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THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Tulsi Now, Inc., a principal
campaign committee,

Plaintiff,

v.

Google, LLC, a Delaware limited
liability company, and **Does 1–10**,

Defendants.

Case No.

Complaint for Violations of:

- 1. First Amendment**
- 2. California Constitution Article I, Section 2**
- 3. California Unruh Civil Rights Act, Cal. Civ. Code Section 51**
- 4. Unfair Competition, Cal. Bus. and Prof. Code Section 17200**
- 5. Implied Covenant of Good Faith and Fair Dealing**
- 6. Lanham Act – 15 U.S.C. § 1125 *et seq.***
- 7. Declaratory and Injunctive Relief**

JURY TRIAL DEMANDED

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1 Plaintiff Tulsi Now, Inc. (“Tulsi” or the “Campaign”), principal campaign com-
2 mittee for Presidential candidate Tulsi Gabbard, brings this lawsuit against Defend-
3 ant Google, LLC (“Google”) for serious and continuing violations of Tulsi’s right to
4 free speech. Since at least June 2019, Google has used its control over online politi-
5 cal speech to silence Tulsi Gabbard, a candidate millions of Americans want to hear
6 from. With this lawsuit, Tulsi seeks to stop Google from further intermeddling in the
7 2020 United States Presidential Election.
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9 INTRODUCTION

10 1. We live in a time of unprecedented political upheaval and division in
11 the United States. Uncertainty and mistrust in American institutions—most notably,
12 the United States government—are at record highs. Everything from basic norms of
13 civility and compromise to the sanctity of American elections suddenly seems in
14 flux. Americans wonder how we got here, and they want to know where we’re going.
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16 2. Against this backdrop, it is not surprising that the race for the 2020
17 Democratic nomination for President of the United States is the most hotly con-
18 tested—and the most politically open—in recent memory. Americans want to hear
19 fresh, diverse voices as they seek a new leader in this time of turmoil. Americans
20 *need* to hear those voices.

21 3. Tulsi Gabbard is one of those voices. Gabbard is a four-term United
22 States Congresswoman, a Major with over sixteen years in the National Guard, and
23 the first female combat veteran to run for President.
24

1 4. In the June 26-27, 2019 Democratic Party presidential debates, tens of
2 millions of Americans got to hear Tulsi Gabbard’s voice for the first time. And peo-
3 ple liked what they heard: Gabbard quickly became the most searched-for Demo-
4 cratic presidential candidate on June 27-28. In the crucial post-debate period—a time
5 when presidential candidates receive outsize interest, engagement, and donations—
6 Americans around the country wanted to hear more from Tulsi Gabbard.

7 5. To speak to these Americans, Tulsi operated a Google Ads account (the
8 “Account”). A Google Ads account allows a political candidate to speak directly to
9 people who want to hear from her. For example, millions of people were searching
10 for information on Tulsi Gabbard on June 27-28, 2019. Through Google Ads, Tulsi
11 could instantaneously and directly speak to these people by linking them to her
12 webpage, which provides information about Gabbard’s background, policies, and
13 goals.
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15 6. Or at least that is how things are *supposed* to work on Google’s search
16 platform—one of the largest forums for political speech in the entire world. In prac-
17 tice, however, Google plays favorites, with no warning, no transparency—and no
18 accountability (until now).
19

20 7. On June 28, 2019—at the height of Gabbard’s popularity among Inter-
21 net searchers in the immediate hours after the debate ended, and in the thick of the
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1 critical post-debate period (when television viewers, radio listeners, newspaper read-
2 ers, and millions of other Americans are discussing and searching for presidential
3 candidates), Google suspended Tulsi’s Google Ads account without warning.

4 8. For hours, as millions of Americans searched Google for information
5 about Tulsi, and as Tulsi was trying, through Google, to speak to them, her Google
6 Ads account was arbitrarily and forcibly taken offline. Throughout this period, the
7 Campaign worked frantically to gather more information about the suspension; to
8 get through to someone at Google who could get the Account back online; and to
9 understand and remedy the restraint that had been placed on Tulsi’s speech—at pre-
10 cisely the moment when everyone wanted to hear from her.

12 9. In response, the Campaign got opacity and an inconsistent series of an-
13 swers from Google. First, Google claimed that the Account was suspended because
14 it somehow violated Google’s terms of service. (It didn’t.) Later, Google changed its
15 story. Then it changed its story again. Eventually, after several hours of bizarre and
16 conflicting explanations while the suspension dragged on, Google suddenly reversed
17 course completely and reinstated the Account. To this day, Google has not provided
18 a straight answer—let alone a credible one—as to why Tulsi’s political speech was
19 silenced right precisely when millions of people wanted to hear from her.

21 10. But in context, the explanation for Google’s suspension of the Account
22 at *exactly* the wrong time is no great mystery: Google (or someone at Google) didn’t
23 want Americans to hear Tulsi Gabbard’s speech, so it silenced her. This has happened
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1 time and time again across Google platforms. Google controls one of the largest and
2 most important forums for political speech in the entire world, and it regularly si-
3 lences voices it doesn't like, and amplifies voices it does.

4 11. And Google's election manipulation doesn't stop with its search plat-
5 form. For example, Google's email platform Gmail sends communications from
6 Tulsi into people's Spam folders at a disproportionately high rate. In fact, Gmail
7 appears to classify communications from Tulsi Gabbard as Spam at a rate higher
8 than other similar communications—for example, those from other Democratic pres-
9 idential candidates. There is no technical explanation for this disparity.
10

11 12. Google's arbitrary and capricious treatment of Gabbard's campaign
12 should raise concerns for policymakers everywhere about the company's ability to
13 use its dominance to impact political discourse, in a way that interferes with the
14 upcoming 2020 presidential election. In this case, Google has sought to silence Tulsi
15 Gabbard, a presidential candidate who has vocally called for greater regulation and
16 oversight of (you guessed it) Google. But this could happen to any candidate running
17 in any election.
18

19 13. With this lawsuit, Tulsi is fighting back. She will be heard.

