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

HENRY YEH and G.Y., a minor by and through his guardian Henry Yeh, on behalf of themselves, all others similarly situated, and the general public,

Plaintiffs,

v.

TESLA, INC.,

Defendant.

Case No: 3:23-cv-01704-JCS

CLASS ACTION

FIRST AMENDED COMPLAINT

DEMAND FOR JURY TRIAL

1 Plaintiffs HENRY YEH and G.Y., a minor, by and through his guardian Henry Yeh, on behalf of
2 themselves, all others similarly situated, and the general public, by and through their undersigned counsel,
3 hereby sue Defendant TESLA, INC. (“Tesla”), and allege the following upon their own knowledge, or where
4 they lack personal knowledge, upon information and belief, including the investigation of their counsel.

5 **INTRODUCTION**

6 1. Tesla designs and manufactures electric vehicles. It is one of the world’s most valuable
7 companies and, as of 2023, was the world’s most valuable automaker. In 2021, the company had the most
8 worldwide sales of battery fully-electric vehicles and plug-in electric vehicles, capturing 21% of the battery-
9 electric market and 14% of the plug-in market.

10 2. Tesla vehicles incorporate multiple advanced cameras into the vehicles’ systems, including
11 at least the “Autopilot” and “Sentry Mode” systems, which collectively provide both 360-degree views
12 outside Tesla vehicles and views inside Tesla vehicles. Since at least 2019, the cameras in Tesla vehicles
13 sent to Tesla servers highly-invasive videos and images of the cars’ owners, which Tesla employees were
14 able to access—not for communication, fulfillment of services, and enhancement of Tesla vehicle driving
15 systems—but for the tasteless and tortious entertainment of Tesla employees, and perhaps those outside the
16 company, and the humiliation of those surreptitiously recorded.

17 3. By virtue of this defective system, Tesla employees accessed and circulated recordings of
18 Tesla customers and members of the public in private and embarrassing situations, without their consent.
19 This included, for example, video of a man approaching a Tesla vehicle completely naked, and video of
20 vehicle crashes and road-rage incidents. Tesla employees also shared pictures of family pets, which were
21 made into memes by embellishing them with captions or commentary before posting them in group chats.
22 While some postings were only shared between a few employees, others could be seen by “scores” of Tesla
23 employees. And as is common with internet culture, many of these videos and images were likely shared
24 with persons outside the company.

25 4. That such videos and images were made available to Tesla employees to view and share, at
26 will, and for improper purposes, affects each and every person with a Tesla vehicle, their families,
27 passengers, the guests in their homes, and members of the public recorded in various situations.

FACTS

I. TESLA SYSTEMS UTILIZE CAMERAS TO CAPTURE, RECORD, AND TRANSMIT VIDEOS AND PHOTOS

12. Tesla uses multiple recording systems to record, and in some cases transmit videos and still images to servers under its control.

13. Tesla customers understand that Tesla has this capability. But Tesla’s Privacy Policy assures its millions of electric car owners that “Your privacy is and will always be enormously important to us”; that the cameras in its vehicles are “designed from the ground up to protect your privacy”; and that “camera recordings remain anonymous and are not linked to your or your vehicle.”¹

14. Tesla further promises its customers that it will only ever use the videos and images it collects to “Communicate with you; Fulfill our products and services; and Improve and enhance development of our products and services.”²

A. Tesla’s Autopilot System

15. Tesla’s Autopilot system is an advanced driver-assistance system that is integral to Tesla electric vehicles and a primary reason many consumers choose and pay more for Tesla vehicles than comparable vehicles without autopilot.

16. Since September 2014, all Tesla cars have been shipped with sensors and software to support the Autopilot system.

17. The Tesla Autopilot system includes eight cameras to capture 360-degree views around the vehicles. For many models, including Plaintiff Mr. Yeh’s Model Y, the Tesla Autopilot system also includes a driver-facing camera. These cameras and the Autopilot system capture, record, and store activities taking place both within and outside Tesla vehicles.

18. Tesla was the first automaker to introduce cameras with a 360-degree vision around its vehicles. These outside cameras record both video and audio, at all times, when the vehicles are in motion.

¹ Tesla Customer Privacy Notice, <https://www.tesla.com/legal/privacy>. A true and correct copy of the Privacy Notice is attached hereto as Exhibit 1 and expressly incorporated into this FAC.

² *Id.*

1 19. Since 2017, Tesla has been using connectivity with its Autopilot system to collect data from
2 Tesla vehicles. At the time, the data collection was voluntary for Tesla customers, but even so, many owners
3 were willing to let Tesla collect data since Tesla said it was using the data to feed its neural networks
4 powering Autopilot and, later, Full Self-Driving systems (discussed further below).

5 20. Tesla created this data sharing opt-in program with the explicit promise that any data would
6 be used to improve Tesla safety and security, saying “we need to collect short video clips using the car’s
7 external camera to learn how to recognize things like lane lines, street signs and traffic light positions. The
8 more fleet learning of road conditions we are able to do, the better your Tesla’s self-driving ability will
9 become,” and, moreover, that “we want to be super clear that these short video clips are not linked to your
10 vehicle identification number. In order to protect your privacy, we have ensured that there is no way to
11 search our system for clips that are associated with a specific car.”

