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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

18 **CHARISSA KEEBAUGH,**
19 **STEPHANIE NEVEU, and**
20 **HEATHER MERCIERI,**
21 on behalf of themselves and all
22 others similarly situated,

Plaintiffs,

v.

24 **WARNER BROS.**
25 **ENTERTAINMENT INC., a**
26 Delaware corporation,
27 Defendant.

Case No. 2:22-cv-01272

COMPLAINT

CLASS ACTION

DEMAND FOR JURY TRIAL

1 This Court has jurisdiction over this action under the Class Action
2 Fairness Act of 2005. Pursuant to 28 U.S.C. §§1332(d)(2), this Court has
3 original jurisdiction because the aggregate claims of the putative class
4 members exceed \$5 million, exclusive of interest and costs, and at least one
5 of the members of the proposed classes is a citizen of a different state than
6 Defendant. This Court has personal jurisdiction over Warner Bros.
7 Entertainment Inc., because its principal place of business is in Burbank,
8 California, it conducts substantial business in this District, and a substantial
9 part of the acts and omissions complained of occurred in this District.

10 Plaintiffs Charissa Keebaugh (“Keebaugh”), Stephanie Neveu
11 (“Neveu”), and Heather Mercieri (“Mercieri”) (collectively, “Plaintiffs”), on
12 behalf of themselves and all others similarly situated, by and through their
13 attorneys, for their Complaint against Warner Bros. Entertainment Inc.,
14 (“Defendant” or “Warner Bros.”) allege, on knowledge as to their own actions,
15 the investigation of Plaintiffs’ counsel, and otherwise upon information and
16 belief, as follows:

PRELIMINARY STATEMENT

17
18 1. This is a class action lawsuit against Warner Bros. for falsely
19 advertising price discounts for in-game purchases in its mobile application
20 game (or “app”), Game of Thrones Conquest (“GOTC”). GOTC has spent 105
21 weeks as one of the top 25 highest grossing applications on Apple's App
22 Store, and is the number three highest grossing strategy game across both
23 Apple and Android devices, with over 20 million downloads and approximately
24 300,000 active users as of December 2020.

25 2. GOTC has generated over \$750 million in revenue since its 2017
26 inception by offering players "microtransactions" - the ability, while in the
27 game, to make discrete in-app purchases of gold, building material, crafting
28 material, armor, and other valuables necessary to level up one's account.

1 These in-app purchases, or "packs," range in price from \$0.99 to \$99.00 each.

2 3. However, in its direct marketing to consumers (including
3 representations made at the time of purchase), Warner Bros. advertised false
4 former prices to induce players into believing they must act quickly to take
5 advantage of a limited-time sale price.

6 4. For several years, Warner Bros. deceived consumers by offering
7 specific limited-time "bonuses" that purported to massively discount the price
8 of its in-game goods. It used strikethrough pricing and statements like "Limited
9 Time! 2000% Bonus Gold!" or "Black Friday Sale" to trick consumers into
10 believing they were benefitting from limited-time promotions that substantially
11 increased the value of their in-game purchases, especially in relation to
12 purchases made by competing players. These purported savings were false,
13 however, because the original pricing that these ads referenced were
14 fabricated.

15 5. These advertisements ran for years. But at no point, let alone
16 within three months of the advertised discounts, were these in-game items
17 ever actually offered at a non-discounted price—*i.e.*, **without** their "limited
18 time" bonuses. In other words, Warner Bros. never sold these items at their
19 "original" price. It just offered false discounts from an original price that did not
20 exist, and its players bought packs on "sale" that were the same prices they
21 would ordinarily pay.

22 6. Furthermore, the advertised "original" pricing does not reflect the
23 prevailing market retail pricing for these virtual in-game items, which have no
24 real-world value and whose pricing is entirely determined by Warner Bros.

25 7. The Federal Trade Commission ("FTC") describes false former
26 pricing schemes as deceptive:

27 One of the most commonly used forms of bargain
28 advertising is to offer a reduction from the advertiser's
own former price for an article. If the former price is

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the actual, bona fide price at which the article was offered to the public on a regular basis for a reasonably substantial period of time, it provides a legitimate basis for the advertising of a price comparison. Where the former price is genuine, the bargain being advertised is a true one. If, on the other hand, the former price being advertised is not bona fide but fictitious – for example, where an artificial, inflated price was established for the purpose of enabling the subsequent offer of a large reduction – the “bargain” being advertised is a false one; the purchaser is not receiving the unusual value he expects.

16 C.F.R. §233.1(a).

8. California statutory and regulatory law also expressly forbid such pricing schemes. Specifically, Cal. Bus. & Prof. Code §17501 states:

No price shall be advertised as a former price of any advertised thing, unless the alleged former price was the prevailing market price as above defined within three months next immediately preceding the publication of the advertisement or unless the date when the alleged former price did prevail is clearly, exactly and conspicuously stated in the advertisement.

9. Defendant knew, or should reasonably have known, that its comparative price advertising was false, deceptive, misleading, and unlawful.

10. Defendant has fraudulently concealed from and intentionally failed to disclose to Plaintiffs and the putative class members the truth about its advertised price discounts and former prices.

11. Through this false and deceptive marketing, advertising, and pricing scheme, Warner Bros. has violated California law prohibiting the advertisement of goods for sale as discounted from false former prices, and prohibiting misleading statements about the existence and amount of price reductions.

PARTIES

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2 19. Plaintiff Charissa Keebaugh is an individual who resides in
3 Vancouver, Washington. She began playing GOTC during May of 2020,
4 having downloaded the game from the Apple App Store. She purchased
5 several False Gold Strikethrough packs (defined below), which she otherwise
6 would not have purchased had she known about the deceptive advertising
7 which she reasonably relied upon in making those purchases.

