 93. Under the General Data Protection Regulation GDPR, Article 4(1), “any information
15 relating to an identified or identifiable natural person” is personal information. This too expressly
16 includes “[o]nline identifiers” including IP addresses.

17 94. The data Samba TV collects, processes, and shares is *especially* identifiable because
18 Samba TV goes out of its way—through its identity solution—to identify individuals, *not* households,
19 and tracks them through its global SambaID.

20 95. Despite this, Samba TV publicly represents that it is “GDPR and CCPA compliant”
21 “100% privacy compliant” and that “PII [is] never shared.”

22 **FIGURE 11¹³**

23 **Privacy Focus**

24 GDPR and CCPA compliant, PII
25 never shared, 100% consumer
26 opt-in data

27 ¹² Justin Lundvall, What’s the difference between your data and other data providers?, Samba TV, <https://help.samba.tv/hc/en-us/articles/4405728421659-What-s-the-difference-between-your-data-and-other-data-providers>.

28 ¹³ Samba TV, Engage and Measure TV Audiences, <https://web.archive.org/web/20200618175206/https://samba.tv/business/>.

1 96. Samba TV goes so far as to include graphics representing its purported compliance with
2 both the GDPR and California law.

3 **FIGURE 12¹⁴**



12
13 97. Samba TV also claims it complies with Children's Online Privacy Protection Act
14 (“COPPA”)—a federal law designed to protect children online—and uses a COPPA Safe Harbor
15 Certification provided by PRIVO.

16 **FIGURE 13¹⁵**



23
24 98. Samba states “The PRIVO COPPA certification Seal posted on this page indicates
25 Samba TV has established COPPA compliant privacy practices and has agreed to submit to PRIVO’s
26 oversight and consumer dispute resolution process.”

27 _____
¹⁴ See *supra* n.3.

28 ¹⁵ Samba TV, Your Privacy Handbook, <https://www.samba.tv/users/your-privacy-handbook>.

1 99. Consistent with its COPPA claims, Samba TV states that “*neither Samba TV nor its*
 2 *third-party business partners are able to individually identify your child with any data that we*
 3 *collect.*”

4 100. This too is a lie. By virtue of how Samba TV’s ACR technology and Identity Graph work,
 5 Samba TV is identifying every individual member of a household—including children. It uniquely
 6 identifies these children (and other individuals) through its SambaID and other identifying information,
 7 which it shares with advertisers and publishers.

8 **USERS HAVE A REASONABLE EXPECTATION OF PRIVACY**

9 101. Internet users do not expect to be tracked across every single one of their internet-
 10 connected devices, including their TVs, tablets, computers, and phones.

11 102. Indeed, the advent of privacy-preserving mechanisms like Apple’s “Do Not Track”
 12 feature, which can prevent companies from collecting IDFA/ADID from individuals who opt-out, and
 13 similar features described above, have confirmed this expectation.

14 103. One 2021 study by Flurry Analytics shows that 88% of iOS users worldwide have availed
 15 themselves of this feature, indicating consumers’ intent to prevent tracking on their mobile devices.

16 104. Users do not know—and did not expect—that Samba TV would create a new identifier—
 17 SambaID—to continue tracking consumers at an individual level. Plaintiffs and Class Members
 18 reasonably expected that they would not be tracked by an unknown company, let alone that it would use
 19 a unique identifier to facilitate targeted advertising across each of their devices for profit.

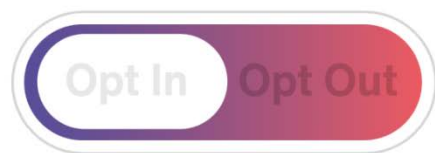
20 **SAMBA TV DOES NOT OBTAIN CONSENT**

21 105. Samba TV claims to have a direct relationship with consumers that “always starts with
 22 providing a clear-cut choice to opt-in or opt-out of using our services and providing equally clear-cut
 23 controls to change or tailor this choice at any time.”

24 **FIGURE 14¹⁶**

25 **100% privacy focus**

26 We are building a future where the consumer experience is paramount. Our
 27 technology helps you navigate the modern TV landscape, empowering you to
 control your data and manage privacy while connecting with content you love.



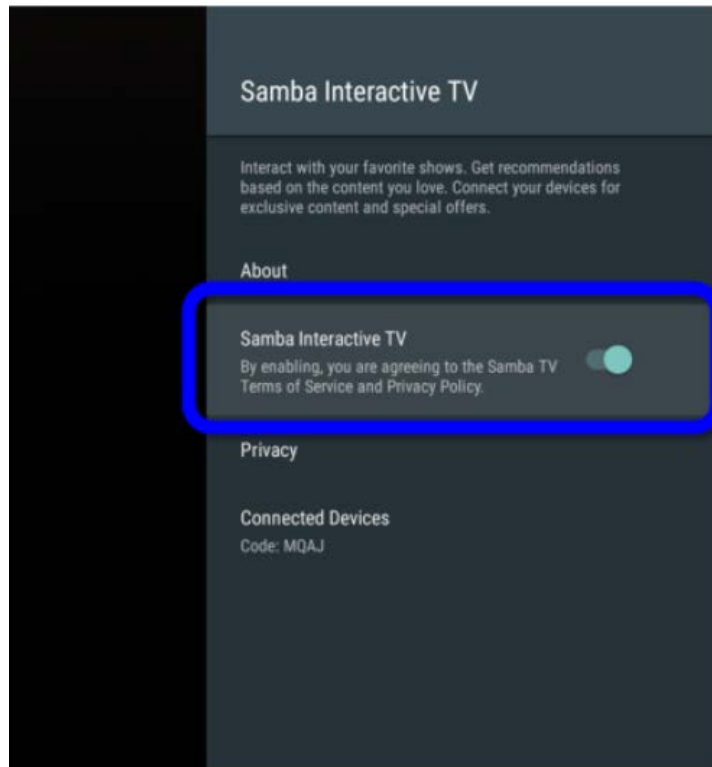
28 ¹⁶ Samba TV, Making your smart TV smarter, <https://www.samba.tv/users>.