20 14. By acting to silence Gabbard at exactly the moment when her speech
21 was most important, and most ready to be heard—and in the single most politically
22 charged context in the United States, a presidential election campaign—Google vi-
23 olated the Campaign's federal and State rights to free speech.
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1 15. Through its illegal actions targeting Tulsi Gabbard, Google has caused
2 the Campaign significant harm, both monetary (including potentially millions of dol-
3 lars in forgone donations) and nonmonetary (the ability to provide Tulsi’s important
4 message with Americans looking to hear it). But even more pressing is the ongoing
5 threat of targeted intermeddling in the 2020 United States presidential election by
6 Google—an out-of-control tech giant looking to play favorites unless enjoined by
7 this Court.
8

9 16. The Campaign seeks declaratory and injunctive relief against Google
10 for its illegal behavior, and damages of no less than \$50 million.

11 **JURISDICTION AND VENUE**

12 17. This Court has original subject matter jurisdiction under 28 U.S.C.
13 § 1331 over the First Amendment and Lanham Act claims which arise under the laws
14 of the United States. The Court has supplemental jurisdiction under 28 U.S.C. § 1367
15 over the California state claims, which share a common nucleus of facts with the
16 federal claims in this matter.
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18 18. This Court has personal jurisdiction over Google. Google is pervasively
19 present in California and in this judicial district, and is subject to general personal
20 jurisdiction throughout this State.

21 19. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(1), (b)(2),
22 and (c). Google has a large office in Venice, California within this judicial district,
23 which houses engineering, sales, and marketing operations for Google Ads, such that
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1 it is both a resident of this district for venue purposes with respect to this matter and
2 a substantial portion of the events and actions giving rise to the claims in this matter
3 took place in this judicial district.

4 **PARTIES**

5 20. Plaintiff Tulsi Now, Inc. is a principal campaign committee for Tulsi
6 Gabbard, a candidate for President of the United States.

7
8 21. Defendant Google, LLC is a Delaware limited liability company with a
9 principal place of business in Mountain View, California. Google regularly conducts
10 business throughout California and in this judicial district—for example, at its large
11 Venice, California offices, which house Google Ads engineering, marketing, and
12 sales operations.

13 22. The true names and capacities, whether individual, corporate, associate,
14 or otherwise, of Defendants Does 1 through 10, inclusive, are presently unknown to
15 Plaintiff, and for that reason these defendants are sued by such fictitious names.
16 Plaintiff is informed and believes and thereon alleges that each of the Doe defendants
17 is in some way legally responsible for the violations of law and injuries and harm
18 caused as alleged herein. If and when appropriate, Plaintiff will seek leave of court
19 to amend this complaint when the true names and capacities of said defendants are
20 known.
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FACTS

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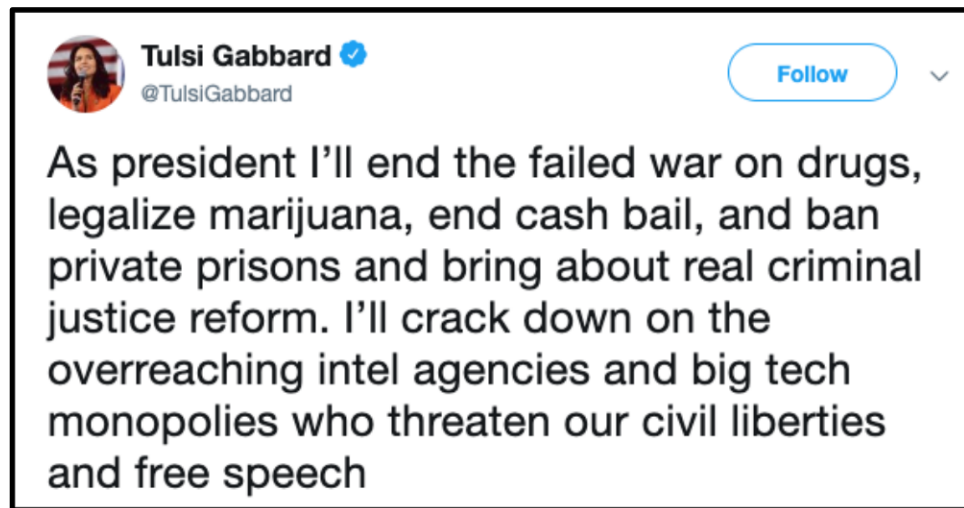
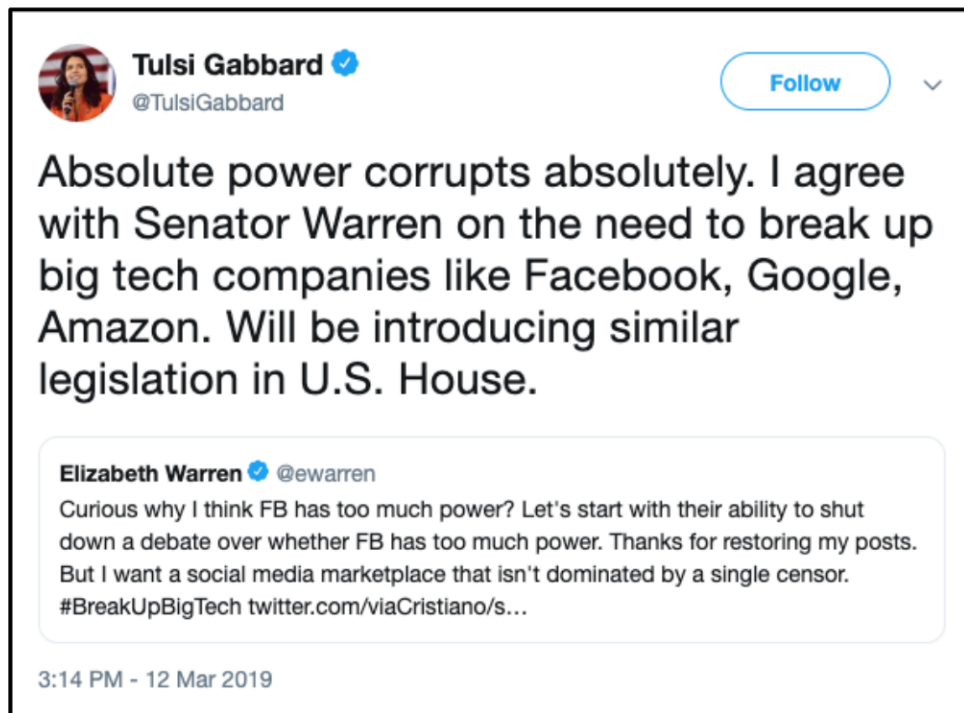
A. Tulsi Gabbard’s Background and Message