8 20. Plaintiff Stephanie Neveu is a resident of Waddell, Arizona. She
9 began playing GOTC during June 2019. Ms. Neveu purchased numerous
10 False Gold Strikethrough packs and False Sale Packs (defined below) from
11 June or July 2019 until October 2021, which she otherwise would not have
12 purchased had she known about the deceptive advertising which she
13 reasonably relied upon in making those purchases.

14 21. Plaintiff Heather Mercieri is a resident of Dover, New Hampshire.
15 She began playing GOTC during July 2018. She purchased False Gold
16 Strikethrough Packs and False Sale Packs, which she otherwise would not
17 have purchased had she known about the deceptive advertising which she
18 reasonably relied upon in making those purchases.

19 22. Upon information and belief, Defendant Warner Bros.
20 Entertainment Inc. is a corporation that is incorporated in Delaware and has
21 its principal place of business in Burbank, California.

FACTS

22
23 23. GOTC is a mobile application strategy game developed by
24 Defendant Warner Brothers Entertainment, Inc., available on iPhone and
25 Android devices through the Apple App Store and Google Play platforms,
26 respectively. GOTC is based upon the HBO television series “Game of
27 Thrones” and the “A Song of Ice and Fire” book series by George R.R. Martin.

28 24. GOTC has spent 105 weeks as one of the top 25 highest grossing

1 applications on Apple’s App Store, and is the number three highest grossing
2 strategy game across both Apple and Android devices, with over 20 million
3 downloads and approximately 300,000 active users as of December 2020.

4 25. GOTC, while free to initially download, has generated over \$750
5 million in revenue since its 2017 inception. It makes this revenue by offering
6 players “microtransactions,” or discrete in-app purchases to help players
7 advance in the game. These purchases include gold, building material,
8 crafting material, armor, and other valuables, and the add-ons are necessary
9 to level up one’s account. An “in-app purchase” refers to a financial
10 transaction initiated from within the mobile application itself. These in-app
11 purchases, or “packs,” range in price from \$0.99 to \$99.99 each.

12 26. Once a player creates an account and starts playing, she is able
13 to begin upgrading the level of her “Keep,” or castle, and the buildings within
14 it. She does this to strengthen her combat abilities and therefore maintain a
15 competitive position in the coming battles for Seats of Power.

16 27. In order to progress past a certain level in the game, it is
17 necessary to purchase in-app “packs” that contain gold, building materials,
18 crafting materials, research materials, dragon food, upgrade speed-ups,
19 bubble shields, teleports, and other items that are essential to progress in the
20 game. These essential items require spending real money, as they are
21 otherwise only available in insufficient amounts through in-game labor alone.

22 28. After a few days of playing and regularly making upgrades, the
23 costs to purchase materials to make subsequent upgrades suddenly increase
24 exponentially. For example, the cost of upgrading one’s Keep to level 8 is only
25 approximately 5,000 wood and 5,000 food. But shortly after, the cost of
26 upgrading a Keep from level 29 to level 30 is astronomical in comparison,
27 requiring nearly 900 million wood, 900 million food, 75 million stone, 23 million
28 iron, 90,000 brick, 24,000 soldier pine, and 11,000 keystones. Acquiring the

1 rare resources necessary to make this upgrade alone would cost
2 approximately \$600 in Advanced Building Packs, and a player must upgrade
3 several other buildings in their Keep at a similar cost in order to grow this
4 Keep level.

5 29. These upgrades all costs gameplayers significant, real currency.
6 The packs necessary for these upgrades each have a version that is offered
7 at \$99.99, \$49.99, \$19.99, \$9.99, \$4.99, and \$0.99. The advertisements for a
8 particular pack at different pricing levels are identical in all respects except
9 cheaper levels display and contain less gold and resources. However,
10 progressing one's Keep to level 35, the maximum level, requires
11 approximately over \$25,000 in pack purchases, assuming perfectly optimal
12 purchasing decisions and maximizing items obtained only through gameplay.

13 30. Each and every time a player logs into the game, a pop-up
14 advertisement for a \$99.99 pack fills the entire screen, prompting the player
15 to either accept the purchase or close the advertisement by clicking an "X" in
16 the corner to continue playing the game.

17 31. Each and every displayed pack, whether located on the login pop-
18 up ad, or on the right corner, has an hourglass timer counting down the time
19 that the pack is still available, from the maximum of 59 minutes to a minimum
20 of one second.

21 32. The hourglass timer creates a sense of urgency and scarcity to
22 induce a player to purchase a pack immediately.

23 33. The pack advertisements consist of a graphical image which has,
24 in writing, a name of the pack. The graphical image also contains any relevant
25 descriptions of sales or special offers in which a higher quantity of items is
26 offered for the same price compared to normal versions of those packs.

27 34. However, these advertisements are actually false, deceptive, and
28 intended to mislead players into making in-app purchases that they otherwise

1 would not have made. Defendant falsely promotes these packs as being on
2 sale or discounted by misrepresenting that such packs include limited-time
3 bonuses that purport to substantially increase the value of the packs. Since
4 the game pits players against each other, there is significant pressure on
5 players to take advantage of these limited-time offerings so that they can gain
6 a competitive edge against opponents who presumably are left to pay full
7 price.

8 35. Additionally, the advertisements mislead players into believing
9 they will find themselves at a competitive *disadvantage* if they do not purchase
10 packs now, since they will be left paying full price for items their opponents
11 were able to purchase at a discount.

12 36. There are two primary categories of deceptive pack
13 advertisements: (a) packs that offer the illusion of gold discounts through the
14 strikethrough graphics, hereafter referred to as “False Gold Strikethrough
15 Packs,” and (b) packs that falsely advertise that a pack contains extra value
16 by virtue of being on sale because of a holiday or as part of some other event,
17 hereafter referred to as “False Sale Packs.” Any deceptively advertised pack
18 can belong to more than one of these categories simultaneously, or may be
19 deceptive for a separate reason outside of the ones belonging to the two main
20 categories.