1 106. This is false. At the outset, Samba TV tracks each individual within a household at the
2 individual level. This includes individuals who never agreed to *anything* with Samba TV because they
3 did not set up or enable any settings on the Smart TV.

4 107. Separately, Samba TV does not obtain consent from any individual—including those
5 who set up or change settings on their Smart TVs—to perform the kind of omni-present tracking across
6 all of their devices through its Identity Graph or to package and share this data with hundreds of
7 advertisers.

8 108. For instance, according to Sony, users who wish to enable or disable Samba Interactive
9 TV on their Sony Smart TVs are only told that doing so will allow them to “[i]nteract with [their]
10 favorite shows. Get recommendations based on the content [they] love. Connect [their] devices for
11 exclusive content and special offers.”

12 **FIGURE 15¹⁷**



25 109. There is no mention that Samba TV will also: (1) intercept all their video-viewing data in
26 real-time; (2) locate and identify each of their individual devices—phones, tablets, computers, etc.; (3)
27

28 ¹⁷ Sony, Sony Support, Information about Samba TV, <https://www.sony.com/electronics/support/articles/00182856>.

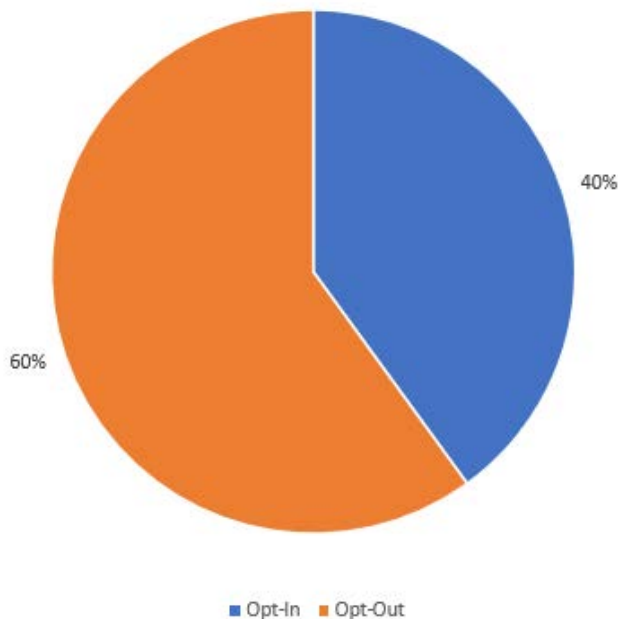
1 profile each individual and all their devices through its Identity Graph and Samba ID; (4) market and
 2 sell their identifiable video-viewing data through its data panel; or (5) use and share their private
 3 identifiable data with hundreds of other companies to facilitate cross-device targeted advertising.

4 110. Moreover, Samba TV begins intercepting data from Smart TV devices *before* it ever
 5 prompts the user to “enable” its service (if it does so at all). Samba TV does this through TLS
 6 handshakes, which is a process through which Samba TV creates a secure connection with the Smart TV.
 7 Through testing, we observed that Samba TV triggered multiple TLS handshakes with a Smart TV
 8 before Samba TV was ever enabled. Through this process, Samba TV receives, at least, data including
 9 (1) the Samba TV domain being contacted (e.g., events.cid.samba.tv, manager.tvp.samba.tv, etc.); (2) the
 10 IP address of both the sender and receiver; and (3) the time the connection was made.

11 111. That Samba TV does not obtain actual consent is also clear from its own statistics. Samba
 12 TV itself advertises that only *40% of consumers would share data if they have full knowledge* of a
 13 company’s data collection and use practices. That means 60% of users would *not* share data even if there
 14 are extremely clear disclosures.¹⁸

FIGURE 15

User Preferences If Fully Informed (According to SambaTV)



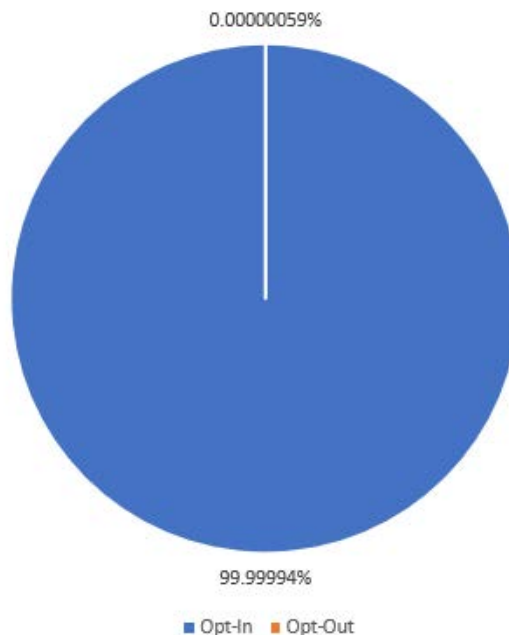
¹⁸ Samba TV, Three Ways Samba TV Data is Creating a Better Viewing Experience for Everyone, <https://www.samba.tv/resources/three-ways-samba-tv-data-is-creating-a-better-viewing-experience-for-everyone>.

