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9 Sergio Rodriguez

10
11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13

14 SERGIO RODRIGUEZ,
15 individually and on behalf of all
16 others similarly situated,

17 Plaintiff,

18 vs.

19 SAMSUNG ELECTRONICS
20 AMERICA, INC.; BEST BUY
21 CO., INC.; AND DOES 1-5,
22 Defendants.
23
24
25
26
27
28

) Case No.:

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

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1 Plaintiff Sergio Rodriguez (“Plaintiff”), individually and on behalf of all others
2 similarly situated, by and through his attorneys, brings this Class Action Complaint
3 (the “Complaint”) against defendants Samsung Electronics America (“Samsung”)
4 and Best Buy Co., Inc. (“Best Buy”) (together “Defendants”), and alleges as follows:

5 **SUMMARY OF ACTION**

6 1. Plaintiff brings this action for restitution and damages, and other legal
7 and equitable remedies, resulting from the illegal actions of Samsung and Best Buy
8 with respect to certain of their distribution, marketing, advertising and sale of
9 Samsung televisions (“TVs”). Specifically, Defendants falsely represented that
10 certain of Samsung QLED TVs have qualities, characteristics, and functionalities that
11 they do not have.¹

12 2. In so doing, Defendants violated the: (i) California Unfair Competition
13 Law, Business and Professions Code § 17200 (“UCL”); (ii) California False
14 Advertising Law, Business and Professions Code § 17500 (“FAL”); and (iii)
15 California Consumer Legal Remedies Act, Civil Code § 1770 *et seq.* (“CLRA”).

16 3. With respect to Defendants’ false advertising practice, pursuant to
17 Business and Professions Code § 17203 and Civil Code § 1785.31, Plaintiff seeks an
18 injunction for himself and members of the general public ordering that Defendants
19 immediately cease falsely reporting certain Samsung QLED televisions as having
20 certain characteristics, qualities, and features that they do not have, including Free
21

22 _____
23 ¹ QLED is a term used in the TV space. “All QLED TVs are also LCD TVs, but they use quantum
24 dots to produce colors. QLED TVs, from companies including ... Samsung... use a blue LED
25 light source, plus a film embedded with tiny quantum dots, or nanocrystals. The quantum-dot film
26 is sandwiched between the other layers of the LCD panel, replacing the color filter in front of the
27 LED backlight. When these tiny crystals are hit with the blue light from the backlight, they glow,
28 emitting very saturated primary colors, based on the size and composition of the quantum dot
material. Because the size of the crystals can be controlled precisely, the system renders very
accurate colors, even at higher brightness levels where colors can start to look a bit washed out. So
QLED TVs, like LED TVs, are also LCD TVs, albeit fancier ones.” See Consumer Reports, *QLED
vs. OLED (and QD-OLED): Which TV Tech Is Right for You?*, available at
<https://www.consumerreports.org/tvs/qled-vs-oled-and-qd-oled-which-tv-tech-is-right-for-you-a6691090566/#:~:text=QLED%20TVs%2C%20from%20companies%20including,front%20of%20the%20LED%20backlight>. (last visited on April 7, 2023).

1 Sync Premium, 120 Hz refresh rate, and High-Definition Multimedia Interface
2 (“HDMI”) 2.1 ports for transmitting digital video and audio.

3 **THE PARTIES**

4 4. Plaintiff is a consumer residing in the State of California, Orange
5 County. In early 2022 Plaintiff purchased a Samsung 50” Class Q80A Series QLED
6 4K TV in Orange County.

7 5. Defendant Samsung Electronics America (“Samsung”) manufactures
8 electronic products, including televisions, digital cameras, cell phones, storage devices,
9 home appliances, security systems, smartwatches, and computer products. Samsung
10 serves customers worldwide. Samsung Electronics America is incorporated in New
11 York and headquartered in Ridgefield Park, New Jersey. It regularly sells products
12 and does business in California.

13 6. Defendant Best Buy is a multinational consumer electronics retailer
14 incorporated in Delaware and headquartered in Richfield, Minnesota. Best Buy has
15 approximately 145 stores in California alone. Best Buy regularly sells Samsung TVs.

16 7. Doe Defendants 1-5 are the other companies or individuals responsible
17 for the false and deceptive advertising and sale of Samsung TVs.

18 **JURISDICTION AND VENUE**

19 8. This Court has jurisdiction over this action pursuant to the Class Action
20 Fairness Act, 28 U.S.C. § 1332(d)(1). Plaintiff brings a class action under Federal
21 Rule of Civil Procedure 23. Plaintiff and Defendants are citizens of different states,
22 and on information and belief, the amount in controversy exceeds the sum of
23 \$5,000,000.00 and there are no less than 100 class members.

24 9. Defendants regularly conduct business within the State of California,
25 which means personal jurisdiction is established.

26 10. Venue in this district is proper under 28 U.S.C. § 1391(b)(2) because
27 Plaintiff is a resident of Orange County and a substantial part of the events giving rise
28 to the claims occurred in this district.