21 **A. False Gold Strikethrough Packs**

22 37. The False Gold Strikethrough Packs display a small amount of
23 gold, with a strikethrough line, and then in bold typeface display a larger
24 amount of gold, implying that the pack once formerly contained the smaller
25 amount of gold. For example, a \$99.99 pack may have “10,000” gold with a
26 strikethrough line over that number, and display in bigger, bolder letters
27 “120,000” gold. The intended message is that the pack formerly contained
28 10,000 gold but now is equipped with 120,000 gold, making it significantly

1 more valuable.

2 38. However, these packs were in fact never offered for the smaller
3 amount of gold at all.



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39. There are dozens of False Gold Strikethrough Packs sold at the \$99.99 price tier, including: Dragon Research Packs, Advanced Building Packs, Advanced Teleport Packs, Troop Training Boost Packs, Enhancement Packs, Crafting Materials Packs, and several more types of packs. None of these packs were ever offered with 10,000 gold at the \$99.99 pricing tier despite having “10,000” struck through on the graphics of their respective ad copies.

40. All of the above packs were offered at the \$49.99 price tier as well. Among those packs, the struck through value was 5,000 gold next to a larger gold amount in bold. However, these packs were also never previously offered with 5,000 gold.

41. Similarly, all of the above packs were also offered in the smaller

1 pricing tiers of \$19.99, \$9.99, \$4.99, and \$0.99—all with identical ad copies
2 with the gold amounts correspondingly smaller in both the strikethrough
3 portion and the bolder typeface. However, in all cases the smaller
4 strikethrough price was never previously offered.

5 42. Defendant Warner Bros. had actual knowledge that the False
6 Gold Strikethrough Packs contained false or misleading misrepresentations
7 as to their prior gold values. Warner Bros. designed and promoted these
8 advertisements from 2018 until present day, where the practice of offering
9 these deceptive packs continues. Warner Bros. specifically represented in
10 advertising the False Gold Strikethrough Packs that the packs contained
11 “400%” or “2000%” bonus gold for a “Limited Time”, while having actual
12 knowledge that these quantitative representations were false.

13 43. For context, gold is the most valuable resource in the game. The
14 average player can expect to earn approximately 1,000–3000 gold per day
15 through in-game labor alone, such as participating in events. However,
16 players usually do not net a surplus of gold per day because they must also
17 spend it, either to progress in the game or to maintain their accounts. Players
18 also require more gold as they level up, and a lack of gold stagnates growth
19 and in fact precludes a player’s ability to do almost any task in the game
20 whatsoever.

21 44. Defendant Warner Bros. promoted these advertisements to
22 induce players to purchase the packs all the while knowing that the packs
23 contained quantitative misrepresentations with respect to the gold value
24 displayed.

25 45. The amount of gold included in a pack, and whether a gold offer
26 represents an increase in the amount of gold a player could purchase with the
27 corresponding pack, is a material consideration when a player decides
28 whether to purchase that pack.



1 46. Plaintiffs and the Classes reasonably relied on the “strikethrough”
2 pricing when purchasing numerous False Gold Strikethrough Packs. Had
3 Plaintiffs known the “strikethrough” pricing was false, Plaintiffs would not have
4 purchased many of the False Gold Strikethrough Packs that they purchased.

5 **B. False Sale Packs**

6 47. The False Sale Packs misrepresent the existence of a sale
7 whereby players can allegedly purchase more items and gold from a pack
8 than they normally could for the same price. These are described as having
9 a unique value relative to normal packs because of the words “Sale” or “Black
10 Friday Special” or “Fathers’ Day Special” prominently displayed. These False
11 Sale Packs communicate to the reasonable GOTC player that the pack
12 contains extra gold and items relative to the normally bi-weekly version of the
13 packs.

14 48. For example, the Black Friday Training Pack displays the words
15 “Black Friday Sale.” However, this pack is identical in the quantity of both gold
16 and items as a Training Pack that was otherwise in circulation, across all
17 pricing tiers that the two packs were offered in. Therefore, there was no
18 difference whatsoever in the two pack offerings, and the players were not
19 receiving the packs on “sale” in any capacity.

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49. Other False Sale Packs include Father’s Day Advanced Building packs, Father’s Day Building Enhancement packs, “Flash Sale” Advanced Building packs, and dozens of other packs.

50. Defendant Warner Bros. intentionally designed the packs to mislead players into believing that the packs represented a sale value, including an increase in items and gold, to induce those players to purchase the packs. Defendant Warner Bros. knowingly took those ordinary item packs and simply placed a “Sale” graphic on the ad copies without altering anything else.

51. Defendant Warner Bros. promoted these False Sale Packs from

1 2018 until approximately April 2021. After approximately this period, “Sale”
2 packs generally include about 5,000–10,000 extra gold and a slight increase
3 in items over their normal non-sale counterparts, at the \$99 tier.

4 52. Plaintiffs all reasonably relied on the “Sale” graphics on the False
5 Sale Packs as a material consideration in purchasing those packs. Had the
6 Plaintiffs known the packs were not actually on sale in the manner
7 represented, they would not have purchased the False Sale Packs.

8 **CLASS ALLEGATIONS**

9 53. Plaintiffs bring this action pursuant to Fed. R. Civ. P. 23(a), (b)(2),
10 and (b)(3), on behalf of themselves and the following proposed “Nationwide
11 Class”:

12 All persons in the United States, within the applicable
13 statute of limitations, who purchased False Gold
14 Strikethrough Packs or False Sale Packs, and/or such
subclasses as the Court may deem appropriate.