23. Tulsi Gabbard is a four-term United States Congresswoman, a Major in the National Guard and military combat veteran of Iraq, and a skilled surfer. Gabbard is running for President of the United States as a member of the Democratic Party.

24. Gabbard’s presidential campaign is the culmination of a long career of public service and a desire to step up when called upon for duty. As a child, Gabbard’s parents would enlist her and her siblings in “service days,” where the family would pick up litter from beaches or prepare food for homeless families. At the age of 21, Gabbard began serving in the Hawaii State Legislature. After the United States was attacked by terrorists on September 11, 2001, Gabbard enlisted in the Army National Guard, and served two deployments to the Middle East as a soldier. After fighting in Iraq, Gabbard returned to Hawaii to serve on the Honolulu City Council. And today, Gabbard continues to serve—now as a fourth-term United States Congresswoman and as a Major in the National Guard with sixteen years of service.

25. During her career in Congress, Gabbard has moved to limit the power of big tech companies like Google and has fought to keep the internet open and available to all. Gabbard has co-sponsored legislation that prohibits multi-tiered pricing agreements for the privileged few, and she has spoken in favor of reinstating and expanding net neutrality to apply to Internet firms like Google.

1 26. Gabbard has repeatedly voiced her concerns about the power wielded
2 by Google and other Big Tech firms on Twitter:



21 27. Google is well aware of Gabbard's policies and actions while in Con-
22 gress—and of her plan to rein in Silicon Valley's excesses as President.

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B. Tulsi Gabbard’s Google Ads Account

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2 28. Tulsi Gabbard’s message is resonating with the American people. After
3 the June 26-27, 2019 Democratic debate—when millions of Americans heard Gab-
4 bard’s message for the first time—she was the single most searched-for candidate.
5 And, she accomplished this despite having the third-lowest amount of speaking time.

6 29. In order to share her message with the American people, which had al-
7 ready been demonstrated to increase her popularity, the Campaign created a Google
8 Ads account with Google. The Account was governed by terms of use. Among other
9 provisions, the terms provided that Google had the right to “reject or remove a spe-
10 cific Target, Ad, or Destination at any time for any or no reason.”

12 30. Gabbard opened the Account because Google operates one of the larg-
13 est forums for speech in the world. It operates the largest search engine in the world
14 and the largest advertising platform.

15 31. Google has a monopoly over the Internet search market. Over 88% of
16 all Internet searches in the United States occur on Google. Over 92% of all Internet
17 searches worldwide occur on Google. Google averages at least 6 billion searches a
18 day. Google ads can reach people on YouTube, which is owned by Google.¹ They
19 can also reach people on the “Google Display Network,” a group of more than 2
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23 ¹ The total number of people who currently use YouTube alone exceeds 1.3 billion
24 people, and more than 30 million members of the general public visit the platform every day.

1 million websites, videos, and apps where Google ads can appear. The Google Dis-
2 play Network reaches “90% of internet users worldwide,” with more than a trillion
3 impressions served over 1 billion users every month. In short, Google controls the
4 ability to be heard by a substantial portion of the country, and the world, on the
5 Internet.

6 32. Simply put, Google’s services, including its search, search advertising,
7 and email services, have become an important—indeed, necessary—forum for
8 Americans’ exercise of their freedom of speech. On that subject, the United States
9 Supreme Court recently recognized that “the most important place[] (in a spatial
10 sense) for the exchange of views . . . is cyberspace – the ‘vast democratic forums of
11 the Internet.’” *Packingham v. North Carolina*, 137 S. Ct. 1730, 1735 (2017).

12 33. For all these reasons, the Campaign relied on Google—and on the Ac-
13 count—to promulgate Tulsi Gabbard’s political message in the critical post-debate
14 period in late June 2019.

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17 **C. Google Abruptly Suspends Tulsi Gabbard’s Google Ads Account**

18 34. On June 28, 2019, right in the heart of a key post-debate campaigning
19 and fundraising period for Gabbard, the Campaign witnessed Internet searches for
20 Gabbard start skyrocketing in real time. Millions of Americans wanted to hear from
21 Tulsi Gabbard, and they went to Google to hear what she had to say.

22 35. The Campaign wanted to speak to the millions of Americans asking
23 about Gabbard through Google. It wanted to answer their questions about Gabbard,
24

1 and to amplify Tulsi’s message. So the Campaign purchased ads to display when
2 people searched Google for certain terms relating to Gabbard.

3 36. Except in late June 2019, on the exact day when millions of Americans
4 turned to Google to learn more about Gabbard—on the exact day when Americans
5 made Tulsi Gabbard the most searched-for Democratic candidate on Google—
6 Google abruptly suspended the Account.

7
8 37. On June 28, 2019, millions of Americans asked Google about Tulsi
9 Gabbard. Tulsi sought to answer them. But Google silenced her.