12 21. The amount of data shared with Tesla since 2017 as a result of this program has been massive.
13 For example, one driver tweeted in October 2020 that, after just one day of driving using the Autopilot
14 system, his car uploaded nearly 4 *gigabytes* of data.

15 22. When Tesla launched the Model 3 in around 2017, it began equipping the vehicle with a
16 standard driver-facing camera located in the rearview mirror. The Tesla Y, released in March 2020, was
17 also manufactured with driver-facing cameras.

18 23. Initially, Tesla CEO Elon Musk dismissed the use of a camera-based driver monitoring
19 system, saying Tesla would use its cabin-facing camera to prevent people from vandalizing cars when they
20 are being driven automatically on Tesla’s then-upcoming self-driving robotaxi network.

21 24. However, in or about June 2020, Tesla activated the cabin-facing cameras in all Model 3 and
22 Model Y vehicles via a software update and started recording drivers, ostensibly to develop safety features
23 and enhancements in the future. But Tesla continued to assure its drivers that the images captured by the
24 cabin-facing camera would not be associated with the driver to protect his or her privacy.

25 25. At the start of the Full Self Driving [“FSD”] beta, Tesla told consumers that the cabin camera
26 data was not transmitted to Tesla, nor associated with their vehicle identification number. There was no
27 need for Tesla to obtain or store that data because the sole purported reason for the driver-facing camera
28 was to “determine driver inattentiveness” and the need for audio-visual reminders to drivers “to keep your

1 eyes on the road when Autopilot is engaged.” But Tesla’s FSD policy changed as the beta went on, with
2 Tesla writing in release notes in September 2021:

3 The cabin camera above your rearview mirror can now determine driver inattentiveness
4 and provide you with audible alerts, to remind you to keep your eyes on the road when
5 Autopilot is engaged. Camera images do not leave the vehicle itself, which means the
6 system cannot save or transmit information *unless you enable data sharing*.³

6 26. Tesla implemented a system to gauge whether drivers were “good” enough to participate in
7 its FSD program. Tesla utilized what it called a “Safety Score,” a formula dependent on data unique to each
8 owner’s account that gauged their attentiveness and ability to safely utilize the FSD. However, that meant
9 that if consumers wanted to use FSD, they had no choice but to opt-in to the data sharing and were,
10 effectively, forced to allow their vehicles to send non-anonymous images and recordings of the interior
11 cabin to Tesla.

12 27. As part of the wider rollout of Tesla’s FSD option, which began in around October 2021,
13 Tesla emailed its roughly 1,000 FSD users, writing “your vehicle has automatically opted into VIN
14 associated telemetry sharing with Tesla, including Autopilot usage data, images and/or video.” The drivers
15 were told that if they did not want FSD access they could email Tesla and say so, but that those who wanted
16 FSD had no other way to opt out of sharing their personal information.

17 28. Around the same time, Tesla updated its privacy notice to say that if a driver opted out of
18 data collection, because Tesla would not be able to “notify drivers of issues in real time,” the vehicle would
19 “suffer[] from reduced functionality, serious damage or inoperability.”

20 **B. Tesla’s Sentry Mode**

21 29. Tesla describes Sentry Mode in the Model 3 owner’s manual “as an intelligent vehicle
22 security system that alerts you when it detects possible threats nearby.”

23 30. When Sentry Mode is enabled, Tesla vehicles, even when powered off and locked, remain in
24 a “standby” state in which the vehicles’ cameras and sensors remain powered on and will record anything
25 that Tesla considers to be “suspicious activity,” including sudden movements within a certain proximity to
26 the vehicle. If a “minimal threat” is detected, such as someone leaning on a car, Sentry Mode switches to an

27 _____
28 ³ Tesla Owner’s Manual, https://www.tesla.com/ownersmanual/modely/en_us/GUID-EDAD116F-3C73-40FA-A861-68112FF7961F.html (emphasis added).

1 “Alert” state and displays a message on the touchscreen warning that its cameras are recording. If a more
2 severe threat is detected, such as someone breaking a window, Sentry Mode switches to an “Alarm” state,
3 which activates the car alarm, increases the brightness of the center display, and plays music at maximum
4 volume from the car’s audio system.

5 31. Prior to around October 2019, any recorded footage recorded by a Sentry Mode event is
6 saved to a USB drive in a Tesla vehicle, if installed, but was not shared with anyone else, including Tesla.
7 In October 2019, however, Tesla updated its privacy policy language about data collection related to Sentry
8 Mode to specify that it would, through the cloud, backup Century Mode videos.

9 32. Tesla continued to assure its vehicle owners and the public that, like with Autopilot, it was
10 only collecting Sentry Mode data to improve self-driving and the safety of Tesla vehicles.

11 33. As Tesla revised its privacy policies to permit itself to collect more and more data, Tesla
12 offered repeated assurances that the privacy of drivers who opted-in to data sharing would be greatly
13 protected. However, as described in detail below, Tesla employees invaded the privacy of Tesla vehicle
14 owners and other members of the public and abused customer data for their own gratification and
15 amusement.

