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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

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GEARSOURCE HOLDINGS, LLC, a  
Florida company,

Plaintiff,

vs.

GOOGLE LLC, a Delaware company,  
and DOES 1 through 20,

Defendants.

Case No.

**PLAINTIFF’S COMPLAINT  
FOR:**

1. **TRADEMARK INFRINGEMENT**
2. **FALSE ADVERTISING AND FALSE DESIGNATION OF ORIGIN**
3. **UNFAIR COMPETITION [CAL. BUS. & PROF. CODE § 17200 ET SEQ.]**
4. **UNFAIR COMPETITION [15 U.S.C. § 1125(a)]**
5. **UNJUST ENRICHMENT**

**[DEMAND FOR JURY TRIAL]**

Plaintiff GEARSOURCE HOLDINGS, LLC (“Plaintiff” or “GearSource”) hereby alleges as follows:

**PARTIES**

1. Plaintiff GearSource Holdings, LLC is and was at all times mentioned in this Complaint a company organized and existing under the laws of Florida, with

1 a principal place of business located at 3101 Fairlane Farms Rd., Suite 4,  
2 Wellington, Florida 33414.

3 2. Defendant Google LLC is a Delaware company, with a principal place  
4 of business located at 1600 Amphitheatre Parkway, Mountain View, California  
5 94043.

6 3. The true names, capacities, and involvement of those defendants sued  
7 herein as Does 1 through 20, inclusive, are unknown to Plaintiff, who therefore sues  
8 said defendants by fictitious names. Plaintiff is informed, believes, and thereon  
9 alleges that each of the defendants designated as a Doe is responsible in some  
10 manner for the events herein referred to and thereby legally caused the injuries and  
11 damages herein alleged. Plaintiff will seek leave of court to amend this Complaint to  
12 show the true names, capacities, and involvement of the defendants designated  
13 herein as Does when the same have been ascertained.

14 4. Plaintiff is informed and believes and on that basis alleges that at all  
15 relevant times, Defendants, and each of them, were the agents, servants, employees  
16 or representatives of each of the other Defendants, were acting within the full course  
17 and scope of said agency, employment or representation with the full knowledge and  
18 consent, either express or implied, of each of the other Defendants, and are liable for  
19 the conduct, damages and relief alleged in the Complaint.

20 5. Plaintiff is informed and believes and on that basis alleges that at all  
21 relevant times, Defendants, and each of them, aided and abetted, ratified, acquiesced  
22 in, consented to and approved all of the conduct of the other remaining Defendants  
23 and therefore such conduct and its consequences are imputable to each of the  
24 Defendants.

### 25 **JURISDICTION AND VENUE**

26 6. The Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1338.  
27 This Court has supplemental jurisdiction of the state statutory and common law  
28 claims herein under 28 U.S.C. §§ 1338(b) and 1367(a). This Court has personal

1 jurisdiction over each of the Defendants who have committed acts of infringement in  
2 violation of the Federal Lanham Act, and have placed infringing products/services  
3 into the stream of commerce through established distribution channels with the  
4 knowledge that such products/services are used and sold in this District.

5 7. Venue is proper in this District under 28 U.S.C. § 1391 in that  
6 Defendant Google LLC's principal place of business is in this District, and a  
7 substantial part of the events giving rise to the claims occurred in this District.

8 **FACTUAL ALLEGATIONS**

9 8. By this Complaint, GearSource seeks injunctive relief, damages, and  
10 other remedies provided for by law to remedy injuries caused by Defendants  
11 GOOGLE LLC, a Delaware company, and DOES 1 through 20 (collectively  
12 "Defendants"), for claims of trademark infringement, false advertising and false  
13 designation of origin, unfair competition [Cal. Bus. & Prof. Code § 17200 et seq.],  
14 unfair competition [15 U.S.C. § 1125(a)], and unjust enrichment.