10 38. Despite the drastic nature of Google’s action—arbitrarily suspending
11 the advertising account of a major candidate for President of the United States the
12 day after a debate, at precisely the moment that candidate was trending on Google—
13 Google never offered a real (or consistent) reason for suspending the Account. First,
14 Google said that the Account was suspended due to “problems with billing infor-
15 mation or violations of our advertising policies.” Then Google said the Account was
16 suspended because Google “identified suspicious behavior in the payment activity
17 in your account.” Later, Google changed course again and said the Account was
18 “temporarily suspended to verify your billing information and policy compliance.”
19 Eventually, Google lifted the suspension with no real explanation, just an opaque
20 statement that Google had “re-reviewed your account and you can now use it to
21 advertise.”
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1 39. To this day, Google has yet to credibly explain why it suspended the
2 Account—let alone at the precise moment that Gabbard was trending across
3 Google’s search and media platforms.

4 40. But even though Google couldn’t explain *why* it was silencing Tulsi—
5 a prominent Google critic—right as her presidential bid began picking up steam on
6 Google, it certainly didn’t reverse course any time soon. Instead, for hour after hour,
7 as people throughout the country searched for Tulsi Gabbard, and after the Campaign
8 had promptly reached out to Google for explanation and reinstatement of the Ac-
9 count, the suspension continued. Over the course of several hours, Google simply
10 refused to engage with a major presidential candidate whom it had unilaterally si-
11 lenced, just as she was trending across the Internet.

12 41. Google’s suspension of the Account caused irreparable damage to the
13 Campaign. Interest and searches for Gabbard during the post-debate timeframe had
14 skyrocketed. Ads directing searchers to her campaign page would have brought Tulsi
15 Gabbard’s unique message to millions of Americans—and would have undoubtedly
16 increased the campaign donations Gabbard received. Presidential primary candi-
17 dates can receive millions of dollars in donations in the hours shortly after a debate.
18 While the Account was suspended, Gabbard was incapable of communicating to vot-
19 ers through Google or its affiliated websites—by far the most effective, and im-
20 portant, method of communication in the Campaign’s arsenal.
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1 42. Additionally, Gabbard has learned that email communications sent by
2 the Campaign are classified as Spam by Google’s Gmail product at disproportion-
3 ately high rates. Few Gmail users regularly check their spam folders. Many never
4 do. Gmail’s Spam filter—which relies on secret algorithms designed and controlled
5 entirely by Google—go out of their way to silence messages from the Campaign,
6 further hindering Tulsi’s ability to convey her message to the American people.

7 43. These actions by Google did not just prevent Gabbard and the Cam-
8 paign from reaching voters, they also hindered voters from associating with a candi-
9 date whose views matched their own. In other words, as evidenced by the massive
10 search hits for Gabbard after the debate, voters were drawn to Gabbard and her
11 views, and attempted to associate with her politically online (online searches for
12 candidates regularly lead to donations, signing up for email lists, signing up to vol-
13 unteer, or at minimum engaging with those candidates’ websites and social media).
14 But Google’s actions toward Tulsi—from suspending the Account to disproportion-
15 ately sending the Campaigns emails to Spam in Gmail—not only hinder Gabbard’s
16 message, they directly touched on the associational rights of likely voters as well.

19 **D. Google’s Political Support of Its Policy Champions**

20 44. Google’s stated mission is “to organize the world’s information and
21 make it universally accessible and useful.” According to Google, “people around the
22 world turn to Search to find information, learn about topics of interest, and make
23 important decisions.” Consistent with this mission, Google provides a forum for
24

1 members of the public to interact, share ideas, and engage in important topics across
2 the country and the globe.

3 45. But this mission is not executed equally. Google does not treat all po-
4 litical viewpoints equally. The company has been criticized by many on the right for
5 censoring content that favors conservative viewpoints. However, Google's favorit-
6 ism of political and policy ideas is more nuanced and self-serving. Simply put,
7 Google supports viewpoints, political causes, and candidates that favor its policy
8 positions over those that do not.

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10 46. For example, Google-affiliated donors gave \$817,855 to Barack
11 Obama's presidential candidacy in 2008, which ranked sixth among all donations to
12 Obama's campaign. In 2012, that number was \$804,240, which ranked third. Google
13 did not even rank in the top twenty donors for Obama's Republican opponents in
14 either election. The Obama Administration's close ties to Google are now well-
15 known: During Obama's two terms in office, Google officials met with the White
16 House on more than 427 occasions, while at least fifty-three officials moved between
17 Google and the White House and vice versa. Not surprisingly, the Obama Admin-
18 istration championed many of the top policies on Google's wish list, while Obama's
19 Federal Trade Commission closed its antitrust investigation of the company without
20 any meaningful sanctions.

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22 47. The disparity grew even more stark during the last presidential election.
23 Google employees gave \$1.3 million to Hillary Clinton's presidential campaign,
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1 compared with \$26,000 to the Trump campaign. What's more, Eric Schmidt, the
2 chairman of Alphabet (Google's parent company), counseled Clinton on strategy
3 during her presidential campaign, and financed Civis Analytics, a startup which pro-
4 vided data and other technology for her campaign. Robert Epstein, a social psycholo-
5 gist and Internet researcher, argues persuasively that Google's pro-Clinton search
6 bias may have shifted as many as 2.6 million votes to Clinton during the 2016 elec-
7 tion.

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9 48. After President Trump won the election, an internal Google video
10 leaked showing Google's co-founder Sergey Brin, its CEO Sundar Pichai, and other
11 high-ranking Google officers speaking, with dismay, about Trump's election victory.
12 Their alarm may have been well-founded: In May of this year, Trump's Department
13 of Justice announced it was exploring whether to open a case against Google for
14 potential antitrust violations.

15
16 49. Now that Google is facing increased antitrust scrutiny, Google has
17 made common cause with the conservative Koch Foundation, funding several con-
18 servative groups in the Koch network to publish op-eds, studies and white papers
19 opposing antitrust investigations of Big Tech.