15 54. Plaintiff Charissa Keebaugh also brings this action on behalf of
16 herself and on behalf of the following class (the “Washington Class”):

17 All persons in Washington, within the applicable
18 statute of limitations, who purchased False Gold
19 Strikethrough Packs or False Sale Packs, and/or such
subclasses as the Court may deem appropriate.

20 55. Plaintiff Stephanie Neveu also brings this action on behalf of
21 herself and on behalf of the following class (the “Arizona Class”):

22 All persons in Arizona, within the applicable statute of
23 limitations, who purchased False Gold Strikethrough
24 Packs or False Sale Packs, and/or such subclasses
as the Court may deem appropriate.

25 56. Plaintiff Heather Mercieri also brings this action on behalf of
26 herself and on behalf of the following class (the “New Hampshire Class”):

27 All persons in New Hampshire, within the applicable
28 statute of limitations, who purchased False Gold

1 Strikethrough Packs or False Sale Packs, and/or such
2 subclasses as the Court may deem appropriate.

3 57. Excluded from the proposed Classes are Defendant and its
4 employees, officers, directors, legal representatives, heirs, successors,
5 subsidiaries, and affiliates, and the judicial officers and their immediate family
6 members and associated court staff assigned to this case, as well as all
7 persons who make a timely election to be excluded from the proposed class.

8 58. Certification of Plaintiffs' claims for class-wide treatment is
9 appropriate because Plaintiffs can prove the elements of their claims on a
10 class-wide basis using the same evidence they would use to prove those
11 elements in individual actions alleging the same claims.

12 59. This action meets all applicable standards of Fed. R. Civ. P. 23
13 for class certification, in that Plaintiffs can demonstrate the elements
14 delineated below.

15 60. Numerosity. The members of the proposed Classes are so
16 numerous and geographically dispersed that individual joinder of all proposed
17 class members is impracticable. See Fed. R. Civ. P. 23(a)(1). While Plaintiffs
18 believe that there are hundreds of thousands of members of the proposed
19 Classes, the precise number of class members is unknown, but may be
20 ascertained from Warner Bros.' books and records. On information and belief,
21 Warner Bros. maintains a list of users that includes personal information for
22 the user including their email addresses, whether they have made in-app
23 purchases, and which in-app purchases they have made.

24 61. Applying a reasonable and prudent person standard to the users
25 of Game of Thrones Conquest under the same or similar circumstances, each
26 user would qualify to be a class member requesting the right to cancel and
27 get refunds on their in-app purchases. Any reasonable and prudent person
28 under the same or similar circumstances wants to have the flexibility to

1 disaffirm an in-app purchase that was made while believing that the packs
2 they purchased were part of a sale or promotion but, in reality, were not.

3 62. Ascertainability. The Classes are ascertainable because their
4 members can be readily identified using business records, and other
5 information kept by Defendant in the usual course of business and within its
6 control or Plaintiffs and the class members themselves. Plaintiffs anticipate
7 providing appropriate notice to the Classes to be approved by the Court after
8 class certification, or pursuant to court order.

9 63. Commonality and Predominance. This action involves common
10 questions of law and fact, which predominate over any questions affecting
11 individual class members. See Fed. R. Civ. P. 23(a)(2) and (b)(3). These
12 include, without limitation:

- 13 a. Whether Warner Bros. engaged in the conduct alleged in
14 this Complaint;
- 15 b. Whether Warner Bros. violated the applicable statutes
16 alleged herein;
- 17 c. Whether Warner Bros. designed, advertised, marketed,
18 distributed, sold, or otherwise placed Game of Thrones
19 Conquest into the stream of commerce in the United States;
- 20 d. Whether Warner Bros.’ conduct emanated from the State of
21 California;
- 22 e. Whether Plaintiffs and the class members are injured and
23 harmed directly by Warner Bros.’ false advertising designed
24 to entice users into making in-app purchases they otherwise
25 would not have made;
- 26 f. Whether Plaintiffs and the class members are entitled to
27 damages due to Warner Bros.’ conduct as alleged in this
28 Complaint, and if so, in what amounts; and

1 g. Whether Plaintiffs and members of the Classes are entitled
2 to equitable relief, including, but not limited to, restitution or
3 injunctive relief as requested in this Complaint.

4 64. Typicality. Plaintiffs' claims are typical of the putative class
5 members' claims because, among other things, all such class members were
6 comparably injured through Warner Bros.' wrongful conduct as described
7 above. See Fed. R. Civ. P. 23(a)(3). Warner Bros.' creation and display of its
8 misleading advertisements is uniform for all Plaintiffs and class members.

9 65. Adequacy. Plaintiffs are adequate proposed class representatives
10 because their interests do not conflict with the interests of the other members
11 of the proposed Classes they seek to represent; because they have retained
12 counsel competent and experienced in complex class action litigation; and
13 because they intend to prosecute this action vigorously. The interests of the
14 proposed Classes will be fairly and adequately protected by Plaintiffs and their
15 counsel. See Fed. R. Civ. P. 23(a)(4).

16 66. Declaratory and Injunctive Relief. Warner Bros. has acted or
17 refused to act on grounds generally applicable to Plaintiffs and the other
18 members of the proposed Classes, thereby making appropriate final
19 injunctive relief and declaratory relief, as described below, with respect to the
20 proposed Classes as a whole. See Fed. R. Civ. P. 23(b)(2). Warner Bros.'
21 wrongful conduct alleged herein is grounded in the creation and dissemination
22 of Warner Bros.' pack offerings in-game, which are displayed uniformly.
23 Plaintiffs' and the class members' injuries are real, immediate, and ongoing.
24 Plaintiffs and class members seek injunctive and declaratory relief from
25 Warner Bros.