16 **II. IN VIOLATION OF ITS PRIVACY POLICY AND THEIR RIGHTS TO PRIVACY, TESLA**
17 **STORED—AND TESLA EMPLOYEES ACCESSED, USED, AND SHARED—VIDEO**
18 **RECORDINGS AND IMAGES OF CUSTOMERS AND OTHER MEMBERS OF THE**
19 **PUBLIC, WITHOUT THEIR CONSENT**

20 34. Between 2019 and 2022, Tesla employees, for their own personal reasons, and not for any
21 legitimate business reason, viewed and shared sensitive images of both Tesla customers and other members
22 of the public recorded by Tesla customers’ vehicle cameras. At times, employees circulated these videos
23 and images, sometimes after embellishing them.

24 35. One crash video in 2021, for example, showed a Tesla driving at high speed in a residential
25 area hitting a child riding a bike. The child flew in one direction, the bike in another. The video was spread
26 around a Tesla office in San Mateo, California, via private one-on-one chats.

27 36. Some recordings appeared to have been made when cars were parked and turned off.
28 According to one former Tesla employee, for example, “We could see inside people’s garages and their

1 private properties. Let's say that a Tesla customer had something in their garage that was distinctive, you
2 know, people would post those kinds of things.”

3 37. Moreover, contrary to Tesla's representation that its camera recordings cannot be linked to
4 individuals and their vehicles, the system Tesla used was, in fact, capable of—and did—show the location
5 of recordings, meaning anyone viewing the videos and images could determine exactly where the Tesla
6 owner lived, and therefore, who the Tesla owner was.

7 38. Some former Tesla employees were troubled by these practices and opined “it was a breach
8 of privacy.” One employee even stated that they “would never buy a Tesla after seeing how they treated
9 some of these people.” Another former Tesla said, “I'm bothered by it because the people who buy the car,
10 I don't think they know that their privacy is, like, not respected We could see them doing laundry and
11 really intimate things. *We could see their kids.*”

12 39. David Choffnes, executive director of the Cybersecurity and Privacy Institute at Northeastern
13 University in Boston, called the sharing of sensitive videos and images by Tesla employees “morally
14 reprehensible.” Another expert noted that Tesla's actions have “nothing to do with the provision of a safe
15 or secure car or the functionality” of Tesla's self-driving system.

16 40. Tesla has a history of privacy violations. In February 2023, for example, Tesla agreed to
17 change camera settings on vehicles sold in the European Union after a Dutch privacy regulator found that
18 the previous settings allowed privacy violations.

19 41. Tesla's conduct in violating privacy rights and reasonable expectations of privacy of
20 Plaintiffs, Class Members, and other members of the general public is particularly egregious. Tesla captures
21 recordings of people vulnerable on their own property, in their own garages, and even in their own homes,
22 including at least one instance where Tesla cameras captured video of a man naked in his home. Tesla also
23 captured and disseminated videos and images of customers' pets and even their children—a group that
24 society has long recognized as vulnerable to exploitation and manipulation. Indeed, parents' interest in their
25 children's privacy is one of the most fundamental liberty interests society recognizes. Moreover, when Tesla
26 vehicles are parked or in motion where members of the public are likely to be captured, they are likely to
27 capture non-vehicle-owner members of the public, including children. For example, a Tesla vehicle parked
28

1 in a driveway might capture the image of a child coming to visit the home. Indeed, Tesla employees shared
2 videos of non-vehicle-owner members of the public being injured in vehicle collisions.

3 42. “Invasion of privacy has been recognized [in California] as a common law tort for over a
4 century.” *Matera v. Google Inc.*, 2016 WL 5339806, at *10 (N.D. Cal, Sept. 23, 2016) (citing Restatement
5 (Second) of Torts §§ 652A-I for the proposition “that the right to privacy was first accepted by an American
6 court in 1905, and ‘a right to privacy is now recognized in the great majority of the American jurisdictions
7 that have considered the question’”). “The common law secures to each individual the right of determining,
8 ordinarily, to what extent his thoughts, sentiments, and emotions shall be communicated to others.” Samuel
9 D. Warren & Louis Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193, 198 (1890).

10 43. The Restatement (Second) of Torts recognizes the same privacy rights through its tort of
11 intrusion upon seclusion, explaining that “[o]ne who intentionally intrudes, physically or otherwise, upon
12 the solitude or seclusion of another or his private affairs or concerns, is subject to liability to the other for
13 invasion of his privacy.” Restatement (Second) of Torts § 652B (1977). The Supreme Court has similarly
14 recognized the primacy of privacy rights, explaining that the Constitution operates in the shadow of a “right
15 to privacy older than the Bill of Rights.” *Griswold v. Connecticut*, 381 U.S. 479, 486 (1965).

16 44. California amended its constitution in 1972 to specifically enumerate a right to privacy in its
17 very first section, and courts have recognized that this affords individuals a private right of action for
18 invasions of their privacy. See CAL. CONST. ART. I, § 1. The California Supreme Court has recognized the
19 fundamental injuries at stake in privacy violations, explaining as follows:

20 [A] measure of personal isolation and personal control over the conditions of its
21 abandonment is of the very essence of personal freedom and dignity . . . A [person] . . .
22 whose conversations may be overhead at the will of another . . . is less of a [person], has
less human dignity, on that account. He who may intrude upon another at will is the master
of the other and, in fact, intrusion is a primary weapon of the tyrant.