20 50. Public information shows that Google manipulates its advertising poli-
21 cies and perhaps even its search results based on political concerns and policy goals.
22 For example, during Congressional debate in 2018 over the Stop Enabling Sex Traf-
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1 fickers Act (SESTA)—legislation that would hold online services liable for know-
2 ingly assisting or facilitating online sex trafficking—Google search results consist-
3 ently returned links to content opposed to the legislation. Google strongly opposed
4 the measure. Even today, the top result when searching for “SESTA” remains a link
5 to <http://stopsesta.org>, sponsored by the Electronic Frontier Foundation, a group
6 which Google supports financially.

7
8 51. More recently, Google employees engaged in an internal lobbying cam-
9 paign to block Breitbart from Google’s advertising program. As part of this internal
10 lobbying campaign, one Google employee pressed that “[t]here is obviously a moral
11 argument to be made [to blocking Breitbart] as well as a business case.” While it’s
12 not entirely clear what “business case” the Google employee was referring to, it’s
13 important to note that Breitbart has been among Google’s staunchest critics, alleging
14 that the company routinely censors conservative viewpoints.

15
16 52. While there is no law against a company’s employees engaging in po-
17 litical activity, Google is no ordinary company. As a result of its power, it helps to
18 run elections with its search results and ad offerings, including exercising unilateral
19 control over nearly all Internet search and search advertising—perhaps the single
20 most important platform through which presidential primary candidates communi-
21 cate with potential voters, and vice versa. Quite simply, Google could unilaterally
22 and decisively end a presidential candidate’s bid for office if it chose to—for exam-
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1 ple, by tweaking its search algorithm to disfavor the candidate; or blocking the can-
2 didate from its ad platforms; or keeping the candidate’s communications from get-
3 ting to interested voters who use Gmail for email communications.

4 53. And, in fact, the above is exactly what Google has done, and likely will
5 continue to do, to disfavor the presidential candidacy of Tulsi Gabbard, one of the
6 few independent voices within the Democratic party and vocal critic of Google.
7 Google has manipulated its search advertising, and likely its email filtering, to dis-
8 favor Gabbard. What is next, if not enjoined by a Court?
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10 **E. The Government’s Inexcusable Inaction in Ceding the Internet to**
11 **Google**

12 54. Notably, Google did not ascend to its position as a central arbiter of
13 political speech in a vacuum. Instead, the United States government’s inexcusable
14 inaction has ceded control of the Internet—a public forum for all to express their
15 opinions—to private companies like Google.

16 55. The United States government knows that the Internet is integral to en-
17 suring a free and democratic country. The government also knows that private com-
18 panies such as Google have been censoring and limiting those freedoms.
19

20 56. For years, the government has known that companies like Google are a
21 threat to speech. For example, in 2012, the Federal Trade Commission staff found
22 that “Google has unlawfully maintained its monopoly over general search and search
23 advertising, in violation of Section 2, or otherwise engaged in unfair methods of
24

1 competition, in violation of Section 5 [of the Federal Trade Commission Act].” The
2 FTC staff based its conclusion on three illegal acts by Google, one of which specif-
3 ically related to Google’s “restrictions” on “management of advertising campaigns.”
4 FTC staff recommended filing a complaint against Google. Yet the government hid
5 the conclusions and declined.

6 57. Other disturbing data points about the power wielded by Google and
7 other major tech companies like Facebook have emerged in recent years. In the early
8 2010s, the FCC rightly considered whether net neutrality regulations, which sought
9 to provide equal access to the Internet by governing Internet Service Providers,
10 should also be extended to apply to Internet content platforms like Google.

11 58. However, during the Trump presidency, the FCC has not only declined
12 to extend net neutrality protections to apply to Internet content platforms like
13 Google, it has revoked those regulations that were already existing. *See In the Matter*
14 *of Restoring Internet Freedom*, 33 F.C.C. Rcd. 311 (2018); *United States Telecom*
15 *Ass’n v. FCC*, 825 F.3d 674, 729 (D.C. Cir. 2016). Companies like Google have more
16 leeway and ability than ever to bend the Internet to their will.

17 59. And Big Tech companies have used this unchecked power to meddle in
18 political speech. For example, in March 2019, Facebook removed numerous adver-
19 tisements placed by the presidential campaign of Senator Elizabeth Warren that
20 called for the breakup of Facebook and other tech giants. Only after the media pub-
21 licly exposed Facebook’s actions did it reverse course.
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1 60. The government’s inexcusable inaction not only failed to stop, but ac-
2 tively enabled, Google’s dangerous rise to power over political speech central to our
3 body politic. The United States government has ceded the forum for much of Amer-
4 ica’s core political speech—and for key aspects of our elections themselves—to
5 Google. And Google has shown itself to be anything but neutral.

6 **F. Google’s Interference with Election Advertising and Electoral**
7 **Speech**

8 61. In addition to Google’s overarching control over, and restrictions on,
9 American political speech generally, Google has a unique and disturbing amount of
10 influence over—and interest in—elections. In fact, through its search, search adver-
11 tising, and other monopolistic platforms, Google has almost total control over im-
12 portant aspects of election speech and election advertising. And Google is willing to
13 exploit its control—as can be seen in Google’s targeting of Tulsi Gabbard, a political
14 opponent of the company, through the Account.

15 62. In fact, Gabbard’s Account is not the first election advertising that
16 Google has interfered with. For example, in June 2018, Google announced that it
17 would no longer sell political ads for local races in Washington state. Yet in reality,
18 Google continued to sell such ads—thousands of dollars’ worth, in fact—but *only to*
19 *certain campaigns*.

20 63. In short, Google’s alleged ban on ads for local races in Washington state
21 was selectively enforced. This misconduct ultimately resulted in the Washington
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1 state attorney general prosecuting Google, and Google settled case, agreeing to pay
2 \$217,000 to resolve its liability.

3 * * *

4 64. Google has established a clear trend of using its power over speech to
5 favor certain political viewpoints over others. For example, since June 2019, Google
6 has used its unique control over political advertising and election speech to try to
7 silence Tulsi Gabbard, a presidential candidate who has spoken out against Google.
8

9 65. But Tulsi will not be silenced. Google is trying to change the outcome
10 of an American presidential election, and the government has been unwilling and
11 unable to do anything about it. This action seeks to change that.