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1 **STATEMENT OF FACTS**

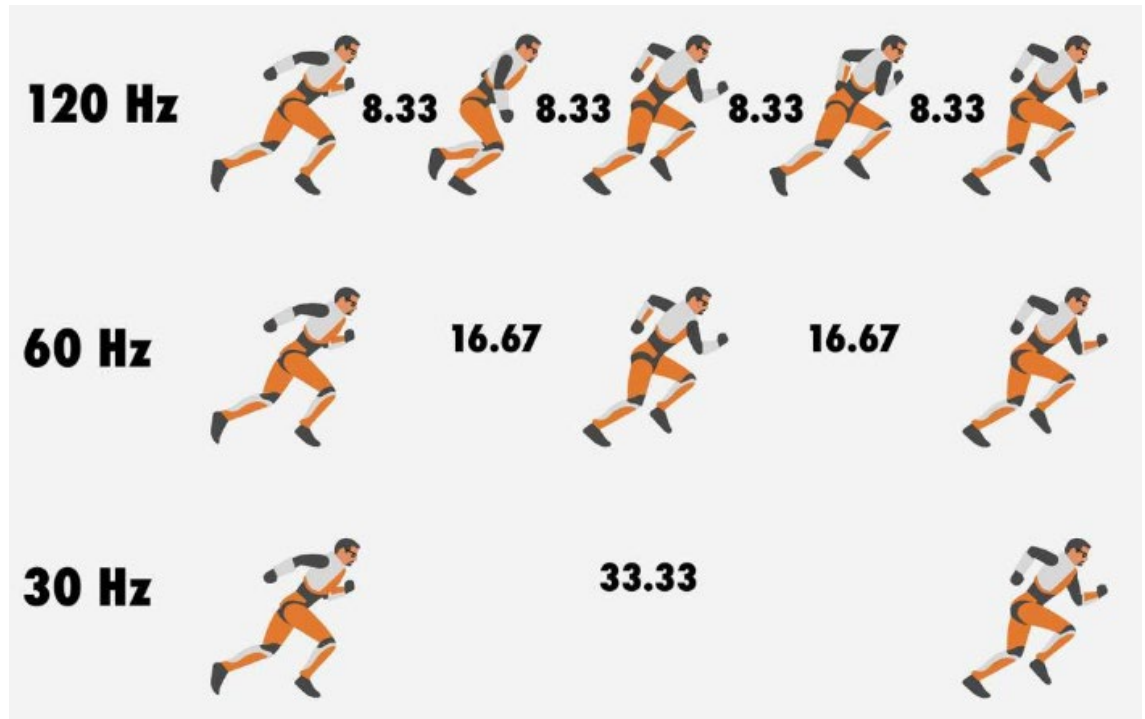
2 **A. Summary Of Relevant Technology Relating To Samsung QLED TVs**

3 11. Every year the electronics industry releases new technology and features
4 for the audio and video industry. Televisions are usually at the forefront of that new
5 technology. Among other features, consumers regularly search for the highest quality
6 in display resolution, which is based on the number of pixels in an image. The
7 everyday consumer is aware of terms such as “**HD**” for high definition (full HD
8 displays have a pixel count of 1920 x 1080), **4K** which refers to horizontal
9 resolutions of around 4,000 pixels (which is exactly four times the pixel count of full
10 HD displays), and “**refresh rate**,” which according to Samsung “is the frequency at
11 which the screen updates with new images each second, measured in hertz (cycles per
12 second). The content may look steady on the display, but what the viewer can’t see is
13 how fast the content is changing — up to 360 times a second. The higher the refresh
14 rate, the smoother the visual quality.” *See Insights, How does refresh rate work for*
15 *monitors?*, available at [https://insights.samsung.com/2022/03/07/how-does-refresh-](https://insights.samsung.com/2022/03/07/how-does-refresh-rate-work-for-monitors/)
16 [rate-work-for-monitors/](https://insights.samsung.com/2022/03/07/how-does-refresh-rate-work-for-monitors/) (last visited on March 30, 2023).

17 12. According to Intel:

18 [A] higher refresh rate refers to the frequency that a display updates the
19 onscreen image. The time between these updates is measured in
20 milliseconds (ms), while the refresh rate of the display is measured in
21 hertz (Hz). The refresh rate of your display refers to how many times
22 per second the display is able to draw a new image. This is measured in
23 Hertz (Hz). For example, if your display has a refresh rate of 144Hz, it
24 is refreshing the image 144 times per second. When paired with the
25 high frame rates produced by a [graphics processing unit] GPU and
26 [central processing unit] CPU working together, this can result in a
27 smoother experience and potentially higher FPS [frames per second].
28

1 Intel, *What Is Refresh Rate and Why Is It Important?*, available at
2 [https://www.intel.com/content/www/us/en/gaming/resources/highest-refresh-rate-](https://www.intel.com/content/www/us/en/gaming/resources/highest-refresh-rate-gaming.html)
3 [gaming.html](https://www.intel.com/content/www/us/en/gaming/resources/highest-refresh-rate-gaming.html) (last visited on March 30, 2023).