23 *Shulman v. Group W Prods., Inc.*, 18 Cal. 4th 200, 231 (1998) (quoting Edward J. Bloustein, *Privacy as an*
24 *Aspect of Human Dignity: An Answer to Dean Prosser*, 39 N.Y.U. L. REV. 962, 973-74 (1964)); *see also*
25 *Gill v. Curtis Pub. Co.*, 38 Cal. 2d 273, 276 (1952) (“Recognition has been given of a right to privacy,
26 independent of the common rights to property, contract, reputation and physical integrity In short, it is
27 the right to be let alone.” (internal quotation marks omitted)).

1 45. Tesla had reasonable alternatives to the defective system that allowed Tesla employees to
2 access and circulate for their own amusement private video and images of customers without their consent.
3 For example, Tesla could have not captured the images in the first place, or could have ensured that any
4 video, images, and biometric data included therein, were inaccessible by Tesla employees.

5 46. Given Tesla's defective system for maintaining the privacy of video and images captured by
6 Tesla cameras, the only surefire fix to Tesla's invasion of privacy is to disable the cameras. Thus, Tesla
7 drivers face a dilemma: continue to have their privacy invaded, or disable their Tesla vehicles cameras.

8 47. While it is technically possible to disable the cameras on a Tesla vehicle, doing so has a
9 significant impact on the functionality of the vehicle's various safety and driver assistance features,
10 including the Autopilot system. Disabling the cameras also likely voids the warranty on the Tesla vehicles.
11 As a result, if Tesla drivers want to avoid future invasions of their privacy, the value of their Tesla vehicles
12 would almost certainly decrease, and substantially so.

13 48. Moreover, disabling the cameras is difficult and requires technical expertise, which Mr. Yeh
14 and most Class Members lack. Thus, in order to disable the cameras, Mr. Yeh and other vehicle owner Class
15 Members will have to hire an authorized service technician to do it for them, which is an additional expense
16 incurred to avoid having their privacy invaded in the future and they will lose access to features of the
17 vehicle that they paid for.

18 49. Regardless, absent the implementation of a system that adequately protects data captured by
19 Tesla vehicle cameras, members of the public—including Plaintiffs when out in the public—will never be
20 able to rest assured that their private data is not being abused by Tesla employees, since not every Tesla
21 owner will disable their vehicle's cameras.

22 **III. THERE IS A SUBSTANTIAL RISK PLAINTIFFS WERE RECORDED AND THAT TESLA**
23 **EMPLOYEES HAD ACCESS TO THOSE RECORDINGS FOR IMPROPER PURPOSES**

24 50. As they were expecting their first child, Mr. Yeh and his wife decided to purchase a 2022
25 Tesla Model Y because they believed it would be a safe and reliable vehicle. Mr. Yeh paid extra to have the
26 FSD option on his Tesla vehicle.

27 51. Privacy is important to Mr. Yeh and his wife. Mr. Yeh believed that, as a mature and
28 sophisticated technology company, Tesla would be mindful of protecting his family's privacy. One reason

1 Mr. Yeh chose to purchase the Tesla Model Y over other EVs he was considering at the time, including the
2 Volkswagen ID.4 and Mustang Maché-E, was that he believed Tesla, as a dedicated technology company,
3 would be more sensitive to privacy and data concerns than more traditional car manufacturers.

4 52. Mr. Yeh ordered his family's Model Y online in November 2021. After taking delivery of
5 the vehicle in February 2022, Mr. Yeh was assured by information presented to him on the vehicle's display
6 screen that any videos or images captured by the vehicle's cameras while in "Sentry Mode" would never
7 leave the car, *i.e.*, that they would only be stored locally on the vehicle's data storage system. Based on that
8 assurance, Mr. Yeh activated "Sentry Mode" and—until recently when he deactivated it—kept it active at
9 all times, including while the vehicle was parked in his garage.

10 53. Mr. Yeh and his wife expected privacy in their own home, including in their garage where
11 they kept their Tesla vehicle. In line with that expectation of privacy, they would occasionally walk around
12 in their garage in various stages of undress.

13 54. Given the reports that Tesla employees had access to, and did access videos and images of
14 Tesla owners in their homes and in their garages in various states undress, there is a risk Tesla employees
15 accessed videos and images of Plaintiffs.

16 55. That Tesla employees even had potential access to such videos and images of Plaintiffs is
17 highly offensive to Plaintiffs, especially in light of Mr. Yeh's reading and relying on his Tesla vehicle's on-
18 screen message that any such images and videos would only be stored locally on his Tesla's data storage
19 system.

20 56. Mr. Yeh and his wife care deeply for the privacy of their child, Plaintiff G.Y. They do not
21 share any photos of G.Y. online and do not maintain any social media accounts for G.Y. That photos and
22 videos of their one-year old child were available to be viewed by Tesla employees for personal, non-business
23 reasons is highly offensive and intrudes upon not only the privacy rights of G.Y., but interferes with Mr.
24 Yeh and his wife's rights as parents to keep images and videos of G.Y. out of the hands of strangers.

