

1 **JURISDICTION AND VENUE**

2 2. This Court has subject matter jurisdiction over this matter under 28 U.S.C.
3 §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), 56(a), and 57b.

4 3. Venue is proper in the Northern District of California under 15 U.S.C. § 53(b) and
5 28 U.S.C. §§ 1391(b) – (d) and 1395(a).

6 **INTRADISTRICT ASSIGNMENT**

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8 4. Defendant Yelp Inc. has its primary place of business in the county of San
9 Francisco.

10 **THE CHILDREN’S ONLINE PRIVACY PROTECTION ACT RULE**

11 5. Congress enacted COPPA in 1998 to protect the safety and privacy of children
12 online by prohibiting the unauthorized or unnecessary collection of children’s personal
13 information online by operators of Internet websites and online services. COPPA directed the
14 Commission to promulgate a rule implementing COPPA. The Commission promulgated the
15 Children’s Online Privacy Protection Rule, 16 C.F.R. Part 312, on November 3, 1999, under
16 Section 1303(b) of COPPA, 15 U.S.C. 6502(b), and Section 553 of the Administrative Procedure
17 Act, 5 U.S.C. § 553. The Rule went into effect on April 21, 2000.

18 **DEFENDANT**

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20 6. Defendant Yelp Inc. (“Yelp”), is a Delaware corporation with its principal place
21 of business located at 140 New Montgomery Street, 9th Floor, San Francisco, California 94105,
22 and transacts or has transacted business in the Northern District of California. Yelp markets and
23 provides online services to consumers throughout the United States. Specifically, Yelp operates
24 a website located on the Internet as well as mobile applications that allow users to search for and
25 review local businesses.
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1 **COMMERCE**

2 7. At all times material to this Complaint, Defendant has maintained a substantial
3 course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act,
4 15 U.S.C. § 44.
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6 **DEFENDANT’S BUSINESS PRACTICES**

7 8. Since 2004, Yelp has provided a free service that aims “to connect people with
8 great local businesses” and purports to be the “leading local guide for real word-of-mouth on
9 everything from boutiques and mechanics to restaurants and dentists.” Yelp allows users to read
10 and create reviews of local businesses, and connect with other users online and at local events.
11 Businesses may advertise with Yelp, communicate with users publicly and privately, and create
12 special deals for Yelp users.
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14 9. In 2008, Yelp launched its first mobile application for Apple, Inc.’s iOS operating
15 system. Since then, Yelp has released mobile applications for Google, Inc.’s Android operating
16 system, and for Microsoft Corporation’s Windows Phone operating system, Blackberry, Ltd.’s
17 Blackberry operating system, and Palm, Inc.’s webOS operating system.
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19 10. Consumers can register for and access Yelp’s service through an Internet website
20 (www.yelp.com), a mobile Internet website (m.yelp.com), and mobile applications for the iOS
21 and Android operating systems (“Yelp App”).

22 11. Users of Yelp’s service are able to post content on Yelp, including photos of
23 themselves and profiles with detailed information about themselves. Globally, Yelp had an
24 average monthly total of approximately 102 million unique visitors over the first quarter of 2013.
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26 12. The Yelp App offers some of the same user functions as the website and mobile
27 site, including the ability to upload photos, and, on some devices, post reviews. In addition, Yelp
28 App users can “check in,” indicating their presence at businesses, and write “Tips” and

1 “Comments” about businesses. Since January 1, 2011, the Yelp App has been downloaded more
2 than 25 million times.

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4 **DEFENDANT’S BUSINESS PRACTICES REGARDING**
5 **COLLECTION OF INFORMATION FROM**
6 **CHILDREN UNDER THE AGE OF 13**

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8 13. For purposes of Paragraphs 13 through 29 herein, the terms “child,” “collects,”
9 “collection,” “disclosure,” “Internet,” “operator,” “parent,” “personal information,” “verifiable
10 consent,” and “website or online service directed to children,” are defined as those terms are
11 defined in Section 312.2 of the COPPA Rule, 16 C.F.R. § 312.2.

12 14. The Rule applies to any operator of a commercial website or online service that
13 has actual knowledge that it collects, uses, and/or discloses personal information from children.
14 Among other things, the Rule requires website operators to meet specific requirements prior to
15 collecting online, using, or disclosing personal information from children, including but not
16 limited to:

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18 a. posting a privacy policy on its website or online service providing clear,
19 understandable, and complete notice of its information practices, including what
20 information the website operator collects from children online, how it uses such
21 information, its disclosure practices for such information, and other specific
22 disclosures set forth in the Rule;
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24 b. providing clear, understandable, and complete notice of its information practices,
25 including specific disclosures, directly to parents when required by the Rule; and
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27 c. obtaining verifiable parental consent prior to collecting, using, and/or disclosing
28 personal information from children.