15 9. GearSource was established in Florida in 2002, and provides the  
16 world's best marketplace for buyers and sellers of used professional stage lighting,  
17 and professional audio, video and staging industry gear, with over 1600 brands  
18 represented. GearSource offers a full-service experience to its customers, with e-  
19 commerce, the ability to manage one's own listings, escrow style purchasing, and  
20 complete product category selection, all managed and organized via proprietary  
21 programs and its integrated database and software solution called G-SUITE. On the  
22 foundation of its unique G-SUITE platform, GearSource expects to continue to grow  
23 and expand into additional markets in 2018 and beyond.

24 10. G-SUITE is a fully-integrated, online business solution providing order  
25 and payment processing, a shipping component, and an API to connect to any  
26 external accounting system. G-SUITE is designed to communicate with other  
27 system Administrative areas, as well as Customer and Vendor Account Centers, in  
28 real-time. Orders are in constant transition as they are being worked and it's

1 important for customers and vendors to have access to the latest information simply  
2 by logging in to their own Account Center. G-SUITE handles this seamlessly and  
3 immediately. As orders move through the status processes, not only does it update  
4 the Customer and Vendor Account Centers, but it triggers the appropriate  
5 notifications to all parties involved, including sales staff, of where the order is or if  
6 additional information is needed. G-SUITE is intuitive, progressive and simple to  
7 use, including through the convenience of a downloadable app. In addition, it is  
8 multi-site capable, meaning additional licensee sites or components can be added  
9 easily and quickly, allowing for both business growth and globalization.

10 11. Defendants are currently infringing on GearSource’s valuable  
11 intellectual property and rights associated with G-SUITE. Accordingly, GearSource  
12 hereby seeks compensatory damages, statutory damages, restitution, and injunctive  
13 relief, as set forth more fully below and in the accompanying Prayer for Relief.

14 12. GearSource, Inc. (the predecessor company to Plaintiff GearSource  
15 Holdings, LLC) is the applicant and initial registered owner of United States  
16 Trademark Registration No. 5,376,240 (“G-SUITE Mark”), which was first  
17 registered on January 9, 2018 for “[c]omputer software for use in creating searchable  
18 databases of information and data for use in the buying and selling of lighting, audio  
19 and visual equipment, staging, trussing and rigging equipment, musical instruments,  
20 for others,” with an identified date of first use of July 12, 2016, and the identified  
21 date of first use in commerce of August 13, 2016. Application for the G-SUITE  
22 Mark was filed on August 9, 2016. A copy of the G-SUITE Mark is attached hereto  
23 as Exhibit A and is incorporated herein by reference. The G-SUITE Mark is of the  
24 name “G-SUITE”. The G-SUITE Mark is a valid and protectable trademark.  
25 Ownership of the G-SUITE Mark has since been assigned to Plaintiff GearSource  
26 Holdings, LLC.

27 13. Upon information and belief, Defendants are unlawfully infringing on  
28 the G-SUITE Mark by using, marketing, and selling their own competing “G Suite”

1 service and brand. Indeed, Google, Inc. (the predecessor company to Defendant  
2 Google LLC) submitted an application to the United States Patent and Trademark  
3 Office (“USPTO”) on November 28, 2016 for registration of its own “G Suite”  
4 trademark, as U.S. Application Serial No. 87249405 (“Google’s Application”).  
5 However, Defendant Google LLC was notified by the USPTO, by way of an Office  
6 Action dated March 8, 2017, that its trademark application “may be refused  
7 registration under the Trademark Act Section 2(d) because of a likelihood of  
8 confusion” with GearSource’s prior pending trademark application and use.  
9 Google’s Application was subsequently suspended on September 22, 2017, again  
10 due to GearSource’s prior pending G-SUITE Mark application and use, and on April  
11 13, 2018, the USPTO notified Defendant Google LLC that “registration of the  
12 applied-for mark is refused because of a likelihood of confusion” with the G-SUITE  
13 Mark.