13. “HDMI” is another technology feature that is now standard on all TVs with HD resolution for digitally transmitting uncompressed video and audio data. HDMI technology has progressed since it was first introduced in 2002. Samsung states, “There are several HDMI versions. The various HDMI versions are HDMI 1.0, HDMI 1.1, HDMI 1.2, HDMI 1.3, HDMI 1.4, HDMI 2.0, and the newest version, HDMI 2.1.” Samsung, *Gaming with Samsung Smart TVs using HDMI 2.1*, available at <https://www.samsung.com/ae/support/tv-audio-video/gaming-with-samsung-smart-tvs-using-hdmi-21/> (last visited on March 30, 2023). Samsung explains on its website:

Over time, new versions are developed to suit the ever-expanding need for fast connections to transmit music and video of greater quality. The most recent version, HDMI 2.1, supports a variety of current and upcoming standards, making it perfect for game consoles... Samsung TVs support HDMI2.1 features.

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- **Fixed Rate Link (FRL):** A signaling technology that is able to achieve higher uncompressed resolutions, including 8K. It is also able to use up to 48Gbps of ultra-high-speed bandwidth.
- **Display Stream Compression (DSC):** A lossless compression algorithm that can achieve *higher resolutions and faster refresh rates, such as 4K at 120FPS*. It also includes greater color depth at 8K.
- **Variable Refresh Rate (VRR):** VRR eliminates screen tearing for fluid, enjoyable gameplay. Try combining Variable Refresh Rate with Fixed Rate Link and Display Stream Compression for high-resolution gaming.

Id. (italics added).

B. Samsung Falsely Claims That Its TVs Have Motion Xcelerator Turbo+, FreeSync, And HDMI 2.1 When They Do Not

14. Samsung touts a feature on its TVs called “Motion Xcelerator Turbo+,” which purportedly provides “Smooth, fluid motion at 4K 120Hz.” See Samsung, <https://www.samsung.com/us/televisions-home-theater/tvs/qlled-4k-tvs/50-inch-q80a-qlled-4k-smart-tv-2021-qn50q80aafxza/> (last visited on March 9, 2023).

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Smooth, fluid motion at 4K 120Hz

Motion Xcelerator Turbo+

Never miss a beat with minimized blur and enhanced motion clarity, and catch all the fast-moving action whether you're watching sports or taking advantage of newer next-gen gaming capabilities.



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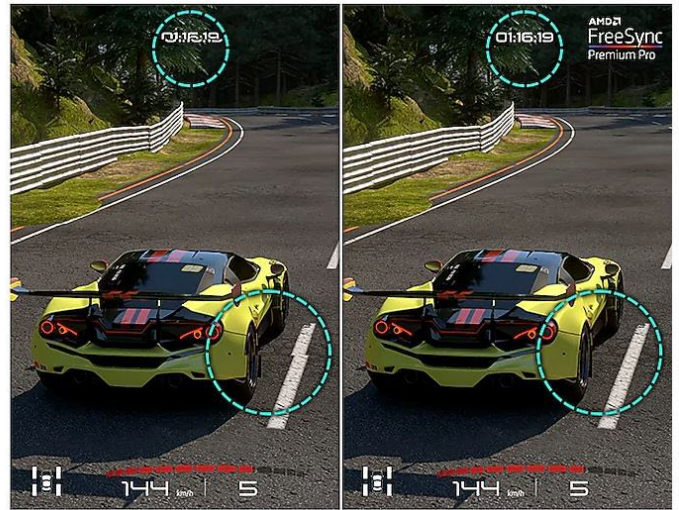
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1 15. Samsung also touts a feature on its “top TVs” called FreeSync.
2 Samsung advertises that FreeSync “provides clean, smooth animation and eliminates
3 stutter and screen tearing. Put an end to choppy gameplay and broken frames. Your
4 eyes will thank you.” See Samsung, *FreeSync on Samsung TVs*, available at
5 [https://www.samsung.com/us/support/answer/ANS00079940/#:~:text=In%20case%20](https://www.samsung.com/us/support/answer/ANS00079940/#:~:text=In%20case%20you're%20not,choppy%20gameplay%20and%20broken%20frames)
6 [you're%20not,choppy%20gameplay%20and%20broken%20frames](https://www.samsung.com/us/support/answer/ANS00079940/#:~:text=In%20case%20you're%20not,choppy%20gameplay%20and%20broken%20frames) (last visited on
7 March 30, 2023).

8 **Tear-free,**
9 **stutter-free,**
10 **low latency**
11 **HDR gaming**

12 **FreeSync Premium Pro**

13 Dominate the game with less lag, tearing and stuttering
14 combined with peak performance, exceptional high
15 dynamic range visuals, and low latency for effortlessly
16 smooth gameplay.



17 16. In addition, Samsung touts that some of its Smart TVs, including the one
18 purchased by Plaintiff, are equipped with HDMI 2.1 to “achieve higher
19 uncompressed resolutions, including 8K,” “achieve higher resolutions and faster
20 refresh rates, such as 4K at 120FPS,” and “eliminate screen tearing for fluid,
21 enjoyable gameplay.” Samsung, *Gaming with Samsung Smart TVs using HDMI 2.1*,
22 available at [https://www.samsung.com/ae/support/tv-audio-video/gaming-with-](https://www.samsung.com/ae/support/tv-audio-video/gaming-with-samsung-smart-tvs-using-hdmi-21/)
23 [samsung-smart-tvs-using-hdmi-21/](https://www.samsung.com/ae/support/tv-audio-video/gaming-with-samsung-smart-tvs-using-hdmi-21/) (last visited on March 30, 2023).