25 57. Plaintiff Yeh would not have purchased his Tesla vehicle, or would only have paid less for
26 it, if he knew that its camera systems were capable of surreptitiously recording him and his family and that
27 those recordings could be accessed by Tesla employees for personal, non-business reasons. Alternatively,
28 Mr. Yeh would not have purchased the Tesla, or would have paid less for it, and would not have engaged

1 “Sentry Mode” on his vehicle, if he knew that doing so increased the chances he and his family would be
 2 recorded while engaged in private activities for which he and his family had an expectation of privacy. That
 3 Mr. Yeh could effectively not use “Sentry Mode” without being at risk of being recorded and viewed by
 4 Tesla employees for improper purposes caused his Tesla vehicle to be worth less than what he paid for it
 5 because it now lacked an important feature. For example, by virtue of being unable to keep Sentry Mode
 6 on, Mr. Yeh is no longer able to use a solar charger for his vehicle that otherwise continuously charges the
 7 vehicle when not in use.

8 **IV. CONGRESS REQUESTED INFORMATION FROM TESLA REGARDING THE PRIVACY**
 9 **VIOLATIONS BUT TESLA HAS FAILED TO RESPOND**

10 58. On April 14 2023, Senator Edward Markey of Massachusetts and Senator Richard
 11 Blumenthal of Connecticut sent a letter to Elon Musk, as CEO of Tesla, Inc., citing an “alarming” report
 12 that “Tesla employees have shared private photos and videos captured by cameras in Tesla customers’
 13 vehicles.” Referring to Tesla’s privacy policy as “deeply misleading,” the Senators requested that Tesla
 14 address what they saw as Tesla’s “apparent willful disregard for the privacy of Tesla customers” that “is
 15 unacceptable and raises serious questions about Tesla’s management practices.”⁴

16 59. While urging Tesla “to take all necessary actions to ensure that any images or videos
 17 consensually collected from Tesla vehicles are subject to strict privacy safeguards,” the letter also requested
 18 that, on or before May 5, 2023, Tesla respond to several important questions, including:

- 19 1. *Please fully describe the purposes for which Tesla collects and retains vehicle recordings,*
 20 *how long those recordings are kept, and who has access to them.*
- 21 2. *Does Tesla restrict access to these vehicle camera recordings to certain employees or*
 22 *contractors through policy and technical measures? If so, please describe in detail those*
 23 *restrictions.*
- 24 3. *Why were Tesla’s policy and technical measures unable to prevent the wrongful sharing of*
 25 *vehicle recordings? Has Tesla investigated this misuse of highly invasive customer*
 26 *information?*

27 _____
 28 ⁴ Available at <https://www.markey.senate.gov/download/letter-to-tesla-on-vehicle-camera-recordings-from-senators-markey-and-blumenthal>

1 4. *Were Tesla executives aware that their employees were sharing consumer vehicle*
2 *recordings, including videos and images, on internal company messaging software prior to*
3 *Reuters’ public reporting on this topic?*

4 a. *If so, for how long were the executives aware of this employee behavior and*
5 *what steps did Tesla take to stop this employee behavior?*

6 b. *If not, will Tesla commit to taking all necessary steps, including formal policy*
7 *changes, to ensure that this breach of consumer privacy does not happen*
8 *again?*

9 5. *Are Tesla executives certain that Tesla employees no longer share vehicle camera recordings*
10 *for unauthorized purposes?*

11 6. *Tesla’s Customer Privacy Policy states that camera recordings “remain anonymous,” but*
12 *the Reuters report suggests that a customer’s location could be easily deduced from those*
13 *recordings, including tagging those videos on a map. Please describe the steps Tesla has*
14 *taken to protect user anonymity.*

15 a. *What steps is Tesla taking to ensure that the camera recordings are actually*
16 *anonymous?*

17 b. *Will Tesla commit to taking all necessary steps, including formal policy*
18 *changes, to ensure that vehicle camera recordings do not identify the location*
19 *of the Tesla customer?*

20 60. Tesla has, as of the date of this amended complaint, refused to respond to the Senators’
21 requests for information.

22 **CLASS ACTION ALLEGATIONS**

23 61. While reserving the right to redefine or amend the class definition prior to or as part of a
24 motion seeking class certification, pursuant to Federal Rule of Civil Procedure 23, Plaintiffs seek to
25 represent a class of all persons in the United States, whose images were captured by Tesla Vehicle cameras
26 at any time during the Class Period, from April 7, 2019 to the time a class is notified (the “Class”). Plaintiffs
27 further seek to represent a subclass of all persons in California whose images were captured by Tesla Vehicle
28 cameras at any time during the Class Period (the “California Subclass”). Plaintiff Henry Yeh further seeks

1 to represent the following subclasses: (a) All persons in the United States who, at any time during the Class
2 Period owned or leased a Tesla vehicle (the “Nationwide Vehicle Owner Subclass”); and (b) All persons in
3 the California who, at any time during the Class Period owned or leased a Tesla vehicle (the “California
4 Vehicle Owner Subclass”).

5 62. The members in the proposed Class (including the individual Subclasses) are so numerous
6 that individual joinder of all members is impracticable, and the disposition of the claims of all Class
7 Members in a single action will provide substantial benefits to the parties and Court.