14 14. Despite its difficulties securing the “G Suite” trademark, Defendant  
15 Google LLC proceeded to launch its “G Suite” service and brand on September 29,  
16 2016. Defendant Google LLC advertises its “G Suite” service as constituting an  
17 “all-in-one suite to communicate, store and create,” including for business email,  
18 calendar, storage and more. “G Suite” replaced the company’s similar service  
19 known as Google Apps. As of January 2017, Google LLC’s CEO claimed to have 3  
20 million businesses paying for “G Suite”, and another 70 million “G Suite for  
21 Education” users.

22 15. Google’s Application sought registration of the name “G Suite” for  
23 “[c]omputer software and computer programs for database management, creating  
24 electronic spreadsheets, designing, creating, editing and publishing documents, note  
25 taking, email, calendaring, contacts management, creating presentation graphics,  
26 desktop publishing, document management, word processing, instant messaging,  
27 voice over internet protocol (VOIP), video conferencing, audio conferencing,  
28 application sharing, ensuring computer network security, and providing computer

1 network intrusion detection and prevention,” “[t]elecommunications services,  
2 namely, electronic transmission of data and digital messaging via global computer  
3 and communication networks; digital multimedia broadcasting services over the  
4 Internet, namely, posting, displaying, and electronically transmitting data, audio and  
5 video; providing access to computer databases in the fields of general interest;  
6 instant messaging services; voice over internet protocol (VOIP) services; video and  
7 audio conferencing services conducted via the web, telephone, and mobile devices;  
8 communications by computer terminals; local and long distance telephone services;  
9 mobile telephone communication services,” and “[a]pplication service provider  
10 (ASP), namely, hosting computer software applications of others; application service  
11 provider (ASP) featuring software for use in creating text documents, spreadsheets,  
12 tables, and websites; computer services, namely, integration of private and public  
13 cloud computing environments; computer services, namely, cloud hosting provider  
14 services; providing virtual computer systems and virtual computer environments  
15 through cloud computing; technical support services, namely, troubleshooting of  
16 computer software problems in the field of cloud computing; application service  
17 provider, namely, hosting and maintenance of collaborative websites created by  
18 others using non-downloadable software; Electronic storage of electronic media,  
19 namely, user-generated documents, spreadsheets, drawings, images, audio files,  
20 video files, and scanned documents.” Defendant’s stated first use and first use in  
21 commerce of “G Suite” is September 29, 2016.

## 22 **FIRST CAUSE OF ACTION**

### 23 **(For Trademark Infringement)**

24 16. Plaintiff re-alleges each and every allegation set forth in Paragraphs 1  
25 through 15, inclusive, and incorporates them as though fully set forth by this  
26 reference herein.

27 17. Plaintiff is informed and believes that Defendants, and each of them,  
28 have been advertising, selling, distributing, and/or offering for sale product and

1 services that include reproductions, counterfeits, copies, or colorable imitations of  
2 Plaintiff's G-SUITE Mark in connection with computer software, downloadable  
3 apps, searchable databases, and related services.

4 18. Defendants are not authorized by Plaintiff to use the G-SUITE Mark, or  
5 any confusingly similar marks, in connection with the marketing and/or sale of  
6 goods or services.

7 19. Plaintiff is informed and believes, and thereon alleges, that the products  
8 and services that Defendants are advertising, selling, or offering for sale are  
9 imitations of the G-SUITE Mark, and that Defendants are advertising, selling,  
10 distributing, or offering for sale in interstate commerce or in a manner substantially  
11 affecting interstate commerce. As such, Defendants' advertising, sale, distribution,  
12 or offering for sale of those products is likely to cause confusion, mistake, and/or  
13 deception among consumers as to the source, quality, and nature of those goods and  
14 services.

15 20. As a direct and proximate result of Defendants' conduct, Plaintiff has  
16 been harmed in an amount according to proof, and will suffer further, irreparable  
17 injury unless the requested relief is granted.

18 21. Plaintiff is informed and believes, and thereon alleges, that Defendants'  
19 acts were committed, and continue to be committed, with actual notice of Plaintiff's  
20 rights and with an intent to cause injury to the reputation and goodwill associated  
21 with Plaintiff and its products and services. Pursuant to 15 U.S.C. § 1117, Plaintiff  
22 is, therefore, entitled to recover three times its actual damages or three times  
23 Defendants' profits, whichever is greater, together with Plaintiff's attorneys' fees.