1 112. According to Samba TV, its ACR technology reaches 111 million households and 517
2 million devices.¹⁹ In 2023, it claimed to have received only **66 opt-out requests**.²⁰

3 113. Thus, per Samba TV's own statistics, only 1 in approximately every 1.68 million
4 households are opting out of its data collection. Stated differently, only .00000059%—a rate so
5 vanishingly small that it is statistically indistinguishable from zero.

6 **FIGURE 16**

7 SambaTV's Actual "Opt-Out" Rates in 2023



19 114. Samba's apparent "opt-out" rate is nowhere close to the 60% opt-out rate Samba TV
20 represents will occur when there are accurate disclosures and an opt-in process.

21 115. The staggering discrepancy between Figure 7 and Figure 8 confirms that Samba TV's so-
22 called "opt-in" process is deceptive, misleading, and otherwise fails to provide users with meaningful
23 consent.

24 **IDENTIFIABLE VIEWING DATA HAS OBJECTIVE VALUE**

25 116. The private data collected by Samba TV is extremely lucrative, which is why Samba TV
26 was able to make an entire business model centered around selling access to this data to publishers and

27 ¹⁹ Samba TV, Target TV Viewers on Any Device, <https://www.samba.tv/business/audience>.

28 ²⁰ Samba TV, Privacy Policy, <https://www.samba.tv/users/privacy-policy?lang=en>.

1 advertisers.

2 117. Advertisers spent over 18.6 billion on Smart TV ads in 2022 alone. And video-viewing
 3 data accompanied by IP addresses—like the data here—is actively bought and sold every day.

4 118. For instance, advertisers and publishers can buy U.S. residents’ CTV viewership data
 5 listing their IP address, location, and title of the video they viewed for \$14,850 a month a \$148,500 a
 6 year.

7 **FIGURE 17²¹**

8 **Data Dictionary**

9






10 **▼ [Sample] 27_New_CTV_MAID.csv**

Attribute	Type	Example	Mapping
New CTV MAID	String	ip_address	

11

12

13 **▼ Product Attributes**

Attribute	Type	Example	Mapping
IP 	String	192.168.1.100	 IPv4 Address
Date		8/5/2020	
Title		Terminator 2	
imdb_id		tt6510950	
country_code	String	US	 Country Code Alpha-2
country	String	United States of America	 Country Name
region		Massachusetts	
city	String	Quincy	 City Name

14

15

16

17

18

19

20

21

22

23 119. The existence of a supply-side and sell-side for this type of data shows that there is an
 24 active market for this type of private information and that it has objective, monetary value.

25 **TOLLING AND CONCEALMENT**

26 120. The earliest Plaintiffs and Class Members could have discovered Samba TV’s conduct
 27 was shortly before the filing of this Complaint. Plaintiffs became aware of Samba TV’s conduct through

28 ²¹ Datarade, TV Viewership Data - CTV Analytics, <https://datarade.ai/data-products/datastream-ctv-viewership-data-datasys>.

1 communications with counsel that are protected from disclosure.

2 121. Plaintiffs and Class Members, despite their due diligence, could not have discovered
3 Samba TV's conduct by virtue of how its technology works and its lack of disclosures.

4 122. Samba TV does not publicly disclose which Smart TV models use its technology. Its
5 interception and use of Plaintiffs' and Class Members' identifying information, including IP addresses,
6 and assignment of a SambaID happens inconspicuously in the background. This process is undetectable
7 to an ordinary person, highly technical, and thus, prevented Plaintiffs and any Class Member from
8 uncovering it.

9 123. Samba TV had exclusive knowledge that SambaID was tracking Plaintiffs and Class
10 Members across their internet-connection devices. Similarly, Samba TV had exclusive knowledge that it
11 was using this information to propagate one of the largest targeted advertising systems.

12 124. Samba TV's fraudulent conduct prevented Plaintiffs and Class Members from
13 discovering its conduct. Samba TV publicly held out its identifier and technology as privacy-preserving
14 mechanisms, even though they were not.

15 125. Samba TV was under a duty to disclose the nature and significance of its data
16 interception and use practices—especially in light of its public statements—but did not do so. Samba TV
17 is therefore estopped from relying on any statute of limitations by virtue of the discovery rule and
18 doctrine of fraudulent concealment.

19 **CLASS ACTION ALLEGATIONS**

20 126. Plaintiffs bring this action under Fed. R. Civ. P. 23 individually and on behalf of the
21 following Classes:

22 **Identifier Class:** All natural persons in the United States for whom Samba TV
23 intercepted their identifying information, or for whom Samba TV created a SambaID
24 and/or Identity Graph.

25 **ACR Class:** All natural persons in the United States who had their video-viewing
26 data intercepted, used, or disclosed by Samba TV without their consent.

27 127. The Classes exclude: (1) any judge presiding over this action or their immediate families;
28 (2) Samba TV, its subsidiaries, affiliates, parents, successors, predecessors, and any other entity in which
Samba TV has a controlling interest; (3) Samba TV's current and former employees, officers, and

1 directors; and (4) Plaintiffs' and Samba TV's counsel.

2 128. **Numerosity.** While the precise size of the Classes is currently unknown to Plaintiffs, each
3 of the Classes consists of well over a million individuals and members of each of the Classes can be
4 identified through Samba TV's records.

5 129. **Predominant Common Questions.** The Classes' claims present several common
6 questions of law and fact that predominant over questions (if any) that affect individual class members.

7 This includes:

- 8 a. Whether Samba TV violated Plaintiffs' and the Classes' privacy rights;
- 9 b. Whether Samba TV engaged in unfair and deceptive conduct;
- 10 c. Whether Samba TV's acts and practices violate the California Invasion of Privacy Act;
- 11 d. Whether Samba TV's acts and practices violate the Video Privacy Protection Act;
- 12 e. Whether Plaintiffs and Class Members are entitled to damages and/or equitable relief,
13 including injunctive relief, restitution, and disgorgement; and
- 14 f. Whether Samba TV was unjustly enriched.