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PRODUCT HIGHLIGHTS

- Direct Full Array Backlighting
- Object Tracking Sound¹
- Quantum Processor 4K
- 100% Color Volume with Quantum Dot²
- Quantum HDR 12X³

SIZE CLASS

- 85" 85Q80A
- 75" 75Q80A
- 65" 65Q80A
- 55" 55Q80A
- 50" 50Q80A



Nothing will get by you with the precise visible details, even in the darkest scenes, and sound that moves around you.

KEY FEATURES

Picture

- 4K UHD
- 4K AI Upscaling⁴
- Direct Full Array
- Quantum HDR 12X
- Quantum Processor 4K
- 100% Color Volume with Quantum Dot
- Supreme UHD Dimming
- Motion Xcelerator Turbo+⁵
- Wide Viewing Angle
- Adaptive Picture™
- FreeSync Premium Pro
- Auto Game Mode (ALLM)
- Super Ultrawide GameView & Game Bar⁶

Design

- Boundless Design
- Sand Black Floating Plate Stand

Smart Features

- Smart TV Powered by Tizen
- Universal Guide
- Ambient Mode+⁷
- Multiple Voice Assistants⁸
- TV Plus
- Multi View⁹
- SolarCell Remote™¹⁰
- SmartThings Compatible¹¹
- Samsung Health¹²
- PC on TV¹³

Connections

- 4 HDMI Connections¹⁴
- HDMI 2.1
- eARC
- 2 USB Connections
- LAN Port
- 802.11AC built-in Wi-Fi
- Bluetooth®
- RS232 Control (Ex-Link)
- IP Control Support¹⁵
- Optical Audio Output Port

Audio

- Object Tracking Sound™
- Q-Symphony¹⁶
- SpaceFit Sound
- Active Voice Amplifier
- Dolby® Digital Plus
- 60 Watt 2.2.2 Channel¹⁷

Included Accessories

- SolarCell Remote™ (TM-2180E)

Industry Certifications

- CTA 4K UHD Connected
- Filmmaker Mode

C. Plaintiff Purchases A Samsung QLED TV That Samsung Falsely Claims Has Motion Xcelerator Turbo+, FreeSync, And HDMI 2.1

17. In 2022, Plaintiff was in search of a new TV with 4K resolution and a high refresh rate for an optimal display for movies, television and gaming. After researching various TVs on the market, Plaintiff purchased the Samsung QLED 4K Smart TV, model QN50Q80A (the “QLED 4K TV”) from Best Buy. Samsung advertised that the QLED 4K TV was equipped with *inter alia* Motion Xcelerator

1 Turbo+, FreeSync, and HDMI 2.1. Best Buy represented that the QLED 4K TV had
 2 Motion Xcelerator Turbo+ with a 120Hz refresh rate.

3 **KEY FEATURES**

4 **Picture**

- 4K UHD
- 4K AI Upscaling⁴
- Direct Full Array
- Quantum HDR12X
- Quantum Processor 4K
- 100% Color Volume with Quantum Dot
- Supreme UHD Dimming
- Motion Xcelerator Turbo+⁵
- Wide Viewing Angle
- Adaptive Picture™
- FreeSync Premium Pro
- Auto Game Mode (ALLM)
- Super Ultrawide GameView & Game Bar⁶

11 **Design**

- Boundless Design
- Sand Black Floating Plate Stand

4 **Smart Features**

- Smart TV Powered by Tizen
- Universal Guide
- Ambient Mode+⁷
- Multiple Voice Assistants⁸
- TV Plus
- Multi View⁹
- SolarCell Remote™¹⁰
- SmartThings Compatible¹¹
- Samsung Health¹²
- PC on TV¹³

11 **Connections**

- 4 HDMI Connections¹⁴
- HDMI 2.1
- eARC
- 2 USB Connections
- LAN Port
- 802.11AC built-in Wi-Fi
- Bluetooth®
- RS232 Control (Ex-Link)
- IP Control Support¹⁵
- Optical Audio Output Port

4 **Audio**

- Object Tracking Sound™
- Q-Symphony¹⁶
- SpaceFit Sound
- Active Voice Amplifier
- Dolby® Digital Plus
- 60 Watt 2.2.2 Channel¹⁷

8 **Included Accessories**

- SolarCell Remote™ (TM-2180E)

8 **Industry Certifications**

- CTA 4K UHD Connected
- Filmmaker Mode

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16 18. Plaintiff saw these advertisements and was drawn by the QLED 4K TV’s
 17 4K display, the Motion Xcelerator Turbo+, FreeSync, and HDMI 2.1 features, which
 18 would provide him the best movie and gaming experience.

19 19. Plaintiff used the QLED 4K TV for movies, TV shows, and gaming with
 20 his Sony Playstation 5. However, the QLED 4K TV did not function as expected.
 21 Specifically, the resolution was not as clear as expected, the refresh rate was slow
 22 resulting in choppy motion, and to Plaintiff’s surprise, the TV was not performing at
 23 120Hz.

24 20. In February 2023, Plaintiff contacted Samsung for assistance to repair
 25 the QLED 4K TV. Plaintiff’s QLED 4K TV was still under warranty.