24 **SECOND CAUSE OF ACTION**

25 **(For False Advertising and False Designation of Origin and Injunctive Relief)**

26 22. Plaintiff re-alleges each and every allegation set forth in Paragraphs 1  
27 through 21, inclusive, and incorporates them as though fully set forth by this  
28 reference herein.

1 23. Defendants' use of its "G Suite" brand via the Internet, and statements  
2 relating thereto in commercial advertising or promotion, constitutes false advertising  
3 and false designation of origin, in violation of Section 43 of the Lanham Act, 15  
4 U.S.C. Section 1125(a).

5 24. The false statements actually deceived or had the tendency to deceive a  
6 substantial segment of Defendants' intended audience regarding the origination,  
7 association, sponsorship, or approval of Defendants' goods with Plaintiff. The  
8 deception was material, in that it was likely to influence the consumers' purchasing  
9 decision.

10 25. Defendants caused the false statements to enter interstate commerce.

11 26. Plaintiff and consumers have been or are likely to be injured as a result  
12 of the false statements either by a direct diversion of sales from Plaintiff to  
13 Defendants and/or by a lessening of the reputation and goodwill associated with  
14 Plaintiff's products and services.

15 27. Plaintiff has invested significant time and resources to develop its G-  
16 SUITE Mark. Indeed, the G-SUITE Mark is an important part of Plaintiff's current  
17 business operations, and any diminution of that brand will result in substantial injury  
18 to Plaintiff.

19 28. As a direct and proximate result of Defendants' conduct, Plaintiff has  
20 been harmed in an amount according to proof, and will suffer further, irreparable  
21 injury unless the requested relief is granted.

22 29. Defendants' conduct as alleged herein was intentional, willful, wanton,  
23 malicious, oppressive and reckless, thus warranting enhanced and/or treble damages  
24 and attorneys' fees pursuant to 15 U.S.C. Section 1117(a).

25 30. Plaintiff is also entitled to injunctive relief to enjoin Defendants from  
26 the actions identified herein regarding the continued sales, marketing and  
27 distribution of products and/or services bearing the "G Suite" brand.

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**THIRD CAUSE OF ACTION**

**(Unfair Competition [Cal. Bus. & Prof. Code § 17200 et seq.]**

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3 31. Plaintiff re-alleges each and every allegation set forth in Paragraphs 1  
4 through 30, inclusive, and incorporates them as though fully set forth by this  
5 reference herein.

6 32. As alleged above, Defendants have engaged in a variety of acts directed  
7 towards Plaintiff that constitute unlawful and unfair business practices in violation of  
8 California Business and Professions Code section 17200, including in particular the  
9 violation of Plaintiff's intellectual property rights to exclusive use of the G-SUITE  
10 Mark.

11 33. Defendants have profited and will, in the future, profit unjustly from  
12 their unfair business practices. Accordingly, pursuant to California Business and  
13 Professions Code section 17203, Plaintiff seeks an award of restitution and  
14 disgorgement.

15 34. Furthermore, as a proximate result of Defendants' conduct, Plaintiff has  
16 been and will continue to be harmed in the form of damage to its goodwill, lost sales,  
17 and other actual damages.

18 35. The harm to Plaintiff and to members of the general public outweighs  
19 any utility of Defendants' business practices.

20 36. Defendants' unlawful competition has and will continue to cause great  
21 and irreparable injury to Plaintiff. Unless restrained, Defendants will continue the  
22 acts and conduct set forth in this cause of action to Plaintiff's great and irreparable  
23 injury for which damages will not afford adequate relief. Plaintiff therefore requests,  
24 pursuant to California Business and Professions Code section 17203, that this Court  
25 issue an injunction restraining and enjoining Defendants and their agents, employees,  
26 attorneys and representatives, and anyone acting at their direction, from engaging in  
27 the unlawful and unfair business practices alleged herein.  
28

1 37. Defendants took the aforementioned actions willfully and maliciously,  
2 with the intent to injure Plaintiff and its shareholders, to gain an unfair competitive  
3 advantage, and to advance their own gain at the expense of Plaintiff's rights,  
4 reputation and business interests, and Plaintiff is therefore entitled to the relief  
5 sought.