15 130. **Typicality.** Plaintiffs' claims are typical of all Class Members because they arise from the
16 same conduct and are based on the same legal theories.

17 131. **Adequate Representation.** Plaintiffs will (and have) fairly and adequately represented the
18 Classes and protected the interest of all Class Members. Plaintiffs have retained competent counsel with
19 significant experience in class action and data privacy litigation. Plaintiffs and counsel have no interest
20 that conflicts with the interests of the Classes and are not subject to any unique defenses. Plaintiffs and
21 their counsel will vigorously prosecute this action to advance the interest of the Classes and have the
22 resources necessary to do so.

23 132. **Substantial Benefits.** A class action is superior to all other possible methods to fairly and
24 efficiently adjudicate this case and controversy, and joinder of all Class Members is impracticable.
25 Proceeding as a class case has significant advantages to individual litigation, including: (1)
26 comprehensive oversight by a single court, which avoids inconsistent outcomes; and (2) saving time and
27 expense by litigating the same claims arising from the same conduct all in one action.

28 133. Plaintiffs reserve all rights to revise or modify the lass allegations based on facts and

1 legal developments following additional investigation or discovery.

2 **CALIFORNIA LAW APPLIES TO THE ENTIRE CLASS**

3 134. California law applies to every Class Member’s claims. Samba TV maintains its principal
4 place of business in California and conducts substantial business in California, including the activities
5 giving rise to Plaintiffs’ and Class Members’ claims. Samba TV’s decision to reside in California and
6 avail itself of California’s laws makes the application of California law to its conduct alleged herein
7 constitutionally permissible. Samba TV also elects to apply California law in its Terms of Use.

8 135. Under California’s choice of law rules, the application of California law is appropriate
9 because California has significant contacts to the claims and parties in this action, and California has a
10 greater interest in applying its laws, given Samba TV’s residency in the State and the location of the
11 conduct at issue, over any other state.

12 **CLAIMS FOR RELIEF**

13 **FIRST CAUSE OF ACTION**

14 **Violation of Common Law Invasion of Privacy (Intrusion Upon Seclusion)
15 On Behalf of the Plaintiffs and Classes**

16 136. Plaintiffs re-allege and incorporate the preceding allegations of this Complaint with the
17 same force and effect as if fully restated herein.

18 137. Intrusion upon seclusion requires pleading: (1) that the defendant intruded on a place,
19 conversation, or matter in which Plaintiffs have a reasonable expectation of privacy; and (2) that the
20 intrusion would be highly offensive to a reasonable person.

21 138. Samba TV’s collection, interception, and use of Plaintiffs’ and Class Members’
22 personally identifiable information constitutes an intentional intrusion. As does its use of this
23 information to create “identity graphs,” the latter of which is based off these identifiers to track and
24 profile Plaintiffs and Class Members based on their online activity.

25 139. Samba TV’s interception and use of Plaintiffs’ and Class Members’ private video-viewing
26 history, associated with their assigned SambaID and other identifying information, is likewise an
27 intentional intrusion upon Plaintiffs’ and Class Members’ solitude.

28 140. Plaintiffs and Class Members reasonably expected their unique identifiers and other
personal data, alongside their video-viewing activity, would not be intercepted or used by an unknown

1 third-party.

2 141. The types of identifying information Samba TV stored in “identity graphs” are
3 particularly private because they are often directly identifiable, permanent identifiers (e.g., IP address,
4 etc.). Plaintiffs and Class Members reasonably expected this information would remain private and
5 confidential and would not be intercepted or used by third parties without their consent.

6 142. Plaintiffs and Class Members did not consent to, authorize, or understand Samba TV’s
7 interception or use of their private data.

8 143. Samba TV’s conduct is highly offensive because it violates established social norms.
9 Consumers do not expect to be surveilled whenever they use the internet, especially in light of state laws
10 requiring companies to make adequate disclosures regarding their collection and use of data.

11 144. Samba TV’s conduct is particularly offensive in light of the secretive nature in which it
12 takes place. Plaintiffs and Class Members had no way of knowing that Samba TV collected their unique
13 identifiers or assigned them a global SambaID to be tracked across their devices.

14 145. Samba TV’s conduct caused Plaintiffs and Class Members harm and injury, including a
15 violation of their privacy interests.

16 146. Plaintiffs and Class Members seek damages to compensate the harm to their privacy
17 interests, among other damages, as well as disgorgement of profits made by Samba TV as a result of its
18 intrusion upon seclusion.

19 147. Defendant’s conduct was willful, knowing, and carried out with a conscious disregard for
20 Plaintiffs’ and Class Members’ rights. Thus, Plaintiffs and Class Members are entitled to punitive and
21 exemplary damages.

22 148. Plaintiffs and Class Members also seek any other relief the Court may deem just and
23 proper.

24 **SECOND CAUSE OF ACTION**
25 **Violation of Article I, Section 1 of the California Constitution (Invasion of Privacy)**
26 **On Behalf of the Plaintiffs and Classes**

27 149. Plaintiffs re-allege and incorporate the preceding allegations of this Complaint with the
28 same force and effect as if fully restated herein.