12 **COUNT ONE**
13 **(Violations of the First Amendment to the U.S. Constitution)**

14 66. The Campaign realleges and incorporates by reference each of the pre-
15 ceding paragraphs as if fully set forth herein.

16 67. The First Amendment to the United States Constitution protects the
17 freedom of speech and association, and protects against viewpoint discrimination in
18 the access and use of public spaces, quasi-public spaces, and limited public spaces.
19 It also protects the rights of all Americans to freely associate with others.
20

21 68. Google creates, operates, and controls its platform and services, includ-
22 ing but not limited to Google Search, Google Ads, and Gmail as a public forum or
23 its functional equivalent by intentionally and openly dedicating its platform for pub-
24 lic use and public benefit, inviting the public to utilize Google as a forum for free

1 speech. Google serves as a state actor by performing an exclusively and traditionally
2 public function by regulating free speech within a public forum and helping to run
3 elections. Accordingly, speech cannot be arbitrarily, unreasonably, or discriminato-
4 rily excluded, regulated, or restricted on the basis of viewpoint or the identity of the
5 speaker on Google’s platform.

6 69. Google’s actions, and the actions of its agents, deprive the Campaign
7 of its constitutional rights. Google has restricted the Campaign’s speech and expres-
8 sive conduct by adopting and applying subjective, vague, and overbroad criteria (the
9 “Subjective Criteria”) that give Google unfettered and unbridled discretion to censor
10 speech for arbitrary, capricious, or nonexistent reasons. The Subjective Criteria fail
11 to convey a sufficiently definite warning to the Campaign (or the public) as to what
12 is prohibited or restricted and, as a result, they allow Google to censor speech at its
13 whim and based on subjective animus towards the speaker and/or her particular po-
14 litical or religious viewpoint.

15
16 70. Google applies the Subjective Criteria as a pretext to censor and restrict
17 the Campaign’s speech, based not on the content of the speech but because of Tulsi
18 Gabbard’s identity and political viewpoints. Google has restricted the Account, but
19 has not restricted similar Google Ads accounts for other presidential candidates.
20 Google’s application of Subjective Criteria and corresponding restraints on the Cam-
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1 paign’s speech is arbitrary and capricious, and/or is based on political or other ani-
2 mus towards the identity and viewpoints of the speaker (*i.e.*, the Campaign), not the
3 actual content of the speech.

4 71. Further, because Google’s actions impeded the Campaign’s ability to
5 associate, at a crucial political moment, with voters who feel similarly to Tulsi Gab-
6 bard on important issues, Google’s actions impinge on and violate the Campaign’s
7 rights to free association and assembly. Google’s actions also violate the Campaign’s
8 rights to free association and assembly by blocking potential voters’ access to infor-
9 mation and messages from Account. And Google’s actions were done with the intent
10 to deprive the Campaign—like other voices critical of Google—of their First
11 Amendment rights.

12 72. No compelling, significant, or legitimate reason justifies Google’s
13 speech-restricting actions towards the Campaign (e.g., suspending the Account; ma-
14 nipulating Gmail Spam algorithms to target communications from Tulsi). Even if
15 some interests did exist to justify Google’s suspension rules generally, the re-
16 strictions imposed on the Campaign’s speech are not narrowly or reasonably tailored
17 to further such interests. Given Google’s monopolistic control over the internet, the
18 Campaign has no alternative channel affording a reasonable opportunity to reach its
19 full intended audience.

20 73. Google’s discriminatory policies are not (and its discriminatory appli-
21 cation of those policies is not) viewpoint neutral; they are unreasonable in time,
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1 place, and manner; and they are unreasonable in relation to the nature, purpose, and
2 use of the forum. They impose an unreasonable restraint on the Campaign's pro-
3 tected political speech, motivated by impermissible discrimination against the Cam-
4 paign's identity and viewpoint.

5 74. As a direct and proximate result of Google's violations of the clearly
6 established law of public forums, Gabbard and the Campaign have suffered and con-
7 tinue to suffer immediate and irreparable injury in fact, including lost income, de-
8 creased viewership and engagement, and damage to brand and reputation, for which
9 there exists no adequate remedy at law.
10

11 75. Google's wrongful actions were taken with oppression, fraud, or mal-
12 ice. These actions were arbitrary and capricious. And they were taken as part of
13 Google's normal course of business, effectuated through both Google-designed al-
14 gorithms and Google employees and agents.
15

16 **COUNT TWO**
(California Constitution, Article I, section 2)

17 76. The Campaign realleges and incorporates by reference each of the pre-
18 ceding paragraphs as if fully set forth herein.
19

20 77. Article I, section 2 of the California Constitution protects the liberty of
21 speech and association, especially in public, quasi-public, and limited public spaces.

22 78. Google has created and maintained a public forum for the public to ex-
23 press and exchange views and ideas, or in the alternative has created a quasi or lim-
24

1 ited public forum. Google acts as a state actor because Google performs an exclu-
2 sively and traditionally public function by regulating free speech and controlling the
3 access of political candidates like Gabbard to their constituents, thereby controlling
4 the circumstances of and speech within elections. Accordingly, speech in Google's
5 public forums cannot be arbitrarily, unreasonably, or discriminatorily excluded, reg-
6 ulated, or restricted on the basis of viewpoint or the identity of the speaker.

7
8 79. The content of the Account, which was designed to inform the voting
9 public of Gabbard's candidacy and encourage its support of her, constitutes political
10 speech and activity protected by Article I, section 2 of the California Constitution.