26 21. On or about March 6, 2023, a Samsung service technician came to
 27 Plaintiff’s home to inspect the QLED 4K TV. To Plaintiff’s surprise, after inspecting
 28

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1 the TV the technician explained that it did not have Motion Xcelerator Turbo+,
2 FreeSync, or HDMI 2.1.

3 22. The Samsung service technician explained that Plaintiff had been
4 “misled to buy” the TV, and “the tv not does not [sic] meet advertised specification
5 on Samsung’s website.” The technician specifically explained:

6 Customer states on Samsung website, Tv promises with FreeSync
7 premium, HDMI 2.1 and 120HZ; but when the TV arrives those
8 features were not available. Went to Samsung website and found
9 website advertising tv with FreeSync premium pro, and HDMI 2.1 and
10 120 HZ features (see attached pictures); however, on page 154 of the
11 TV User Manual, it states the tv does not support VRR.

12 23. Plaintiff felt completely duped and was upset because he had relied on
13 Defendants’ representations that the QLED 4K TV had Motion Xcelerator Turbo+,
14 FreeSync, or HDMI 2.1. But the QLED 4K TV did not have Xcelerator Turbo+,
15 FreeSync, and HDMI 2.1. Plaintiff requested a replacement TV with these features,
16 but Samsung refused. Plaintiff has since been searching for TVs with these features.
17 Plaintiff would potentially be interested in purchasing another Samsung TV in the
18 future if they have the advertised technology, are not deceptively advertised, and
19 accordingly priced at fair market value without being artificially inflated due to the
20 deceptive advertising.

21 24. When Plaintiff, and Class Members, purchased the QLED 4K TVs, they
22 believed that they were purchasing TVs with the features advertised, including
23 Motion Xcelerator Turbo+, FreeSync, or HDMI 2.1. Plaintiff, and Class Members,
24 were deceived as a result of Samsung’s and Best Buy’s actions. In fact, Plaintiff
25 would not have purchased the QLED 4K TV if it were not for the misrepresentations
26 of the aforementioned material facts. These purchasing decisions were supported by
27 the misleading, deceptive, and false representations made by Samsung and Best Buy.
28

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1 25. Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken
2 by Samsung as a result of its intentional false advertising. Furthermore, Plaintiff
3 suffered an “injury in fact” by paying for something he believed had technological
4 features that it did not have.

5 26. Plaintiff and Class Members were undoubtedly injured and lost money
6 as a result of Samsung’s misleading, deceptive, fraudulent, and intentionally false
7 advertising.

8 27. It was the intention of Samsung and Best Buy to deceive consumers in
9 order to artificially raise sales revenues by selling more TVs and being able to market
10 those TVs at above-market prices based on qualities and features that the TVs simply
11 did not possess.

12 **CLASS ACTION ALLEGATIONS**

13 28. Plaintiff brings this action on behalf of himself and all others similarly
14 situated, pursuant to Federal Rule of Civil Procedure 23(b)(2) and 23(b)(3) on behalf
15 of the class defined as follows (the “Class”):
16

17 All persons in the State of California who purchased a Samsung QLED
18 television model number 50Q8*A or 43QN9*A (“Samsung QLED
19 TVs”) during the relevant statute of limitations period, i.e. four years
prior to the filing of the Complaint until present.

20 29. Excluded from the Class are: (1) Samsung, any entity or division in
21 which Samsung has a controlling interest, and their legal representatives, officers,
22 directors, assigns, and successors; and (2) the Judge to whom this case is assigned
23 and the Judge’s staff. Plaintiff reserves the right to amend or expand the Class
24 definition to seek recovery on behalf of additional persons as warranted as facts are
25 learned in further investigation and discovery.

26 30. Plaintiff and members of the Class were harmed by the acts of Samsung
27 and Best Buy by purchasing TVs that did not have the qualities, characteristics and
28 features that Defendants advertised they had.

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1 31. Common questions of fact and law exist as to all members of the Class,
2 which predominate over any questions affecting only Plaintiff or individual members
3 of the Class. These common legal and factual questions, which do not vary between
4 the class members, and which may be determined without reference to the individual
5 circumstances of any Class members, include, but are not limited to, the following:

- 6 a) Whether, within four years prior to the filing of this Complaint,
7 Samsung and/or Best Buy falsely advertised its TVs as having
8 certain technology and features that they did not have;
- 9 b) Whether Plaintiff and the Class have purchased the TVs containing
10 the same intentionally misleading, deceptive, false and fraudulent
11 representations;
- 12 c) Whether Plaintiff and the Class members were damaged thereby,
13 and the extent of damages for such violation;
- 14 d) Whether such conduct is unlawful, unfair or fraudulent; and
15 e) Whether Samsung and/or Best Buy should be enjoined from
16 engaging in such conduct in the future.

17 32. As a person that who purchased a QLED 4K TV from Defendants,
18 Plaintiff is asserting claims that are typical of the Class. Plaintiff and all members of
19 the Class sustained damages arising out of Defendants' common course of conduct
20 complained herein.

21 33. The members of the Class are so numerous that joinder of all members
22 would be unfeasible and impractical. The membership of the Class is currently
23 unknown to Plaintiff at this time; however, given that, on information and belief,
24 Samsung and Best Buy sold thousands of QLED 4K TVs in California during the
25 applicable statute of limitations periods, it is reasonable to presume that the members
26 of the Class are so numerous that joinder of all members is impracticable. The
27 disposition of their claims in a class action is a superior method to individual actions
28 and will provide substantial benefits to the parties and the Court.