8 63. Questions of law and fact common to Plaintiffs and the Class include:

9 a. Whether Tesla collected and stored videos, images, and/or biometric data of Class
10 Members;

11 b. Whether Tesla employees could access or did access videos, images, and/or biometric
12 data of class members;

13 c. Whether Tesla’s collection, storage, and dissemination of videos, images, and
14 biometric data of Class Members as described herein was highly offensive to a reasonable person;

15 d. Whether Tesla’s conduct constituted an invasion of privacy based on California’s
16 common law protection against intrusion upon seclusion public policy;

17 e. Whether Tesla’s conduct constitutes a violation of the California Constitution right
18 to privacy;

19 f. Whether Tesla’s conduct violated the California Unfair Competition Law because it
20 was fraudulent, unlawful, or unfair;

21 g. Whether Plaintiffs and other Class Members are entitled to monetary damages and the
22 measure of those damages;

23 h. Whether Plaintiffs and other Class Members are entitled to restitution, disgorgement,
24 or other equitable or injunctive relief; and

25 i. The proper amount of attorneys’ fees.

26 64. These common questions of law and fact predominate over questions that affect only
27 individual Class Members.

1 73. Tesla's intrusions by viewing and sharing videos and images of customers and their
2 activities, even in their own homes, as well as members of the public, especially in embarrassing or tragic
3 situations, are highly offensive to a reasonable person. This is evidenced by, *inter alia*, Tesla's own
4 employees' accounts of Tesla's actions. It is also evidenced by Tesla recording and Tesla employees sharing
5 images and videos of children, exploiting their special vulnerabilities.

6 74. Plaintiffs, other Class Members, and the general public were harmed by the potential (and in
7 some cases actual) intrusion by Tesla into their private affairs as detailed throughout this Complaint. Tesla's
8 actions and conduct complained of herein were a substantial factor in causing the harm suffered by Plaintiffs,
9 other Class Members, and the general public.

10 **SECOND CAUSE OF ACTION**

11 **Violation of California's Constitutional Right to Privacy,**

12 **Cal. Const. Art. 1, § 1**

13 75. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth
14 fully herein.

15 76. Plaintiffs and other Class Members' private affairs include their behavior in their homes, on
16 their property, and in their vehicles, as well as any other behavior, including in public, that may be captured
17 by surreptitious recording by Tesla vehicles.

18 77. Defendant intentionally intruded on and into Plaintiffs' and other Class Members' solitude,
19 seclusion, and private affairs by intentionally and surreptitiously recording, reviewing, sharing, and/or
20 retaining their activities through the monitoring and recording activities described herein. These intrusions
21 are highly offensive to a reasonable person.

22 78. These societal expectations and laws created a duty that Tesla owed to Plaintiffs and other
23 Class Members. Tesla breached that duty by implementing a system permitting the surreptitiously recording,
24 review, retention, and sharing of recordings of private activities by persons unauthorized to do so, and
25 without legitimate justification, as described herein.

26 79. Tesla's conduct described herein violated Plaintiffs' and other Class Members' right to
27 privacy, as guaranteed by ART. 1, § 1 of the California Constitution. Defendant's actions and conduct
28

1 complained of herein were a substantial factor in causing the harm suffered by Plaintiffs and other Class
2 Members.

3 **THIRD CAUSE OF ACTION**

4 **Violation of the Right to Publicity**

5 **Cal. Civ. Code § 3344**

6 80. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth
7 fully herein.

8 81. Pursuant to Cal. Civ. Code § 3344(a), “[a]ny person who knowingly uses another’s name,
9 voice, signature, photograph, or likeness, in any manner on or in products, merchandise, or goods, or for
10 purposes of advertising or selling, or soliciting purchases of products, merchandise, goods or services,
11 without such person’s prior consent, or, in the case of a minor, the prior consent of his parent or legal
12 guardian, shall be liable for any damages sustained by the person or persons injured as a result thereof.”

13 82. As alleged herein, Tesla knowingly used Plaintiffs’ and other Class Members’ images to
14 improve its products and thereby enable itself to market its vehicles with advanced features that command
15 a premium in the marketplace, such as Autopilot and FSD.

16 83. Tesla did not compensate Plaintiffs and other Class Members for its commercial use of their
17 photographs (including images obtained through video) and likenesses. *See* Cal. Civ. Code § 3344(b).

18 **FOURTH CAUSE OF ACTION**

19 **Violation of the California Unfair Competition Law,**

20 **Cal. Bus. & Prof. Code §§ 17200, *et seq.***

21 84. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth
22 fully herein.

23 85. The UCL prohibits any “unlawful, unfair or fraudulent business act or practice.” Cal. Bus. &
24 Prof. Code § 17200.

25 86. The acts, omissions, misrepresentations, practices, and non-disclosures of Tesla alleged
26 herein constitute business acts and practices.

Fraudulent

1
2 87. The acts, omissions, misrepresentations, practices, and non-disclosures of Tesla were
3 fraudulent because they induced Mr. Yeh and other Nationwide Vehicle Owner Subclass Members
4 (including California Vehicle Owner Subclass Members) to purchase or lease Tesla electric vehicles under
5 false pretenses.

Unlawful

6
7 88. The acts of Tesla alleged herein are “unlawful” under the UCL in that, as alleged herein, they
8 violate at least the California Constitutional right to privacy, the right of publicity under Cal. Civ. Code §
9 3344, and the Consumer Legal Remedies Act, and further constitute breach of contract, negligence,
10 negligent misrepresentation, intentional misrepresentation, and unjust enrichment.