11 80. Google has restricted the Campaign's political speech based on a pre-
12 text, and has used its terms of use and Subjective Criteria to discriminate against
13 Plaintiff. This censorship is not based on the content of the censored speech, or the
14 violation of any objective guidelines, but is instead based on Gabbard's political
15 viewpoint. Google has restricted the speech of the Campaign on its platforms, but
16 has not similarly restricted the speech of any other major Democratic candidate.
17 Google's restriction of the Campaign is arbitrary and capricious and/or is based on
18 political, religious, or other animus towards the identity and viewpoints of the
19 speaker, not the actual content of the speech.
20

21 81. No compelling, significant, or legitimate reason justifies Google's ac-
22 tions. Even if such interests did exist to justify Google's rules generally, the re-
23 strictions imposed on the Campaign's speech are not narrowly or reasonably tailored
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1 to further such interests. Given Google’s control of the Internet search and search
2 advertising markets (as well as the pervasiveness of the Gmail platform), the Cam-
3 paign has no alternative affording it a reasonable opportunity to reach its full in-
4 tended audience.

5 82. Google’s discriminatory policies are not (and its application of these
6 polices is not) viewpoint neutral. These discriminatory policies are unreasonable in
7 time, place, and manner, and they are unreasonable in relation to the nature, purpose,
8 and use of Google’s forums (e.g., Google Search and Google Ads). Google’s dis-
9 criminatory policies impose an unreasonable prior restraint on the Campaign’s pro-
10 tected political speech, motivated by impermissible discrimination against Gab-
11 bard’s identity and viewpoint.
12

13 83. Google’s wrongful actions were taken with oppression, fraud, or mal-
14 ice. These actions were arbitrary and capricious. Google takes its wrongful actions
15 as part of its normal course of business, effectuated through Google-designed algo-
16 rithms and Google’s employees and agents. And Google’s actions were done with
17 the intent to deprive the Campaign and California voters who want to hear from
18 Gabbard of their rights under the California constitution.
19

20 84. As a direct and proximate result of Google’s violations of clearly estab-
21 lished law regarding public forums, the Campaign has suffered, and continues to
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1 suffer, immediate and irreparable injury in fact, including lost income, reduced ex-
2 posure, and damage to brand, reputation, and goodwill, for which there exists no
3 adequate remedy at law.

4 **COUNT THREE**
5 **(California Unruh Civil Rights Act – Civil Code §§ 51, *et seq.*)**

6 85. The Campaign realleges and incorporates by reference each of the pre-
7 ceding paragraphs as if fully set forth herein.

8 86. Google hosts business establishments under the Unruh Civil Rights Act,
9 California Civil Code §§ 51 *et seq.* Google grants the public unrestricted access to
10 Google Ads for commercial reasons that are at the core of their business model and
11 the source of virtually all their revenue.

12 87. Despite their promises of neutrality and a diversity of viewpoints,
13 Google engages in a pattern and practice of intentional discrimination in the provi-
14 sion of its services, including discriminating against and censoring the Campaign's
15 speech based not on the content of the censored speech but on the Campaign's po-
16 litical identity and viewpoint. Through the acts complained of herein, Google inten-
17 tionally denied, and aided or incited in denying, the Campaign full and equal accom-
18 modations, advantages, privileges, and services by discriminating against it in ad-
19 ministrating and suspending the Account.

20 88. A substantial motivating reason for Google's conduct is Google's sub-
21 jective perception of the Campaign's political identity and viewpoints, as well as
22 those of others with whom the Campaign associated. Google's discrimination
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24

1 against Plaintiff is arbitrary, capricious, pretextual, and discriminatory. It is also
2 wholly without any legitimate, reasonable business interest, as the content of the
3 Account is completely compliant with the letter and spirit of Google's Terms of Use
4 and Community Guidelines. Google is censoring and treating the Campaign and its
5 Account differently out of animus towards the Campaign's identity and views.

6 89. Google's wrongful actions were taken with oppression, fraud, and/or
7 malice, effectuated both through Google-designed algorithms and through Google
8 employees and agents (e.g., manual human review of the Account). Google articu-
9 lated a pretextual reason to suspend the Account, which was not supported by any
10 factual evidence.

11 90. As a direct and proximate result of Google's unlawful discriminatory
12 actions, Plaintiff suffered, and continues to suffer, irreparable injury in fact, includ-
13 ing but not limited to lower viewership, lost potential campaign contributions, and
14 harm to Gabbard's Presidential election bid, for which there exists no adequate rem-
15 edy at law.

16 91. Google's violations of the Unruh Civil Rights Act further entitle Plain-
17 tiff to recover statutory damages of up to three times the amount of actual damages
18 in an amount to be proven at trial, or a minimum of \$4,000 per violation.

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20
21 **COUNT FOUR**
22 **(Business and Professions Code § 17200 *et seq.*)**

23 92. The Campaign realleges and incorporates by reference each of the pre-
24 ceding paragraphs as if fully set forth herein.

1 93. Google has committed acts of unfair competition, as defined by Busi-
2 ness and Professions Code § 17200, by engaging in the practices described above.

3 94. Google's policies and practices, and their application of the same to the
4 Campaign, constitute unlawful, unfair, or fraudulent business acts or practices within
5 the meaning of Business and Professions Code § 17200. Google's policies, as well
6 as their application, violate the policy and spirit of the Unruh Act, the Lanham Act,
7 the California and United States Constitutions, and prior court decisions. Those ac-
8 tions are likely to mislead the public, and do mislead the public, about Plaintiff's
9 views and Google's policies. Advertisers, the voting public, and politicians rely on
10 Google for an open marketplace of ideas and expression, and rely on Google to en-
11 sure that only accounts which truly violate policies get suspended.

12 95. There is no utility to the public for Google's actions, where those re-
13 strictions violate no laws or contractual terms of use and treat Plaintiff and others
14 similarly situated simply because of their perceived politics and identity of their
15 speaker. And to the extent that any utility to Google's arbitrarily and discriminatorily
16 applied policies did exist, that utility is significantly outweighed by the harm they
17 impose on consumers and the public. Google has alternatives to this conduct that
18 would be less harmful to consumers, but does not adopt or apply them because of
19 their bias against the Campaign and others similarly situated.
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1 101. The Campaign did all or substantially all of the significant things re-
2 quired of it under its agreements with Google, or was excused from having to do
3 those things. The Account did not violate the letter or spirit of any term in the Cam-
4 paign's contracts with Google.