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1 34. Plaintiff will fairly and adequately protect the interest of the members of
2 the Class because Plaintiff has no interests which are adverse to the interest of absent
3 class members and because Plaintiff has retained counsel who possess significant class
4 action litigation experience regarding alleged violations of consumer statutes.

5 35. A class action is superior to other available methods of fair and efficient
6 adjudication of this controversy because individual litigation of each of the claims of
7 the members of the Class is impracticable. Even if every Class member could afford
8 individual litigation, the court system could not. It would be unduly burdensome to
9 the courts in which individual litigation of numerous issues would proceed.
10 Individualized litigation would also present the potential for varying, inconsistent, or
11 contradictory judgments and would magnify the delay and expense to all parties and to
12 the court system resulting from multiple trials of the same complex factual issues. By
13 contrast, the conduct of this action as a class action presents fewer management
14 difficulties, conserves the resources of the parties and of the court system, and protects
15 the rights of each Class member.

16 36. The prosecution of separate actions by individual members of the Class
17 would create a risk of adjudications with respect to them that would, as a practical
18 matter, be dispositive of the interests of the other Class members not parties to such
19 adjudications or that would substantially impair or impede the ability of such non-party
20 Class members to protect their interests.

21 37. Defendants have acted or refused to act in respects generally applicable to
22 the Class, thereby making appropriate final and injunctive relief with regard to the
23 members of the Class as a whole.

24 **FIRST CAUSE OF ACTION**

25 **CALIFORNIA UNFAIR COMPETITION LAW**

26 **BUSINESS & PROFESSIONS CODE § 17200 *et seq.***

27 **(On Behalf Of Plaintiff And The Class)**

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1 38. Plaintiff repeats, re-alleges, and incorporates by reference all other
2 paragraphs, as if fully set forth herein.

3 39. Plaintiff and Defendants are each “person[s]” as defined by California
4 Business and Professions Code section 17201. California Business and Professions
5 Code section 17204 authorizes a private right of action on both an individual and
6 representative basis.

7 40. “Unfair competition” is defined by Business and Professions code section
8 17200 as encompassing several types of business “wrongs,” four of which are at issue
9 here: (1) an “unlawful” business act or practice, (2) an “unfair” business act or practice,
10 (3) a “fraudulent business act or practice, and (4) “unfair, deceptive, untrue, or
11 misleading advertising.” The definitions in section 17200 are drafted in the disjunctive,
12 meaning that each of these “wrongs” operates independently from the others.

13 41. A plaintiff is required to provide evidence of a causal connection between
14 a defendant’s business practices and the alleged harm—that is, evidence that the
15 defendant’s conduct caused or was likely to cause substantial injury. It is insufficient
16 for a plaintiff to show merely that the defendant’s conduct created a risk of harm.
17 Furthermore, the “act or practice” aspect of the statutory definition of unfair
18 competition covers any single act of misconduct, as well as ongoing misconduct.

19 42. By and through Defendants’ conduct alleged above and in further detail
20 herein, Defendants engaged in conduct that constitutes unlawful, unfair, and/or
21 fraudulent business practices and advertising as prohibited by Bus. & Prof. Code §§
22 17200, *et seq.*

23 **UNLAWFUL**

24 43. California Business and Professions code Section 17200, *et seq.* prohibits
25 “any unlawful...business act or practice.”

26 44. As explained above, Defendants deceived, misled, and invaded the rights
27 of Plaintiff and other Class Members by representing that their Samsung QLED TVs
28 has characteristics and features that they did not have.

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1 substantially injurious to consumers, in that consumers are led to believe that the
2 Samsung QLED TVs have qualities and benefits which they do not have.

3 50. California Business & Professions Code § 17200 prohibits any “unfair ...
4 business act or practice.” Defendants’ acts, omissions, misrepresentations, and
5 practices as alleged herein also constitute “unfair” business acts and practices within
6 the meaning of the UCL in that its conduct is substantially injurious to purchasers,
7 offends public policy, and is immoral, unethical, oppressive, and unscrupulous as the
8 gravity of the conduct outweighs any alleged benefits attributable to such conduct.
9 There were reasonably available alternatives to further Defendants’ legitimate business
10 interests, other than the conduct described herein. Plaintiff reserves the right to allege
11 further conduct which constitutes other unfair business acts or practices. Such conduct
12 is ongoing and continues to this date.

13 51. UCL cases have applied a variety of tests for what constitutes an “unfair”
14 business practice. *See Durrell v. Sharp HealthCare*, 183 Cal. App. 4th 1350, 1365
15 (2010). Here, the Plaintiff satisfies all three.

16 52. The FTC test requires a purchaser to show that the injury: (1) is
17 substantial; (2) is not outweighed by any countervailing benefits to purchasers or
18 competition; and, (3) is not one that purchasers themselves could reasonably have
19 avoided.