26 67. Superiority. A class is superior to any other available means for
27 the fair and efficient adjudication of this controversy, and no unusual
28 difficulties are likely to be encountered in the management of this class action.



1 The damages or other financial detriment suffered by Plaintiffs and putative
2 class members are relatively small compared to the burden and expense that
3 would be required to individually litigate their claims against Warner Bros., so
4 it would be impracticable for members of the proposed Classes to individually
5 seek redress for Defendant's wrongful conduct.

6 68. Applying the principles of equity or balance of equities, expecting
7 an individual Plaintiff who is at a disadvantage with limited resources and
8 spending capacity, and with minimal negotiating power, if any, to litigate
9 claims against Warner Bros., a multibillion-dollar corporation that has
10 immense resources and deep pockets, would be unfair. Class actions are a
11 necessary and essential means to provide for public interest litigations with
12 checks and balances to curtail deceptive practices by powerful private
13 corporations, including Warner Bros.

14 69. There is no special interest in class members individually
15 controlling the prosecution of separate actions. And even if class members
16 could afford individual litigation, the court system could not. Individualized
17 litigation creates a potential for inconsistent or contradictory judgments, and
18 it increases the delay and expense to all parties and the court system. By
19 contrast, the class action device presents far fewer management difficulties
20 and provides the benefits of single adjudication, economy of scale, and
21 comprehensive supervision by a single court. See Fed. R. Civ. P. 23(b)(3).

22 CALIFORNIA LAW APPLIES TO THE ENTIRE NATIONWIDE CLASS

23 70. California's substantive laws apply to every class member,
24 regardless of where in the United States the class member resides.

25 71. Warner Bros. purports to bind GOTC's players to its Terms. While
26 Plaintiffs contend these Terms fail to create a binding agreement with the
27 players, the Terms require that any dispute be interpreted under California
28 law. Thus, regardless of whether the Terms are binding, Warner Bros. has

1 evidenced a clear intent to subject itself to California law.

2 72. California’s substantive laws may be constitutionally applied to the
3 claims of Plaintiffs and the Classes under the Due Process Clause, 14th
4 Amend. §1, and the Full Faith and Credit Clause, Art. IV §1 of the U.S.
5 Constitution. California has significant contacts, or significant aggregation of
6 contacts, to the claims asserted by Plaintiffs and all class members, thereby
7 creating state interests that ensure that the choice of California state law is
8 not arbitrary or unfair.

9 73. Warner Bros.’ United States headquarters and principal place of
10 business is located in California. Warner Bros. also owns property and
11 conducts substantial business in California. Therefore, California has an
12 interest in regulating Warner Bros.’ conduct under its laws. Warner Bros.’
13 decision to reside in California and avail itself of California’s laws, and to
14 engage in the challenged conduct from and emanating out of California,
15 renders the application of California law to the claims herein constitutionally
16 permissible.

17 74. California is also the state from which Warner Bros.’ alleged
18 misconduct and false statements emanated. This conduct similarly injured
19 and affected Plaintiffs and all other class members.

20 75. The application of California laws to the Classes is also
21 appropriate under California’s choice of law rules because California has
22 significant contacts to the claims of Plaintiffs and the proposed Classes, and
23 California has a greater interest in applying its laws here than any other
24 interested state.

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FIRST CLAIM FOR RELIEF

Violation of California’s Unfair Competition Law (“UCL”)

Cal. Business & Professional Code §17200 et seq.

(By Plaintiffs, individually and on behalf of the Nationwide Class)

76. Plaintiffs incorporate by reference all allegations in this Complaint and restate them as if fully set forth herein.

77. The UCL defines unfair business competition to include any “unlawful, unfair or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or misleading” advertising. Cal. Bus. & Prof. Code §17200.

78. A business act or practice is “unlawful” under the UCL if it violates any other law or regulation.

79. A business act or practice is “unfair” under the UCL if the reasons, justifications, and motives of the alleged wrongdoer are outweighed by the gravity of the harm to the alleged victims.

80. A business act or practice is “fraudulent” under the UCL if it is likely to deceive members of the consuming public.

81. Warner Bros. has violated the “unlawful” prong under the UCL and has engaged in “unfair, deceptive, untrue or misleading” advertising.

82. The Federal Trade Commission Act prohibits “unfair or deceptive acts or practices in or affecting commerce” (15 U.S.C. §45(a)(1)) and specifically prohibits false advertisements. 15 U.S.C. §52(a). FTC Regulations describe false former pricing schemes—similar to Warner Bros.’ False Sale Packs and False Gold Strikethrough Packs in all material respects—as deceptive practices that would violate the FTC Act.

83. 16 C.F.R. §233.1 states:

(a) One of the most commonly used forms of bargain advertising is to offer a reduction from the advertiser's own former price for an article. If the former price is the actual, bona fide price at which the article was

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offered to the public on a regular basis for a reasonably substantial period of time, it provides a legitimate basis for the advertising of a price comparison. Where the former price is genuine, the bargain being advertised is a true one. If, on the other hand, the former price being advertised is not bona fide but fictitious—for example, where an artificial, inflated price was established for the purpose of enabling the subsequent offer of a large reduction—the “bargain” being advertised is a false one; the purchaser is not receiving the unusual value he expects. In such a case, the “reduced” price is, in reality, probably just the seller's regular price.

(b) A former price is not necessarily fictitious merely because no sales at the advertised price were made. The advertiser should be especially careful, however, in such a case, that the price is one at which the product was openly and actively offered for sale, for a reasonably substantial period of time, in the recent, regular course of his business, honestly and in good faith—and, of course, not for the purpose of establishing a fictitious higher price on which a deceptive comparison might be based. And the advertiser should scrupulously avoid any implication that a former price is a selling, not an asking price (for example, by use of such language as, “Formerly sold at \$_____”), unless substantial sales at that price were actually made.