5 102. Google was bound by the implied covenant of good faith and fair dealing
6 in their agreements, terms, and policies, not to engage in any acts, conduct, or omis-
7 sions that would impair or diminish the Campaign's rights and benefits from the
8 parties' agreements. Pursuant to the terms of those agreements, the Campaign was
9 supposed to have equal access to a wide audience to promote its messages and po-
10 litical ideas, and it was in reliance on Google's mission statement that it chose
11 Google Ads. Instead, Google has, by the acts and omissions complained of herein,
12 intentionally and tortiously breached the implied covenant of good faith and fair
13 dealing by unfairly interfering with the Campaign's rights to receive the benefits of
14 those contracts.
15

16
17 103. The foregoing acts and omissions were engaged in by Google with the
18 knowledge that it was bound to act consistently with the covenant of good faith and
19 fair dealing. Those acts and omissions were not only failures to act fairly and in good
20 faith, but they were acts of oppression, fraud, and malice.

21 104. As a direct and proximate result of the aforementioned conduct of
22 Google, the Campaign has suffered and continues to suffer, immediate and irrepara-
23 ble injury in fact, including lower viewership, lost potential campaign contributions,
24

1 and harm to Gabbard’s election bid for President of the United States, for which
2 there exists no adequate remedy at law.

3 **COUNT SIX**
4 **(Lanham Act – 15 U.S.C. § 1125 et seq.)**

5 105. The Campaign realleges and incorporates by reference each of the pre-
6 ceding paragraphs as if fully set forth herein.

7 106. Google is engaged in interstate commerce and competition through
8 hosting, advertising, soliciting, and receiving revenue from advertising.

9 107. Google engages in a pattern and practice of promulgating knowingly
10 misleading and deceptive advertisements, and of unfairly competing. For example,
11 Google advertises itself as a forum for open expression by diverse speakers. Google
12 unfairly and deceptively misrepresents the nature, characteristics, and qualities of
13 Google’s services and commercial activities as an equal and diverse public forum.
14 Google likewise unfairly enhances the image and goodwill of its content, while de-
15 grading the Campaign by suggesting that the Account somehow violates its terms of
16 use.
17

18 108. Google’s false representations and unfair competition deceived, and
19 had a tendency to deceive, substantial segments of Google’s audiences, including
20 potential advertisers like the Campaign, and the audience that views ads. As a direct
21 and proximate result of Google’s actions complained of herein, the Campaign has
22 suffered, and continues to suffer, immediate and irreparable injury in fact, including
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24

1 lower viewership, lost potential campaign contributions, and harm to Gabbard's bid
2 for President of the United States, for which there exists no adequate remedy at law.

3 109. Google's wrongful actions were taken with oppression, fraud and/or
4 malice. Google articulated a pretextual reason to suspend the Account, which was
5 not supported by any factual evidence.

6
7 **COUNT SEVEN**
(Declaratory and Injunctive Relief)

8 110. The Campaign realleges and incorporates by reference each of the pre-
9 ceding paragraphs as if fully set forth herein.

10 111. An actual controversy exists between the Campaign and Google as to
11 whether Google's policies and procedures, and their application thereof, violate the
12 Unruh Civil Rights Act, the Lanham Act, and the United States and California Con-
13 stitutions. The correct interpretation is that Google's policies and procedures, fa-
14 cially and as applied, violate the Unruh Civil Rights Act, the Lanham Act, and the
15 Campaign's speech and association rights under both the United States and Califor-
16 nia Constitutions.

17
18 112. Unless the court issues an appropriate declaration of rights, the parties
19 will not know whether Google's policies and procedures, and Google's application
20 of their policies and procedures, comply with the law, including the Federal and State
21 constitutions, and there will continue to be disputes and controversy surrounding
22 Google's policies and procedures and application thereof.
23
24

1 113. Unless the court issues an appropriate injunction, Google’s illegal and
2 unconstitutional behavior will continue, harming both the Campaign and the general
3 public, which has an overwhelming interest in a fair, unmanipulated 2020 United
4 States Presidential Election cycle.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, the Campaign prays for relief as hereinafter set forth below:

7 1. For a declaratory judgment that Google has violated the Campaign’s
8 free speech rights, both facially and as applied, under the First Amendment to the
9 United States Constitution, and under Article I, section 2 of the California Constitu-
10 tion;
11 tion;

12 2. For an injunction requiring Google to (i) cease and desist capriciously
13 restricting or otherwise censoring the Account, and (ii) from censoring or restricting
14 the Campaign’s speech based on Google’s unfettered discretion, or the use or appli-
15 cation of arbitrary, capricious, vague, unspecified, or subjective criteria guidelines;
16

17 3. For compensatory, special, and statutory damages in an amount to be
18 proven at trial, including statutory damages pursuant to, inter alia, Civil Code §§ 51,
19 51.5, 52, Civil Procedure Code § 1021.5, 15 U.S.C. § 1117, 42 U.S.C. §§ 1981, 1983;

20 4. For a civil penalty of \$2,500 for each violation pursuant to Business
21 and Professions Code §§ 17200, 17206, and 17536;

22 5. For punitive damages and exemplary damages in an amount to be
23 proven at trial;
24

1 6. For restitution of financial losses or harm caused by Google’s conduct
2 and in an amount to be proven at trial;

3 7. For attorneys’ fees and costs of suit;

4 8. For prejudgment and post-judgment interest; and

5 9. For any and all further relief that the Court deems just and proper.
6

7 Dated: July 25, 2019

Respectfully submitted,

8 **Pierce Bainbridge Beck Price & Hecht**
9 **LLP**

10 By: /s/ Brian J. Dunne _____

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