150. Article I, Section 1 of the California Constitution provides: “All people are by nature free

1 and independent and have inalienable rights. Among these are enjoying and defending life and liberty,
2 acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness, and
3 privacy.” Cal. Const. art. I, § 1

4 151. To state a claim for invasion of privacy under the California Constitution, a plaintiff must
5 establish (1) a legally protected privacy interest; (2) a reasonable expectation of privacy; and (3) an
6 intrusion so serious in nature, scope, and actual or potential impact as to constitute an egregious breach
7 of the social norms.

8 152. The right to privacy in California’s Constitution creates a right of action against private
9 and government entities.

10 153. Plaintiffs and Class Members have and continue to have a reasonable expectation of
11 privacy in their personal information, identities, and private data, pursuant to Article I, Section I of the
12 California Constitution.

13 154. The identifiable and private information Samba TV intercepted, stored, and used without
14 Plaintiffs’ and Class Members’ consent was used to track them consistently, and persistently, across
15 internet-connected services and to serve targeted advertisements. The manner in which Samba TV
16 intercepted this information defeated established privacy-mechanisms and social norms.

17 155. This conduct constitutes an extremely serious invasion of privacy that would be highly
18 offensive to a reasonable person. Reasonable individuals do not expect that there is an entity intercepting
19 their video-viewing data and linking it to a global unique identifier, let alone using it for profit.

20 156. Samba TV’s conduct violated the privacy of hundreds of thousands (if not millions) of
21 Class Members, including Plaintiff. Samba TV did not have consent to intercept this information, let
22 alone use it.

23 157. Plaintiffs and Class Members seek damages to compensate the harm to their privacy
24 interests, among other damages, as well as disgorgement of profits made by Samba TV as a result of its
25 intrusion upon seclusion.

26 158. Defendant’s conduct was willful, knowing, and carried out with a conscious disregard for
27 Plaintiffs’ or Class Members’ rights. Thus, Plaintiffs and Class Members are entitled to punitive and
28 exemplary damages.

1 159. Plaintiffs and Class Members also seek any other relief the Court may deem just and
2 proper.

3 **THIRD CAUSE OF ACTION**
4 **Violation of the California Invasion of Privacy Act (“CIPA”)**
5 **Cal. Penal Code § 631**
6 **On Behalf of the Plaintiffs and Classes**

7 160. Plaintiffs re-allege and incorporate the preceding allegations of this Complaint with the
8 same force and effect as if fully restated herein.

9 161. CIPA § 631 prohibits any person who by means of any “machine, instrument,
10 contrivance” or in “any other manner:” (1) intentionally taps or makes an unauthorized connection with
11 “any telegraph or telephone wire, line, cable, or instrument;” (2) willfully and without consent of “all
12 parties to the communication” or in “any unauthorized manner” reads or “attempts to read” or “learns
13 the contents or meaning of any message, report, or communication while the same is in transit or passing
14 over any wire, line, or cable, or is being sent from, or received at any place within” California; (3) “uses,
15 or attempts to use, in any manner, or for any purpose, or to communicate in any way” information so
16 obtained; or (4) from aiding, agreeing, employing, or conspiring with “any person or persons to
17 unlawfully do, or permit, or cause to be done any of the acts or things mentioned above in this section.”

18 162. Samba TV is a person under CIPA § 631.

19 163. Samba TV maintains its principal place of business in California, which is where it
20 designed, created, conspired, and effectuated the interception and use of Plaintiffs’ and Class Members’
21 unique identifiers and other personal data and private communications.

22 164. Samba TV ACR technology and Plaintiffs’ and Class Members’ computers, mobile
23 devices, and connected TVs are each a “machine, instrument, contrivance, or . . . other manner” under
24 CIPA § 631.

25 165. At all relevant times, Samba TV used its technology to make unauthorized connections
26 with the lines of communication and instruments used by Plaintiffs and Class Members to access online
27 services without the consent of all parties to those communications.

28 166. Samba TV willfully, and without consent, read or attempted to read, or learn the contents
and meaning of, Plaintiffs’ and Class Members’ communications with online services while those

1 communications were in transmit or passing over a wire, line, or cable, or were being sent or received
2 within California through its tracking technology, as described herein. This interception happens prior to
3 or at the same time they would be received by the intended recipient.

4 167. Samba TV used, and attempted to use, these identifiable, private communications for its
5 own benefit, including targeted advertising as described herein.

6 168. Samba TV also aided, agreed with, employed, and conspired with Smart TV brands and
7 advertising entities to intercept and use this data for profit.

8 169. The interception and use of Plaintiffs' and Class Members' communications was without
9 authorization or consent from Plaintiffs and Class Members.

10 170. Plaintiffs and Class Members have been harmed as a result of Samba TV's conduct. Their
11 private data has been intercepted, viewed, and used for targeted advertising and has not been destroyed.
12 Plaintiffs and Class Members face an imminent threat of continued injury, as this data continues to be
13 stored and used, such that Plaintiffs and Class Members have no adequate remedy at law.

14 171. Plaintiffs and Class Members seek statutory damages in accordance with § 637.2(a),
15 which provides for the greater of: (1) \$5,000 per violation; or (2) three times the amount of damages
16 sustained by Plaintiffs and Class Members in an amount to be proven at trial, as well as injunctive or
17 other equitable relief.

18 **FOURTH CAUSE OF ACTION**
19 **Violation of the California Invasion of Privacy Act**
20 **Cal. Penal Code § 632**
21 **On Behalf of the Plaintiffs and the Classes**

22 172. Plaintiffs re-allege and incorporate the preceding allegations of this Complaint with the
23 same force and effect as if fully restated herein.

24 173. Cal. Penal Code § 632 prohibits “intentionally and without the consent of all parties to a
25 confidential communication,” the “use[] [of] an electronic amplifying or recording device to eavesdrop
26 upon or record the confidential communication[.]”