84. California law also prohibits false former pricing schemes. Cal. Bus. & Prof. Code §17501, entitled “Value determinations; Former price advertisements,” states:

For the purpose of this article the worth or value of any thing advertised is the prevailing market price, wholesale if the offer is at wholesale, retail if the offer is at retail, at the time of publication of such advertisement in the locality wherein the advertisement is published.

No price shall be advertised as a former price of any advertised thing, unless the alleged former price was

1 the prevailing market price as above defined within
2 three months next immediately preceding the
3 publication of the advertisement or unless the date
4 when the alleged former price did prevail is clearly,
5 exactly and conspicuously stated in the
6 advertisement.

7 85. As further detailed in the Second Claim for Relief below,
8 California’s False Advertising Law also prohibits a business from
9 “[a]dvertising goods or services with intent not to sell them as advertised,” Cal.
10 Civ. Code §1770(a)(9), and prohibits a business from “[m]aking false or
11 misleading statements of fact concerning reasons for, existence of, or
12 amounts of price reductions.” *Id.* §(a)(13)

13 86. The False Gold Strikethrough Packs violate the unlawful prongs
14 of the UCL since they violate 16 C.F.R. §233.1, Cal. Bus. & Prof. Code
15 §17501, Cal. Civ. Code §§1770(a)(9) and (a)(13).

16 87. The False Sale Packs misrepresent the existence of a sale
17 whereby players can allegedly purchase more items and gold from a pack
18 than they normally could for the same price.

19 88. Warner Bros.’ use of the False Sale Packs violates 15 U.S.C.
20 §45(a)(1), 15 U.S.C. §52(a), and the FTC Guidelines published in Title 16,
21 Code of Federal Regulations, Section 233.

22 89. It also violated and continues to violate Cal. Bus. & Prof. Code
23 §17501, and Cal. Civ. Code §1770, sections (a)(9) and (a)(13), by advertising
24 false discounts from purported former prices that were, in fact, not the
25 prevailing market prices within three months preceding the publication and
26 dissemination of advertisements containing the false former prices.

27 90. Warner Bros. has also violated the “unfair” prong of the UCL by
28 falsely representing that its consumers received a discount from a referenced
“original” former price of its False Gold Strikethrough Packs where, in fact,
Warner Bros. set an arbitrary price for the goods contained in these packs

1 and then falsely pretended the packs had ever been offered for sale without
2 their “limited time bonus” contents.

3 91. Additionally, Warner Bros. has violated the “unfair” prong of the
4 UCL by falsely representing that its False Sale Packs contained unique, time-
5 sensitive discounts when, in fact, they contained the same resources and in-
6 game items as other packs not connected with specific sales events (e.g.,
7 Black Friday).

8 92. These acts and practices are unfair because they were likely to
9 cause consumers to falsely believe that Warner Bros. was offering value,
10 discounts, or bargains from the prevailing market value or worth of the
11 products sold that do not, in fact, exist. As a result, purchasers (including
12 Plaintiffs) reasonably understood that they were receiving valuable price
13 reductions on purchases of in-game items. This, in turn, has induced
14 reasonable purchasers to buy such products from Warner Bros. that they
15 would not have otherwise purchased.

16 93. The gravity of the harm to Plaintiffs and members of the Classes
17 resulting from these unfair acts and practices outweighs any conceivable
18 reasons, justifications, or motives that Warner Bros. may have had for
19 engaging in such deceptive acts and practices.

20 94. Additionally, Warner Bros. has violated the “fraudulent” prong of
21 the UCL because its marketing and advertising materials included false
22 “original” prices for its False Gold Strikethrough Packs, and because these
23 same materials also suggested that the offers in the False Sale Packs were
24 unique, limited, and would no longer be available at those price points
25 following the conclusion of its sale events. In actuality, the packs never
26 contained the “limited time” deals they purported to offer.

27 95. Warner Bros.’ acts and practices deceived Plaintiffs and the
28 Classes at large. Specifically, Plaintiffs and the Classes relied on these

1 misleading and deceptive representations regarding the limited-time bonuses
2 they could expect to receive in the packs. Each of these representations and
3 deceptions played a substantial role in Plaintiffs' decisions to purchase the
4 packs, and Plaintiffs would not have done so in the absence of such
5 representations.

6 96. Plaintiffs and the Classes never received the benefit of their
7 bargains with Warner Bros., in that the "discounted" resources offered for sale
8 in the packs did not give them the anticipated competitive edge against their
9 opponents. Competitors could simply purchase packs at the same false sale
10 pricing after the alleged sales expired, notwithstanding the representation that
11 these were limited-time offers.

12 97. Similarly, players who purchased the False Sale Packs and the
13 False Gold Strikethrough Packs defensively (to protect against becoming
14 overpowered by opponents who they believed had been able to take
15 advantage of the purportedly limited-time bonuses) were deprived of the
16 benefit of their bargains, because the threat itself was a fabrication. There
17 was never a risk of falling behind due to a player's failure to purchase items
18 at their discounted price, because the price was always discounted.

19 98. As a result of these violations under each of the fraudulent, unfair,
20 and unlawful prongs of the UCL, Defendant has been unjustly enriched at the
21 expense of Plaintiffs and members of the proposed Classes. Specifically,
22 Warner Bros. has been unjustly enriched by obtaining revenues and profits
23 that it would not otherwise have obtained absent its false, misleading, and
24 deceptive conduct

25 99. Through its unfair acts and practices, Warner Bros. has
26 improperly obtained money from Plaintiffs and the class members. As such,
27 Plaintiffs request that this Court cause Warner Bros. to restore this money to
28 Plaintiffs and all class members, and to enjoin Warner Bros. from continuing

1 to violate the UCL, and/or from violating the UCL in the future. Otherwise,
2 Plaintiffs, the class members, and members of the general public may be
3 irreparably harmed and/or denied an effective and complete remedy if such
4 an order is not granted.