1 15. In 2009, Defendant introduced a registration feature in the Yelp App, allowing
2 users to register for new accounts through the application. Previously, users could only register
3 through the website, where Defendant had a screening mechanism to prohibit users under the age
4 of 13 from registering. However, Defendant failed to implement a functional age-screen
5 mechanism in the new in-app registration feature. As a result, the Yelp App accepted
6 registrations from users who input dates of birth indicating they were under the age of 13. Over
7 a year later, as part of a mobile certification process, Defendant hired a third party who
8 performed a privacy review of the Yelp App. The July 2010 results of the third-party test
9 erroneously noted that the iOS application prohibited registrations from users under the age of
10 13. In fact, both the iOS and Android versions of the Yelp App accepted these registrations;
11 indeed, an iOS user registered with an age under 13 the very same day as the test. Defendant did
12 not test the age-restriction aspect of the registration feature of the iOS version of the Yelp App
13 again, and never tested it in the Android version. From April 2009 to April 2013, both the iOS
14 and Android versions of the Yelp App accepted registrations from users who inputted any date of
15 birth, including dates of birth indicating that the user was under the age of 13.
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18 16. Users who initiated registration through the Yelp App by providing a first name,
19 last name, email address, and ZIP code and, possibly, any date of birth and gender, were then
20 required to confirm their email addresses to complete their registration. All users who completed
21 registration, including those who provided birthdates indicating that they were under 13, were
22 granted full access to the Yelp service through the Yelp App and the Yelp website. For example,
23 they could add information to their personal profiles, including photos, their current city,
24 hometown, and any other information they chose to provide in free-form text fields. They could
25 also “check-in” at local businesses, and post “Tips” and “Comments” about such businesses.
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1 17. Yelp also collected certain information automatically from the phones of Yelp
2 App users. Specifically, Yelp collected users' Mobile Device IDs, or unique identifiers assigned
3 to devices, in order to obtain metrics about its mobile user base. In addition, in order to provide
4 location-based services such as local search results, Yelp collected the precise locations of users'
5 phones based on Global Positioning Systems contained in the phones of those users who chose to
6 allow Yelp to use their location.
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8 18. As set forth in Paragraphs 15 through 17, Defendant collected personal
9 information, including but not limited to full names and email addresses, from several thousand
10 individuals who input birthdates indicating that they were between the ages of 9 and 13. A
11 portion of these users completed the registration process and thus were able to post reviews and
12 provide other information through Yelp's service.
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14 19. Because Defendant collected information from users who provided birthdates
15 indicating that they were under 13, Yelp is deemed to have had "actual knowledge" under the
16 COPPA Rule that it was collecting information from several thousand children under 13, in
17 violation of the COPPA Rule.

18 20. Despite the fact that Yelp's Privacy Policy states that Yelp "is intended for
19 general audiences and is not directed to children under 13," by failing to implement a functional
20 age-screen, Yelp:
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- 22 a. did not clearly, completely, or accurately disclose all of Defendant's information
23 collection, use, and disclosure practices for children under age 13, as required by
24 the Rule;
- 25 b. did not provide parents with a direct notice of its information practices prior to
26 collecting, using, or disclosing children's personal information; and
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- 1 c. did not obtain verifiable consent from parents prior to collecting, using, or
2 disclosing children's personal information.

3 **DEFENDANT'S VIOLATION OF THE COPPA RULE**

4 21. In numerous instances, in connection with operating the Yelp App, Defendant
5 collected, used, and/or disclosed, with actual knowledge, personal information online from
6 children under the age of 13. In doing so, Defendant failed to: (1) provide sufficient notice on its
7 website or online services of the information it collects online from children, how it uses such
8 information, and its disclosure practices, among other required content; (2) provide direct notice
9 to parents of the information Defendant collects online from children, how it uses such
10 information, and its disclosure practices for such information, among other required content; and
11 (3) obtain verifiable parental consent before any collection, use, and/or disclosure of personal
12 information from children.
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15 22. Defendant is an "operator" as defined by the COPPA Rule, 16 C.F.R. § 312.2.

16 23. Through the means described in Paragraphs 15 through 20 above, Defendant
17 violated:

18 a. Section 312.4(b) of the Rule, 16 C.F.R. § 312.4(b), which requires an
19 operator to provide sufficient notice on its website or online services of the
20 information it collects online from children, how it uses such information,
21 and its disclosure practices for such information, among other required
22 content;

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24 b. Section 312.4(c) of the Rule, 16 C.F.R. § 312.4(c), which requires an
25 operator to provide direct notice to parents of the information Defendant
26 collects online from children, how it uses such information, and its
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1 disclosure practices for such information, among other required content;
2 and

3 c. Section 312.5(a)(1) of the Rule, 16 C.F.R. § 312.5(a)(1), which requires an
4 operator to obtain verifiable parental consent before any collection, use,
5 and/or disclosure of personal information from children.
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7 24. Defendant's acts or practices, as described in Paragraph 23 above, violated the
8 COPPA Rule, 16 C.F.R. Part 312.

9 25. Pursuant to Section 1303(c) of COPPA, 15 U.S.C. § 6502(c), and Section
10 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Rule constitutes an unfair or
11 deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act,
12 15 U.S.C. § 45(a).
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14 **THE COURT'S POWER TO GRANT RELIEF**

15 26. Defendant violated the Rule as described above with the knowledge required by
16 Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

17 27. Each collection, use, or disclosure of a child's personal information in which
18 Defendant violated the Rule in one or more of the ways described above, constitutes a separate
19 violation for which Plaintiff seeks monetary civil penalties.
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21 28. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by
22 Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, and
23 Section 1.98(d) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(d), authorizes this Court to
24 award monetary civil penalties of not more than \$16,000 for each such violation of the Rule on
25 or after February 10, 2009.
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