27 174. Section 632 defines “confidential communication” as “any communication carried on in
28 circumstances as may reasonably indicate that any party to the communication desires it to be confined
to the parties thereto[.]”

1 175. Plaintiffs' and Class Members' communications with their Smart TVs are confidential
2 communications for purposes of § 632 because Plaintiffs and Class Members had an objectively
3 reasonable expectation of privacy in this data.

4 176. Plaintiffs and Class Members expected their communications would not be shared with
5 Samba TV, as there were no adequate disclosures that Samba TV would secretly eavesdrop upon or
6 record their information and communications.

7 177. Samba TV ACR technology and Identity Graph solution are electronic amplifying or
8 recording devices for purposes of § 632.

9 178. By contemporaneously intercepting and recording Plaintiffs' and Class Members'
10 confidential and identifiable communications through this technology, Samba TV eavesdropped and/or
11 recorded confidential communications through an electronic amplifying or recording device in violation
12 of § 632 of CIPA.

13 179. At no time did Plaintiffs or Class Members consent to Samba TV's conduct, nor could
14 they reasonably expect that their communications with their Smart TVs would be overheard and
15 recorded by Samba TV.

16 180. Samba TV utilizes these private communications for their own benefit, including to
17 serve targeted advertisements and develop user profiles.

18 181. Plaintiffs and Class Members have been harmed as a result of Samba TV's conduct. Their
19 private data has been intercepted, viewed, and used for targeted advertising and has not been destroyed.
20 Plaintiffs and Class Members face an imminent threat of continued injury, as this data continues to be
21 stored and used, such that Plaintiffs and Class Members have no adequate remedy at law.

22 182. Plaintiffs and Class Members seek statutory damages in accordance with § 637.2(a)
23 which provides for the greater of: (1) \$5,000 per violation; or (2) three times the amount of damages
24 sustained by Plaintiffs and Class Members in an amount to be proven at trial, as well as injunctive or
25 other equitable relief.

FIFTH CAUSE OF ACTION
Violation of the California Invasion of Privacy Act
Cal. Penal Code § 638.50 & 638.51
On Behalf of the Plaintiffs and the Classes

1
2
3 183. Plaintiffs re-allege and incorporate the preceding allegations of this Complaint with the
4 same force and effect as if fully restated herein.

5 184. CIPA § 638.50(b) defines a “pen register” as a “device or process” that “records or
6 decodes dialing, routing, addressing, or signaling information” that is “transmitted by an instrument or
7 facility from which a wire or electronic communication is transmitted, but not the contents of a
8 communication.”

9 185. Separately, CIPA § 638.50(c) defines a “[t]rap and trace device” as a “device or process
10 that captures the incoming electronic or other impulses that identify the originating number or other
11 dialing, routing, addressing, or signaling information reasonably likely to identify the source of a wire or
12 electronic communication, but not the contents of a communication.”

13 186. CIPA § 638.51 prohibits a person from installing either a pen register or trap and trace
14 device without a court order.

15 187. Samba TV is a person under CIPA § 638.51.

16 188. Samba TV implemented and installed the ARC technology and its identity solution—
17 which are pen registers and/or trap and trace devices—on Plaintiffs’ and Class Members’ devices,
18 including their Smart TVs.

19 189. These processes captured “routing, addressing, or signaling information” because they
20 intercept, at least (1) the Samba TV domain being contacted (e.g., events.cid.samba.tv,
21 manager.tvp.samba.tv, etc.); (2) the IP address of both the sender and receiver; (3) the time the
22 connection was made; and (4) other identifiers, like SambaID.

23 190. Samba TV was not authorized by any court order to use a pen register or trap and trace
24 device to record or capture Plaintiffs’ and Class Members’ routing, addressing, or signaling information.

25 191. Plaintiffs and Class Members did not consent to Samba TV’s installation of a pen register
26 or trap and trace device on their devices and browsers.

27 192. Plaintiffs and Class Members have been harmed as a result of Samba TV’s conduct.
28 Samba TV did not have authorization to use pen registers and/or trap and trace devices to surveille and

1 identify Plaintiffs and Class Members or to intercept other routing, addressing, and signaling
2 information.

3 193. Plaintiffs and Class Members face an imminent threat of continued injury, as this data
4 continues to be stored and used, such that Plaintiffs and Class Members have no adequate remedy at law.

5 194. Plaintiffs and Class Members seek statutory damages in accordance with § 637.2(a)
6 which provides for the greater of: (1) \$5,000 per violation; or (2) three times the amount of damages
7 sustained by Plaintiffs and Class Members in an amount to be proven at trial, as well as injunctive or
8 other equitable relief.

9 **SIXTH CAUSE OF ACTION**
10 **Violation of the Comprehensive Computer Data Access and Fraud Act**
11 **Cal. Penal Code § 502 (“CDAFA”)**
12 **On Behalf of the Plaintiffs and the Classes**

13 195. Plaintiffs re-allege and incorporate the preceding allegations of this Complaint with the
14 same force and effect as if fully restated herein.

15 196. The California Legislature enacted CDAFA to “expand the degree of protection afforded.
16 . . . from tampering, interference, damage, and unauthorized access to ([including the extraction of data
17 from]) lawfully created computer data and computer systems,” finding and declaring that “the
18 proliferation of computer technology has resulted in a concomitant proliferation of . . . forms of
19 unauthorized access to computers, computer systems, and computer data,” and that “protection of the
20 integrity of all types and forms of lawfully created computers, computer systems, and computer data is
21 vital to the protection of the privacy of individuals . . .” Cal. Penal Code § 502(a).