20 53. Here, Defendants’ conduct has caused and continues to cause substantial
21 injury to Plaintiff and members of The Class. Plaintiff and members of The Class have
22 suffered injury in fact and lost money due to Defendants’ decision to sell Samsung
23 QLED TVs that do not have characteristics as advertised. Accordingly, Plaintiff and
24 class members were injured because they paid money for a product that was of
25 substantially less value than they reasonably believed, and were denied the benefit of
26 the bargain.

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1 54. Such conduct involves equitable remedies in the form of a return of part
2 of the purchase price of the product. Thus, Defendants’ conduct has caused substantial
3 injury to Plaintiff and the members of the Class.

4 55. Another test for unfairness under the UCL is the antitrust test, which
5 analyzes whether the conduct “threatens an incipient violation of an antitrust law, or
6 violates the policy or spirit of one of those laws because its effects are comparable to or
7 the same as a violation of the law, or otherwise significantly threatens or harms
8 competition.” *Cel-Tech Commc’ns, Inc. v. Los Angeles Cellular Tel. Co.*, 20 Cal. 4th
9 163, 187 (1999).

10 56. By deceiving Plaintiff and members of the class into purchasing Samsung
11 QLED TVs under false pretenses, Defendants have gained an unfair advantage in the
12 marketplace and has hindered competition. Class Members, including Plaintiff, are
13 stuck with televisions that do not bear the characteristics they were marketed as having.
14 As a result, Defendants have unfairly usurped the business of competitors, and
15 artificially been able to raise the price of Samsung QLED TVs. Defendants’ actions
16 tend to harm competition in the TV and electronics market by reducing competition in
17 the marketplace due to consumer perceived quality of the Samsung QLED TVs as a
18 result of Defendants’ misrepresentations. Defendants’ misrepresentations do not offer
19 any countervailing benefit to the marketplace.

20 57. A third test for determining unfairness under the UCL is a balancing test
21 as to whether the business practice is “immoral, unethical, oppressive, unscrupulous or
22 substantially injurious to consumers.” *South Bay Chevrolet v. General Motors*
23 *Acceptance Corp.*, 72 Cal. App. 4th 861, 887 (1999).

24 58. Here all of these factors weigh heavily in favor of this Court finding that
25 Defendants’ business practices are unfair.

26 59. Defendants took advantage of the market and of consumers by
27 misrepresenting the characteristics and qualities of Samsung QLED TVs to the general
28 public, as discussed above. Such conduct is injurious to consumers insofar as it

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1 promises a product bearing certain characteristics, when in fact the product bears
2 characteristics that are inherently and facially of less value. Accordingly, consumers
3 were deprived of the benefit of the bargain of what they sought to purchase and
4 reasonably believed they had purchased at the point of sale. There is no moral, ethical,
5 or economic justification for this conduct, and it is inherently immoral and
6 unscrupulous for Defendants to have done this to its customers.

7 60. In so doing, Defendants have acted immorally, unethically, oppressively,
8 unscrupulously, and has caused a substantial injury to consumers as detailed above.

9 61. Plaintiff can use a benefit of the bargain approach, discrete choice
10 analysis, or other economically-sound methods of damage calculations to ascertain the
11 harm suffered by Class Members.

12 62. Finally, the injury suffered by Plaintiff and members of the Class is not
13 an injury that consumers could have reasonably avoided.

14 63. Thus, Defendants’ conduct has violated the “unfair” prong of California
15 Business and Professions Code § 17200.

16 **FRAUDULENT**

17 64. Beginning in or around 2019 and continuing through the time of this
18 Complaint, Defendants engaged in acts of unfair competition, including those
19 described herein, by engaging in a pattern of “fraudulent” business practices within the
20 meaning of Bus. & Prof. Code §§ 17200 *et seq.*, by falsely representing that Samsung
21 QLED TVs had features such as Motion Xcelerator Turbo+, FreeSync, and HDMI 2.1.

22 65. Plaintiff reserves the right to allege further conduct that constitutes other
23 fraudulent business acts or practices. Such conduct is ongoing and continues to this
24 date.

25 **“UNFAIR, DECEPTIVE, UNTRUE, OR MISLEADING”**

26 66. Defendants’ practices are unfair, deceptive, untrue, or misleading in that
27 consumers are led to believe that Samsung QLED TVs had features such as Motion
28 Xcelerator Turbo+, FreeSync, and HDMI 2.1.

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1 67. Plaintiff and the public, as reasonable consumers, were deceived and
2 misled by Defendants' conduct.

3 68. Defendants' unlawful, unfair, and fraudulent business practices, and
4 unfair, deceptive, untrue, and/or misleading advertising presents a continuing threat to
5 the public in that Defendants continue to falsely represent that Samsung QLED TVs
6 have features that they do not have.

7 69. Defendants engaged in these unlawful, unfair, and fraudulent business
8 practices, which were motivated solely by Defendants' self-interest with the primary
9 purpose of collecting unlawful and unauthorized monies from Plaintiff and all others
10 similarly situated, thereby unjustly enriching Defendants.

11 70. Such acts and omissions by Defendants are unlawful and/or unfair and/or
12 fraudulent and constitute violations of the Bus. & Prof. Code §§ 17200 *et seq.*, Plaintiff
13 reserves the right to identify additional violations by Defendants as may be established
14 through discovery.

15 71. As a direct and proximate result of the aforementioned acts and
16 representations, Defendants received and continue to receive unearned commercial
17 benefits at the expense of its competitors and the public.