11 89. Plaintiffs reserve the right to allege other violations of law that constitute other unlawful
12 business acts or practices.

Unfair

13
14 90. Tesla’s conduct was unfair because it was immoral, unethical, unscrupulous, or substantially
15 injurious to consumers, and the utility of its conduct, if any, did not outweigh the gravity of the harm to its
16 consumers.

17 91. Tesla’s conduct was also unfair because it violates public policy as declared by specific
18 constitutional, statutory or regulatory provisions, including but not necessarily limited to the California
19 Constitution.

20 92. Tesla’s conduct was also unfair because the consumer injury was substantial, not outweighed
21 by benefits to consumers or competition, and not one consumers themselves could reasonably have avoided.

22 93. There were reasonably available alternatives to further Tesla’s legitimate business interests,
23 other than the conduct described herein.

24 * * *

25 94. Tesla profited from, and Plaintiffs and other Class Members and suffered injury in fact and
26 lost money as a result of Tesla’s fraudulent, unlawful, and unfair conduct.

FIFTH CAUSE OF ACTION

Violation of the California Consumer Legal Remedies Act,

Cal. Civ. Code §§ 1750 *et seq.*

1
2
3
4 95. Plaintiff Henry Yeh realleges and incorporates the allegations elsewhere in the Complaint as
5 if set forth fully herein.

6 96. The CLRA prohibits deceptive practices in connection with the conduct of a business that
7 provides goods, property, or services primarily for personal, family, or household purposes.

8 97. Tesla's false and misleading statements, omissions, policies, acts, and practices were
9 designed to, and did, induce the purchase or lease and use Tesla vehicles by Plaintiff Henry Yeh and other
10 members of the Nationwide Vehicle Owner Subclass (including members of the California Vehicle Owner
11 Subclass) for personal, family, or household purposes, and violated and continue to violate the following
12 sections of the CLRA:

13 a. § 1770(a)(5): representing that goods have characteristics, uses, or benefits which
14 they do not have;

15 b. § 1770(a)(7): representing that goods are of a particular standard, quality, or grade if
16 they are of another;

17 c. § 1770(a)(9): advertising goods with intent not to sell them as advertised; and

18 d. § 1770(a)(16): representing the subject of a transaction has been supplied in
19 accordance with a previous representation when it has not.

20 98. Tesla profited from the sale of the deceptively advertised Tesla vehicles to unwary
21 consumers.

22 99. Tesla's wrongful business practices constituted, and constitute, a continuing course of
23 conduct in violation of the CLRA.

24 100. Pursuant to California Civil Code § 1782, more than 30 days before filing this amended
25 complaint, Mr. Yeh sent written notice of his claims and of Tesla's particular violations of the Act to Tesla
26 by certified mail, return receipt requested, but Tesla has failed to implement remedial measures.

27 101. Plaintiff Henry Yeh and the members of the Nationwide Vehicle Owner Subclass and
28 California Vehicle Owner Subclass have suffered harm. *See* Cal. Civ. Code § 1782(d).

EIGHTH CAUSE OF ACTION

Negligent Misrepresentation

(On Behalf of the Nationwide Vehicle Owner Subclass and California Vehicle Owner Subclass Only)

110. Plaintiff Henry Yeh realleges and incorporates the allegations elsewhere in the Complaint as if fully set forth herein.

111. Tesla marketed its vehicles in a manner conveying to reasonable consumers that their privacy is protected. Reasonable consumers would attach importance to such representations and would be induced to act thereon in making purchase or leasing decisions.

112. In selling vehicles, Tesla acted in the ordinary course of its business and had a pecuniary interest in Plaintiff Henry Yeh and other Nationwide Vehicle Owner Subclass and California Vehicle Owner Subclass Members purchasing or leasing vehicles.

113. Tesla owed a duty of care to Plaintiff Henry Yeh and other Nationwide Vehicle Owner Subclass and California Vehicle Owner Subclass Members, not to provide them false information when they were making their purchase or lease decisions regarding Tesla vehicles.

114. Tesla knew or had been negligent in not knowing that its system for protecting the privacy of customers whose video and images were taken by Tesla cameras was ineffective or defective.

115. Tesla intended that Mr. Yeh and other consumers rely on these representations, as evidenced by the intentional and conspicuous placement of the misleading representations on Tesla’s website.

116. Mr. Yeh and other Nationwide Vehicle Owner Subclass and California Vehicle Owner Subclass Members reasonably and justifiably relied on Tesla’s misrepresentations and omissions when purchasing or leasing Tesla vehicles. Had the correct facts been known, they would not have purchased or leased Tesla vehicles at the prices at which they were offered.

117. Therefore, as a direct and proximate result of Tesla’s negligent misrepresentations, Mr. Yeh and other Nationwide Vehicle Owner Subclass and California Vehicle Owner Subclass Members have suffered economic losses and other general and specific damages, in the amount of the Tesla vehicles’ purchase or lease prices, or some portion thereof, and any interest that would have accrued on those monies, all in an amount to be proven at trial.