22 197. Plaintiffs’ and Class Members’ devices on which Samba TV’s tracking technology is
23 installed, including their computers, smart phones, and tablets, constitute “Computer system” within the
24 meaning of the CDAFA. *Id.* § 502(b)(5).

25 198. The data that Samba TV accessed and collected from Plaintiffs’ and Class Members’
26 devices constitute “Data” within the meaning of the CDAFA. *Id.* § 502(b)(8).

27 199. Samba TV violated § 502(c)(1) of the CDAFA by knowingly accessing without
28 permission Plaintiffs’ and Class Members’ devices in order to wrongfully obtain and use their personal
data, in violation of users’ reasonable expectations of privacy in their devices and data.

1 200. Samba TV violated § 502(c)(2) of the CDAFA by knowingly and without permission
2 taking, copying, and making use of Plaintiffs' and the Class Members' unique identifiers and other
3 personal data from their devices.

4 201. Samba TV's tracking technology incorporated on Plaintiffs' and the Class Members'
5 devices constitute "computer services" within the meaning of the CDAFA. Samba TV violated §
6 502(c)(3) by knowingly and without permission using those computer services, and/or causing them to
7 be used. Samba TV violated § 502(c)(7) by knowingly and without permission accessing those devices,
8 and/or causing them to be accessed.

9 202. Samba TV violated §§ 502(c)(6) and (c)(13) of the CDAFA by knowingly, and without
10 permission from Plaintiffs and the Class Members, providing and/or assisting in providing advertisers
11 and publishers the ability to access Plaintiffs' and the Class Members' personal data via its audiences,
12 panels, and ad integrations.

13 203. Under § 502(b)(12) of the CDAFA a "computer contaminant" is defined as "any set of
14 computer instructions that are designed to . . . record, or transmit information within a computer,
15 computer system, or computer network without the intent or permission of the owner of the
16 information." Samba TV violated § 502(c)(8) by knowingly and without permission introducing a
17 computer contaminant via its tracking technology incorporated on Plaintiffs' and the Class Members'
18 devices, which intercepted their personal data. As described *supra*, the tracking technology is deeply
19 hidden; Plaintiffs and Class Members had no way to remove it or opt out of its functionality.

20 204. Plaintiffs and Class Members suffered damage and loss as a result of Samba TV's
21 conduct. Samba TV's practices have deprived Plaintiffs and the Class Members of control over their
22 valuable property (namely, their sensitive personal data), the ability to receive compensation for that
23 data, and the ability to withhold their data for sale.

24 205. Plaintiffs and the Class Members seek compensatory damages in accordance with
25 CDAFA § 502(e)(1), in an amount to be proven at trial, and injunctive or other equitable relief.

26 206. Plaintiffs and Class Members have also suffered irreparable and incalculable harm and
27 injuries from Samba TV's violations. The harm will continue unless Samba TV is enjoined from further
28 violations of this section. Plaintiffs and Class Members have no adequate remedy at law.

1 207. Plaintiffs and the Class Members are entitled to punitive or exemplary damages pursuant
2 to Cal. Penal Code § 502(e)(4) because Samba TV’s violations were willful and, upon information and
3 belief, Samba TV is guilty of oppression, fraud, or malice as defined in Cal. Civil Code § 3294.
4 Plaintiffs and Class Members are also entitled to recover their reasonable attorneys’ fees under §
5 502(e)(2).

6 **SEVENTH CAUSE OF ACTION**
7 **Violation of the Video Privacy Protection Act**
8 **18 U.S.C. § 2710, *et seq.***
9 **On Behalf of the Plaintiffs and the Classes**

10 208. Plaintiffs re-allege and incorporate the preceding allegations of this Complaint with the
11 same force and effect as if fully restated herein.

12 209. The VPPA prohibits a “video tape service provider” from knowingly disclosing
13 “personally[] identifiable information” concerning any “consumer” to a third-party without the
14 “informed, written consent (including through an electronic means using the Internet) of the consumer.”
15 18 U.S.C. § 2710.

16 210. As defined in 18 U.S.C. § 2710(a)(4), a “video tape service provider” is “any person,
17 engaged in the business, in or affecting interstate commerce, of rental, sale, or delivery of prerecorded
18 video cassette tapes or similar audiovisual materials.”

19 211. Samba TV is a “video tape service provider” as defined in 18 U.S.C. § 2710(a)(4)
20 because its technology is incorporated in Smart TVs, which deliver prerecorded videos. Samba TV
21 advertises its technology precisely as providing a “better viewing experience” “immersive on-screen
22 experiences” and a “more tailored ad experience” through its technology.

23 212. As defined in 18 U.S.C. § 2710(a)(1), a “consumer” means “any renter, purchaser, or
24 subscriber of goods or services from a video tape service provider.” Plaintiffs and Class Members are
25 subscribers because they used Samba TV-enabled Smart TVs to view video content and Samba TV
26 received, at a minimum, their IP addresses and other identifying information, as well as the title and ID
27 of the video content they viewed.

28 213. As defined in 18 U.S.C. § 2710(a)(3), “personally identifiable information” includes
“information which identifies a person as having requested or obtained specific video materials or

1 services from a video tape service provider.”

2 214. Defendant knowingly caused Plaintiffs’ and Class Members’ video viewing information,
3 as well as their unique identifying information (e.g., IP address, SambaID, etc.) to be disclosed to third
4 parties, including to advertisers, publishers, and data brokers. This information constitutes personally
5 identifiable information under 18 U.S.C. § 2710(a)(3) because it identified each Plaintiff and Class
6 Member to third parties as an individual who viewed specific video content. This information allowed
7 each third party, including advertisers, to identify each Plaintiff’s and Class Member’s specific
8 individual video viewing preferences and habits.