6 38. Upon proof, Plaintiff is entitled to recover its costs, including attorney's  
7 fees, under California Code of Civil Procedure section 1021.5.

8 **FOURTH CAUSE OF ACTION**

9 **(Unfair Competition [15 U.S.C. § 1125(a)])**

10 39. Plaintiff re-alleges each and every allegation set forth in Paragraphs 1  
11 through 38, inclusive, and incorporates them as though fully set forth by this  
12 reference herein.

13 40. Defendants' conduct as alleged herein with respect to the "G Suite"  
14 brand constitutes unfair competition, in violation of Section 43 of the Lanham Act,  
15 15 U.S.C. Section 1125(a). As a direct and proximate result of Defendants' conduct,  
16 Plaintiff has been harmed in an amount according to proof, and will suffer further,  
17 irreparable injury unless the requested relief is granted.

18 41. Defendants' conduct as alleged herein was intentional, willful, wanton,  
19 malicious, oppressive, and reckless, thus warranting enhanced and/or treble damages  
20 and attorneys' fees pursuant to 15 U.S.C. Section 1117(a).

21 **FIFTH CAUSE OF ACTION**

22 **(Unjust Enrichment)**

23 42. Plaintiff re-alleges each and every allegation set forth in Paragraphs 1  
24 through 41, inclusive, and incorporates them as though fully set forth by this  
25 reference herein.

26 43. Subject to the foregoing claims, by virtue of their wrongful conduct  
27 toward Plaintiff alleged above, Defendants have been unjustly enriched by the  
28 infringing use of Plaintiff's G-SUITE Mark without consideration to or consent from

1 Plaintiff. Plaintiff will be harmed in an amount according to proof, and will suffer  
2 further, irreparable injury unless the requested relief is granted. Accordingly and  
3 alternatively to awarding an injunction, Plaintiff demands that a constructive trust be  
4 imposed for Plaintiff's benefit on all revenues derived from the sale of products  
5 and/or services based on, arising out of, or otherwise derived from Defendants'  
6 wrongful conduct alleged herein.

7 44. It would be manifestly unjust for Defendants to retain any of the  
8 benefits they have gained through their wrongful conduct. Subject to and as alleged  
9 above, unless the Court orders restitution to Plaintiff, Defendants will unjustly  
10 benefit from their actions.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff prays for judgment against Defendants, as to all  
13 counts of its Complaint, as follows:

- 14 1. Actual general and compensatory damages according to proof;
- 15 2. Reasonable attorney's fees and costs of suit;
- 16 3. Pre-judgment interest on all amounts claimed as permitted by law;
- 17 4. For injunctive relief enjoining Defendants from infringing on Plaintiff's  
18 intellectual property, including in particular any continued use of the "G Suite"  
19 brand;
- 20 5. Restitution and disgorgement of Defendant's profits unjustly obtained;
- 21 6. An accounting of all of all benefits and profits derived from  
22 Defendants' use of the "G Suite" brand;
- 23 7. Statutory treble damages;
- 24 8. Punitive or exemplary damages; and

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1           9.     Such other, further, and different relief as the Court may deem proper  
2 under the circumstances.

3  
4 Dated: June 26, 2018

CHRISTENSON LAW FIRM, LLP

5  
6 By: /s/ Vonn R. Christenson

7 Vonn R. Christenson  
8 Attorney for Plaintiff  
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**DEMAND FOR JURY TRIAL**

The plaintiff hereby demands a trial by jury on all causes of action.

Dated: June 26, 2018

CHRISTENSON LAW FIRM, LLP

By: /s/ Vonn R. Christenson  
Vonn R. Christenson  
Attorney for Plaintiff