NINTH CAUSE OF ACTION

Intentional Misrepresentation

(On Behalf of the Nationwide Vehicle Owner Subclass and California Vehicle Owner Subclass Only)

118. Plaintiff Henry Yeh realleges and incorporates the allegations elsewhere in the Complaint as if fully set forth herein.

119. Tesla marketed its vehicles in a manner conveying to reasonable consumers that their private and biometric data and information obtained through Tesla vehicles' cameras would be protected and remain private. Reasonable consumers would attach importance to such representations and would be induced to act thereon in making purchase or lease decisions.

120. Tesla knew that the misrepresentations were misleading, or acted recklessly in making the misrepresentations without regard to their truth.

121. Tesla intended that Mr. Yeh and other Nationwide Vehicle Owner Subclass and California Vehicle Owner Subclass Members rely on these misrepresentations, as evidenced by the intentional placement of the misleading representations on its website.

122. Mr. Yeh and other Nationwide Vehicle Owner Subclass and California Vehicle Owner Subclass Members have reasonably and justifiably relied on Tesla's intentional misrepresentations when purchasing or leasing Tesla vehicles; had the correct facts been known, they would not have purchased or leased Tesla vehicles at the prices at which the vehicles were offered.

123. Therefore, as a direct and proximate result of Tesla's intentional misrepresentations, Mr. Yeh and other Nationwide Vehicle Owner Subclass and California Vehicle Owner Subclass Members have suffered economic losses and other general and specific damages, in the amount of the Tesla Vehicles' purchase or lease prices, or some portion thereof, and any interest that would have accrued on those monies, all in an amount to be proven at trial.

TENTH CAUSE OF ACTION

Unjust Enrichment

124. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth fully herein.

1 125. Plaintiffs, other Class Members, and members of the public conferred benefits on Tesla by
2 purchasing or leasing Tesla vehicles with defective camera control systems, and by providing to Tesla,
3 without consent, their biometric and personal information, including their images, for Tesla's use in
4 commercial pursuits.

5 126. Tesla was unjustly enriched in retaining revenues derived from Plaintiffs and other Class
6 Members' purchase or lease of Tesla vehicles containing defective camera control systems, as well as
7 revenue obtained from the unauthorized access, use, and leverage of customers' and others' private and
8 biometric data.

9 127. Tesla's retention of those moneys under these circumstances is unjust and inequitable.
10 Tesla's acts and omissions caused injury to Plaintiffs, other Class Members, and members of the public.
11 Plaintiff Henry Yeh and other Nationwide Vehicle Owner Subclass and California Vehicle Owner Subclass
12 Members would not have purchased or leased Tesla vehicles at the prices they did if the true facts had been
13 known, and would not have consented to the capture and use of their biometric data and personal images, if
14 Tesla had not engaged in the malfeasance alleged.

15 128. Because Tesla's retention of non-gratuitous benefits conferred on it by Plaintiffs, other Class
16 Members, and members of the public is unjust and inequitable, Tesla has been unjustly enriched in an
17 amount to be determined at trial.

18 **PRAYER FOR RELIEF**

19 129. Wherefore, Plaintiffs, on behalf of themselves, all others similarly situated, and the general
20 public, pray for judgment against Tesla as to each and every cause of action, and the following remedies:

21 a. An Order declaring this action to be a proper class action, appointing Plaintiffs as
22 Class Representatives, and appointing Plaintiffs' undersigned counsel as Class Counsel;

23 b. An Order requiring Tesla to bear the cost of Class Notice;

24 c. A judgment awarding Plaintiffs other Class Members appropriate monetary relief,
25 including statutory (*i.e.*, under Cal. Civ. Code § 3344(a)), actual, compensatory, and punitive
26 damages (as permitted by law), in an amount to be determined at trial;

27 d. Public injunctive relief enjoining Tesla's future violation of the Unfair Competition
28 Law and Consumers Legal Remedies Act;

1 e. Public injunctive relief enjoining Tesla from making additional misrepresentations
2 and omissions regarding its privacy policies and practices in marketing its vehicles;

3 f. Public injunctive relief enjoining Tesla's future recording, viewing, sharing, and
4 profiting from videos and images of non-Tesla owners (and Tesla owners when not recorded by their
5 own vehicles) in violation of state law;

6 g. Public injunctive relief compelling Tesla's destruction of all personal data obtained
7 from non-Tesla owners (and Tesla owners when not recorded by their own vehicles) in violation of
8 state law;

9 h. Classwide and public injunctive relief enjoining Tesla's future recording, viewing,
10 sharing, and profiting from videos and images of members of the Nationwide Vehicle Owner Class
11 (including the California Vehicle Owner Class) and lessees in violation of state law;

12 i. Classwide and public injunctive relief compelling Tesla's destruction of all personal
13 data obtained from members of the Nationwide Vehicle Owner Class (including members of the
14 California Vehicle Owners Class) thereby in violation of state law;

15 j. A judgment awarding any and all further equitable, injunctive, and declaratory relief
16 as may be appropriate;

17 k. Pre-judgment and post-judgment interest, as permitted by law;

18 l. Attorneys' fees and costs; and

19 m. Any other and further relief that Court deems necessary, just, or proper.

20 **JURY DEMAND**

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

22
23 Dated: June 30, 2023

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