5 **SECOND CLAIM FOR RELIEF**

6 **Violation of California’s False Advertising Law (“FAL”)**

7 **Cal. Business & Professional Code §17500 *et seq.***

8 **(By Plaintiffs, individually and on behalf of the Nationwide Class)**

9 100. Plaintiffs incorporate by reference all allegations in this Complaint
10 and restate them as if fully set forth herein.

11 101. The FAL prohibits unfair, deceptive, untrue, or misleading
12 advertising, including, but not limited to, false statements as to worth, value,
13 and former price.

14 102. Furthermore, the FAL provides that: “No price shall be advertised
15 as a former price of any advertised thing, unless the alleged former price was
16 the prevailing market price as above defined within three months next
17 immediately preceding the publication of the advertisement or unless the date
18 when the alleged former price did prevail is clearly, exactly and conspicuously
19 stated in the advertisement.” Cal. Bus. & Prof. Code §17501.

20 103. The False Gold Strikethrough Packs and the False Sale Packs
21 misrepresent the existence of a sale whereby players can allegedly purchase
22 more items and gold from a pack than they normally could for the same price.

23 104. Through its unfair acts and practices, Warner Bros. has
24 improperly obtained money from Plaintiffs and the class members. As such,
25 Plaintiffs request that this Court cause Warner Bros. to restore this money to
26 Plaintiffs and all class members, and to enjoin Warner Bros. from continuing
27 to violate the FAL, and/or from violating the FAL in the future. Otherwise,
28 Plaintiffs, the class members, and members of the general public may be

1 irreparably harmed and/or denied an effective and complete remedy if such
2 an order is not granted.

3 **THIRD CLAIM FOR RELIEF**

4 **Violation of the California Consumers Legal Remedies Act ("CLRA")**

5 **Cal. Civ. Code. §1750 *et seq.***

6 **(By Plaintiffs, individually and on behalf of All Classes)**

7 105. Plaintiffs incorporate by reference all allegations in this Complaint
8 and restate them as if fully set forth herein.

9 106. Plaintiffs and the other class members are consumers within the
10 meaning of Cal. Civ. Code §1761(d) and have engaged in a transaction within
11 the meaning of Cal. Civ. Code §§1761(e) and 1770.

12 107. Defendant is a "person" within the meaning of Cal. Civ. Code
13 §§1761(c) and 1770 and sells "goods or services" within the meaning of Cal.
14 Civ. Code §§1761(b) and 1770.

15 108. GOTC and the in-app purchases are a "good" or "service" within
16 the meaning of Cal. Civ. Code. §§1761(a) and (b).

17 109. Warner Bros. has violated §1770(a)(13)'s proscription against
18 making false or misleading statements of fact concerning reasons for,
19 existence of, or amounts of, price reductions by misrepresenting the existence
20 of gold discounts via False Gold Strikethrough Packs and misrepresenting the
21 existence of holiday sales through its False Sale Packs.

22 110. Plaintiffs and the other class members suffered actual damages
23 as a direct and proximate result of Warner Bros.' actions, concealment, and/or
24 omissions in the advertising, marketing, and promotion of its bait apps, in
25 violation of the CLRA, as evidenced by the substantial sums Warner Bros.
26 pocketed.

27 111. Plaintiffs, on behalf of themselves and the class members,
28 demand judgment against Warner Bros. for injunctive relief and attorney's

1 fees.

FOURTH CLAIM FOR RELIEF

Fraud

(By Plaintiffs, individually and on behalf of All Classes)

5 112. Plaintiffs incorporate by reference all allegations in this Complaint
6 and restate them as if fully set forth herein.

7 113. Defendant represented to all Plaintiffs that various purchased
8 packs were on sale in that they gave a higher amount of gold than normal,
9 that holiday or “sale” versions of the packs were not identical in item quantities
10 to their normal counterparts, and that pack purchases bestowed a certain
11 outcome upon purchase.

12 114. These representations were false because the packs were never
13 offered with smaller amounts of gold; the “sale” versions of the packs were
14 identical to their normal counterparts.

15 115. Defendant designed the graphical images on the advertisements
16 in a way that intentionally attracted Plaintiffs to the enticing but false claims
17 regarding gold amounts and the existence of sales

18 116. Plaintiffs reasonably relied upon the claims made in the
19 advertisements in deciding to purchase the aforementioned packs.

20 117. Upon purchasing the packs, Plaintiffs were harmed because, had
21 Plaintiffs known the claims were false, they would not have made those
22 purchases.

23 118. Plaintiffs’ reliance on Defendant’s misrepresentations in its pack
24 advertisements was a substantial factor in causing harm to Plaintiffs.

25 119. Defendant’s conduct has therefore caused and is causing
26 immediate and irreparable injury to Plaintiffs and the class members and will
27 continue to both damage Plaintiffs and the class members and deceive the
28 public unless enjoined by this Court.



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FIFTH CLAIM FOR RELIEF

Negligent Misrepresentation

(By Plaintiffs, individually and on behalf of All Classes)

120. Plaintiffs incorporate by reference all allegations in this Complaint and restate them as if fully set forth herein.

121. Defendant represented to all Plaintiffs that various purchased packs were on sale in that they gave a higher amount of gold than normal and that holiday or “sale” versions of the packs were not identical in item quantities to their normal counterparts.

122. These representations were false because the packs were never offered with smaller amounts of gold and the “sale” versions of the packs were identical to their normal counterparts.