9 215. As set forth in 18 U.S.C. § 2710(b)(2)(B), “informed, written consent” must be (1) in a
10 form distinct and separate from any form setting forth other legal or financial obligations of the
11 consumer; and (2) at the election of the consumer, is either given at the time the disclosure is sought or
12 is given in advance for a set period of time not to exceed two years or until consent is withdrawn by the
13 consumer, whichever is sooner. Defendant failed to obtain informed, written consent under this
14 definition.

15 216. As described in Paragraphs 105-115, Samba TV did not obtain consent consistent with
16 the VPPA.

17 217. By knowingly disclosing Plaintiffs’ and Class Members’ personal viewing content,
18 Defendant violated Plaintiffs’ and Class Members’ statutorily protected right to privacy in their video-
19 watching habits and Plaintiffs and Class Members were damaged. *See* 18 U.S.C. § 2710(c).

20 218. As a result of the above violations, Defendant is liable to Plaintiffs and Class Members
21 for actual damages related to their loss of privacy in an amount to be determined at trial or, alternatively,
22 for “actual damages but not less than liquidated damages in an amount of \$2,500 per violation.” 18
23 U.S.C. § 2710(c)(2)(A). Under the Act, Defendant is also liable for reasonable attorney’s fees, other
24 litigation costs, injunctive and declaratory relief, and punitive damages in an amount to be determined
25 by a jury and sufficient to prevent and deter the same or similar conduct by Defendants in the future.

26 **EIGHTH CAUSE OF ACTION**

27 **Unjust Enrichment**

28 **On Behalf of the Plaintiffs and the Classes**

219. Plaintiffs re-allege and incorporates the preceding allegations of this Complaint with the

1 same force and effect as if fully restated herein.

2 220. Samba TV receives benefits from Plaintiffs and Class Members in the form of their
3 unique identifiers and other personal data and private online communications. Samba TV acquired this
4 information without Plaintiffs' and Class Members' authorization and without providing corresponding
5 compensation.

6 221. Samba TV acquired and used this private data for its own benefit, including tangible
7 economic benefits from companies that used Samba TV for targeted advertising.

8 222. Had Plaintiffs and Class Members known of Samba TV's misconduct, they would not
9 have agreed Samba TV could acquire and use their private data.

10 223. Samba TV unjustly retained these benefits at the expense of Plaintiffs and Class
11 Members. Plaintiffs and Class Members were harmed by this conduct and were not provided any
12 commensurate compensation.

13 224. The benefits Samba TV received and derived benefit from Plaintiffs' and Class Members'
14 private data rightly belonging to Plaintiffs and Class Members. It is inequitable under unjust enrichment
15 principles for Samba TV to retain the profits and other intangible benefits they derived through its
16 wrongful conduct.

17 225. Samba TV should be compelled to disgorge these profits and other inequitable proceeds
18 in a common fund for the benefit of Plaintiffs and Class Members.

19 **NINTH CAUSE OF ACTION**
20 **Injunctive Relief**
21 **On Behalf of the Plaintiffs and the Classes**

22 226. Plaintiffs re-allege and incorporate the preceding allegations of this Complaint with the
23 same force and effect as if fully restated herein.

24 227. Samba TV's conduct has and continues to cause harm to Plaintiffs' and Class Members'
25 privacy and autonomy, as it continues to store unique persistent identifiers, as well as the private
26 contents of their communications, on its own systems. Samba TV routinely uses this information for
27 targeted advertising.

28 228. Accordingly, Plaintiffs and Class Members seek injunctive relief, including an order
permanently restraining Samba TV from continuing to use and store this information without consent

1 and/or a court order, and requiring Samba TV to delete this information from its systems.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiffs on behalf of themselves and the putative Classes requests the Court
4 enter an Order:

- 5 a. Certifying the Classes and appointing Plaintiffs as Class Representatives;
6 b. Finding Samba TV’s conduct unlawful;
7 c. Awarding injunctive and other equitable relief as is just and proper;
8 d. Awarding Plaintiffs and the Classes statutory, actual, compensatory, punitive,
9 nominal, and other damages, as well as restitution and/or disgorgement of unjust and
10 unlawful profits;
11 e. Awarding pre-judgment and post-judgment interest;
12 f. Awarding reasonable attorneys’ fees, costs, and expenses; and
13 g. Granting any other relief as the Court sees just and proper.

14 **JURY DEMAND**

15 Plaintiffs demand a trial by jury.

17 Dated: April 18, 2025

/s/ Willem F. Jonckheer

18 Robert C. Schubert S.B.N. 62684

19 Willem F. Jonckheer S.B.N. 178748

Amber L. Schubert S.B.N. 278696

SCHUBERT JONCKHEER & KOLBE LLP

20 2001 Union Street, Suite 200

San Francisco, CA 94123

21 Tel.: (415) 788-4220

22 Fax: (415) 788-0161

rschubert@sjk.law

wjonckheer@sjk.law

23 aschubert@sjk.law

24 Christian Levis (*pro hac vice* forthcoming)

25 Amanda Fiorilla (*pro hac vice* forthcoming)

Rachel Kesten (*pro hac vice* forthcoming)

26 Yuanchen Lu (*pro hac vice* forthcoming)

LOWEY DANNENBERG, P.C.

27 44 South Broadway, Suite 1100

White Plains, NY 10601

28 Tel.: (914) 997-0500

Fax: (914) 997-0035

1 clevis@lowey.com
2 afiorilla@lowey.com
3 rkesten@lowey.com
4 ylu@lowey.com

Attorneys for Plaintiff and the Proposed Class

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28