18 72. As a direct and proximate result of Defendants' unlawful, unfair, and
19 fraudulent conduct described herein, Defendants have been and will continue to be
20 unjustly enriched by the receipt of ill-gotten gains from customers, including Plaintiff
21 and Class Members, who unwittingly provided money to Defendants as a result of
22 Defendants' fraudulent misrepresentations.

23 73. Plaintiff has suffered an "injury in fact" because Defendants received
24 Plaintiff's money as a result of Defendants' false representations.

25 74. In prosecuting this action for the enforcement of important rights affecting
26 the public interest, Plaintiff seeks the recovery of attorneys' fees, which are available
27 to prevailing plaintiffs in class action cases such as this.

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SECOND CAUSE OF ACTION

CALIFORNIA FALSE ADVERTISING LAW

Business and Professions Code § 17500

(On Behalf Of Plaintiff And The Class)

75. Plaintiff repeats, re-alleges, and incorporates by reference all other paragraphs, as if fully set forth herein.

76. Plaintiff brings this claim individually and on behalf of all others similarly situated for Defendants’ violations of California’s False Advertising Law (“FAL”), Cal. Bus. & Prof. Code §§ 17500, *et seq.*

77. Under the FAL, the State of California makes it “unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of ... personal property or to perform services... or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public ... in any other manner or means whatever, including over the Internet, any statement, concerning that ... personal property or those services ... which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading[.]” Cal. Bus. & Prof. Code § 17500.

78. Defendants knowingly engaged in a scheme of misrepresenting that Samsung QLED TVs had features such as Motion Xcelerator Turbo+, FreeSync, and HDMI 2.1. Such practice misrepresented the quality and characteristics of the Samsung QLED TVs. Defendants knew or should have known its conduct was unauthorized, inaccurate, and misleading.

THIRD CAUSE OF ACTION

CALIFORNIA CONSUMER LEGAL REMEDIES ACT

California Civil Code §1770 *et seq.*

(On Behalf Of Plaintiff And The Class)

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1 79. Plaintiff repeats, re-alleges, and incorporates by reference all other
2 paragraphs, as if fully set forth herein.

3 80. Defendants’ actions as detailed above constitute a violation of the
4 Consumer Legal Remedies Act (“CLRA”), Cal. Civ. Code §1770 to the extent that
5 Defendants violated the following provisions of the CLRA:

- 6 a) Using deceptive representations in connection with goods or services. Cal.
7 Civ. Code §1770(a)(4).
- 8 b) Representing that goods or services have sponsorship, approval, and
9 characteristics that they do not have. Cal. Civ. Code §1770(a)(5).
- 10 c) Representing that goods or services are of a particular standard, quality, or
11 grade, or that goods are of a particular style or model, if they are of another.
12 Cal. Civ. Code §1770(a)(7).

13 81. On or about July 1, 2023, through his Counsel of record, using certified
14 mail with a return receipt requested, Plaintiff served Defendants with notice of its
15 violations of the CLRA (attached hereto as **Exhibit A**), and asked that Defendants
16 correct, repair, replace or otherwise rectify the goods and services alleged to be in
17 violation of the CLRA; this correspondence advised Defendants that it must take such
18 action within thirty (30) calendar days, and pointed Defendants to the provisions of the
19 CLRA that Plaintiff believes to have been violated by Defendants. If Defendants refuse
20 to timely correct, repair, replace or otherwise rectify the issues raised therein, Plaintiff
21 will amend the Complaint to seek damages under the CLRA.

22 82. Plaintiff will subsequently file an Affidavit of Venue as required by the
23 CLRA.

PRAYER FOR RELIEF

24 WHEREFORE, Plaintiff, individually and on behalf of all others similarly
25 situated, prays for judgment against the Samsung as follows:

- 26 A. For an order awarding, as appropriate, restitution to the Plaintiff and the
27 Class;

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1 B. For an order certifying this case as a class action and appointing Plaintiff
2 and Plaintiff’s counsel to represent the Class;

3 C. For an order that the Court certify Plaintiff to serve as the class
4 representative in this matter;

5 D. For an order that Samsung and Best Buy’s wrongful conduct alleged
6 herein be adjudged and decreed to violate the claims asserted herein;

7 E. For an order requiring Samsung to immediately cease and desist from
8 selling and distributing Samsung QLED TVs with the deceptive and false advertising
9 as set forth above, and enjoining Samsung and Best Buy from continuing to
10 manufacture, deliver, offer to deliver, market, advertise, distribute, and sell the
11 Samsung QLED TVs in the unlawful, unfair, and deceptive manner described herein;

12 F. For an order awarding attorneys’ fees and costs;

13 G. For an order awarding pre-judgment and post-judgment interest; and

14 H. For such other and further relief as this Court find just, equitable and
15 proper, including, but not limited to, the remedy of disgorgement.

16 **TRIAL BY JURY**

17 Pursuant to the Seventh Amendment to the Constitution of the United States of
18 America, Plaintiff and members of the Class are entitled to, and demand, a trial by
19 jury.

20
21 Dated: July 3, 2023

RAY KIM LAW, APC



22
23 Raymond Y. Kim
24 Attorneys for Plaintiff
Sergio Rodriguez