123. Defendant designed the graphical images on the advertisements in a way that intentionally attracted Plaintiffs to the enticing but false claims regarding gold amounts and the existence of sales.

124. Defendant’s conduct has therefore caused and is causing immediate and irreparable injury to Plaintiffs and the class members, and will continue to both damage Plaintiffs and the class members and deceive the public unless enjoined by this Court.

SIXTH CLAIM FOR RELIEF

Violation of New Hampshire’s Regulation of Business Practices for Consumer Protection Act

(By Plaintiff Heather Mercieri, individually, and on behalf of the New Hampshire Class)

125. Plaintiffs incorporate by reference all allegations in this Complaint and restate them as if fully set forth herein.

126. In the alternative, or to the extent California law does not apply, Plaintiff Heather Mercieri brings this Count on behalf of herself and the New

1 Hampshire Class.

2 127. New Hampshire’s Regulation of Business Practices for Consumer
3 Protection, §358-A:1, is also known as the state’s Consumer Protection Act.

4 128. Warner Bros. qualifies as a “Person” under §358-A:1 of the Act.

5 129. §358-A:2(VII) prohibits “Representing that goods or services are
6 of a particular standard, quality, or grade, or that goods are of a particular
7 style or model, if they are of another.”

8 130. §358-A:2(IX) prohibits “Advertising goods or services with intent
9 not to sell them as advertised.”

10 131. §358-A:2(XI) prohibits “Making false or misleading statements of
11 fact concerning the reasons for, existence of, or amounts of price reductions.”

12 132. Warner Bros. violated (VII), (IX), and (XI) of §358-A:2 by
13 advertising False Gold Strikethrough Packs and False Sale Packs, which
14 Plaintiffs purchased.

15 133. Plaintiff Heather Mercieri and the New Hampshire Class were
16 injured by Warner Bros.’ violations because, if not for Warner Bros.’ deceptive
17 representations that the packs contained increased amounts of gold than
18 normally offered, and that the packs contained more items than usual
19 because of holiday sales, Plaintiffs would not have made the purchases.

20 134. Defendant’s conduct has therefore caused and is causing
21 immediate and irreparable injury to Plaintiffs and the class members, and will
22 continue to both damage Plaintiffs and the class members and deceive the
23 public unless enjoined by this Court.

24 **SEVENTH CLAIM FOR RELIEF**

25 **Violation of Washington’s Consumer Protection Act (RCW 19.86.020)**
26 **(By Plaintiff Charissa Keebaugh, individually, and on behalf of the**
27 **Washington Class)**

28 135. Plaintiffs incorporate by reference all allegations in this Complaint

1 and restate them as if fully set forth herein.

2 136. Plaintiff Charissa Keebaugh hereby brings this Claim, under
3 Washington’s Consumer Protection Act, Revised Code of Washington
4 (“RCW”) 19.86.020, against Warner Bros. on behalf of herself and the
5 Washington Class.

6 137. Defendant Warner Bros. engages in acts and practices that had
7 or have the capacity to deceive substantial portions of the public, during trade
8 or commerce.

9 138. Warner Bros.’ marketing of its False Gold Strikethrough Packs
10 and False Sale Packs had the capacity to deceive substantial portions of the
11 public because Warner Bros.’ advertisements create the illusion of sales
12 and/or discounts with respect to their False Gold Strikethrough Packs and
13 False Sale Packs.

14 139. Defendant’s deceptive advertising acts and practices significantly
15 affected the public interest as thousands of consumers made purchases
16 based on the representations in the advertisements.

17 140. Defendant’s practices brought injury to Plaintiffs in that they made
18 purchases they otherwise would not have made.

19 141. There is causation between the deceptive advertising and the
20 injury suffered by Plaintiffs because, if not for Defendant’s deceptive claims
21 made in the advertisements of False Gold Strikethrough Packs and False
22 Sale Packs, Plaintiffs would not have purchased those packs.

23 142. Defendant’s conduct has therefore caused and is causing
24 immediate and irreparable injury to Plaintiffs and the class members, and will
25 continue to both damage Plaintiffs and the class members and deceive the
26 public unless enjoined by this Court.

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1 III. PRAYER FOR RELIEF

2 WHEREFORE, Plaintiffs, on behalf of themselves and the proposed
3 Classes, pray for relief and judgment against Defendant as follows:

- 4 A. Certifying the Classes pursuant to Rule 23 of the Federal Rules of
- 5 Civil Procedure, appointing Plaintiffs as representatives of the
- 6 Classes, and designating Plaintiffs’ counsel as class counsel;
- 7 B. Awarding Plaintiffs and the class members compensatory
- 8 damages and actual damages in an amount exceeding
- 9 \$5,000,000, to be determined by proof;
- 10 C. Awarding Plaintiffs and the class members appropriate relief,
- 11 including actual and statutory damages;
- 12 D. For punitive damages;
- 13 E. For civil penalties;
- 14 F. For declaratory and equitable relief, including restitution and
- 15 disgorgement;
- 16 G. For an order enjoining Defendant from continuing to engage in the
- 17 wrongful acts and practices alleged herein;
- 18 H. Awarding Plaintiffs and the class members the costs of
- 19 prosecuting this action, including expert witness fees;
- 20 I. Awarding Plaintiffs and the class members reasonable attorney’s
- 21 fees and costs as allowable by law;
- 22 J. Specifically awarding Plaintiffs and the class members
- 23 reasonable attorney’s fees and costs, as well as injunctive relief,
- 24 pursuant to the CLRA;
- 25 K. Awarding pre-judgment and post-judgment interest; and
- 26 L. Granting any other relief as this Court may deem just and proper.

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IV. JURY TRIAL DEMANDED

Plaintiffs hereby demand a trial by jury on all issues so triable.

Respectfully Submitted,

DATED: February 24, 2022

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