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17 *Attorneys for Plaintiff and the Proposed Class*

18 THE UNITED STATES DISTRICT COURT  
19 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
20 SAN FRANCISCO DIVISION

21 DOUG SPINDLER, on behalf of himself and  
22 all others similarly situated,

23 Plaintiff,

24 v.

25 SEAMLESS CONTACTS INC.,

26 Defendant.

Case No.

CLASS ACTION COMPLAINT FOR  
VIOLATION OF CAL. CIV. CODE § 3344;  
CALIFORNIA MISAPPROPRIATION OF  
NAME OR LIKENESS; AND CALIFORNIA  
UCL.

CLASS ACTION  
JURY TRIAL DEMANDED

28 CLASS ACTION COMPLAINT

**NATURE OF ACTION**

1  
2 1. Plaintiff and members of the proposed class (the “Class”) are private individuals  
3 who have no relationship with the Defendant Seamless Contacts Inc. (“Defendant” or  
4 “Seamless”), nor with the website that Defendant owns and operates at [www.seamless.ai](http://www.seamless.ai).  
5 Plaintiff and the Class have never used [seamless.ai](http://seamless.ai), nor did they provide their names, contact  
6 information, job titles, places of work, cities of residence, or any other personal information to  
7 Seamless.

8 2. Plaintiff was seriously distressed to discover that Seamless is using his name,  
9 personal information, and persona to advertise paid subscriptions to [seamless.ai](http://seamless.ai).

10 3. Plaintiff and the Class did not consent to Seamless using their names, contact  
11 information, job titles, places of work, cities of residence, and other personal information to  
12 promote Seamless subscriptions. Nor did they consent to Seamless selling access to their  
13 personal information as part of its subscription products.

14 4. Seamless advertises subscriptions by publicly displaying profiles of the Plaintiff  
15 and Class Members showing their names, contact information, job titles, places of work, cities  
16 of residence, and other personal information. Many profiles include photographs.

17 5. Seamless advertises its subscription services primarily to salespeople and  
18 marketers. Seamless represents that its searchable database of Class Member profiles allows  
19 salespeople and marketers to “[c]onnect directly with your ideal customers.” Subscribers can  
20 use Seamless to “[f]ind all your prospect’s contact information – including emails, direct dials,  
21 and more.” Seamless represents itself as an “unlimited lead-generating machine!”

22 6. Seamless advertises that its service allows users to “Know Everything About  
23 Your Prospects.”

24 7. Seamless offers free trials to potential subscribers. Trial users may search for,  
25 view, and download a limited number of profiles. Each viewing of a Class Members’ profile  
26 expends one “Credit.” In response to searches for Plaintiff’s and Class Members’ names,  
27 Seamless displayed (1) the search results showing Plaintiff’s and Class Members’ personal  
28 information; (2) a counter displaying how many “Available Credits” remained in the free trial

1 allowance; and (3) an “Upgrade” button prompting the trial user to purchase a paid subscription  
2 to obtain more “Credits.”

3 8. After trial users expend their allowance of “Credits” on Class Member profiles,  
4 trial users who attempt to view or download additional Plaintiff or Class Member profiles  
5 receive messages prompting them to purchase a paid subscription.

6 9. Seamless uses Plaintiff’s and Class Members’ profiles and personas to advertise  
7 three paid subscription plans. A “Basic” plan costs \$147 per user, per month, and allows the  
8 subscriber to search, view, and download 250 Class Member profiles per month. A “Pro” plan  
9 costs \$99 per day, per user, and allows the subscriber to search, view, and download 1,000  
10 Class Member profiles per day. An “Enterprise” plan is a custom arrangement negotiated  
11 between the subscriber and Seamless.

12 10. Seamless advertises that paying subscribers receive a variety of services,  
13 including: “Real-Time Alerts” that will notify the subscriber when Class Members “change or  
14 leave their jobs”; the ability to “Find Millions of B2B Contacts” with “Real-Time Researched  
15 Contact Information”; streamlined integration with a variety of customer relationship  
16 management (CRM) tools; and “Data Enrichment” tools through which Seamless will provide  
17 additional personal information about the subscriber’s existing list of sales prospects.

18 11. Seamless is the sole author, designer, and implementor of the advertising  
19 techniques and profiles giving rise to this lawsuit. Seamless does not host user-generated  
20 content on or in any part of the website relevant to this lawsuit. Seamless is the sole curator,  
21 designer, and creator of the content described in this Complaint, including: the profiles  
22 representing Plaintiff and Class Members; the “trial user” program through which potential  
23 subscribers receive a limited allowance of “Credits” to search for Plaintiff and Class Member  
24 profiles; the on-site buttons and messages soliciting paid subscriptions; and the services that  
25 allow paying subscribers to track Plaintiff’s and Class Members’ job changes.

26 12. Plaintiff does not know how Seamless obtained his name, contact information,  
27 job title, place of work, and city of residence.

28 13. Plaintiff’s and Class Members’ names, personal information, contact

1 information, photographs, likenesses, and personas have commercial value. This commercial  
2 value is demonstrated by the exploitation of Plaintiff's and Class Members' names, personal  
3 information, contact information, and photographs for commercial gain by Seamless and  
4 Seamless's competitors.

5 14. Seamless appropriated Plaintiff's and Class Members' names, personal  
6 information, and personas without permission or consent from Plaintiff or Class Members.

7 15. Consent is not all or nothing. Plaintiff and Class Members may have shared their  
8 names, personal information, contact information, and job histories with companies or the  
9 government in a variety of contexts. For example, Plaintiff or Class Members may have  
10 consented to the posting of their names, work histories, and photographs on the website of a  
11 company for which they work, or on a professional networking site.

12 16. But Plaintiff and Class Members did not consent to the commercial use of their  
13 personal information and personas to promote subscriptions to a website with which they have  
14 no relationship, and which they have no interest in promoting.

15 17. California law recognizes individuals' intellectual property and privacy rights in  
16 controlling the use of their names, photographs, likenesses, and personas for commercial  
17 purposes.

18 18. By using Plaintiff's and Class Members' names, likenesses, photographs, and  
19 personas in advertisements for website subscriptions without consent, Seamless has violated  
20 their intellectual property and privacy rights. Plaintiff and Class Members have the right not to  
21 have their personas exploited to promote a product with which they have no relationship and no  
22 interest in supporting.

23 19. Plaintiff and Class Members have an economic interest in their personas, which  
24 Seamless has stolen, and a privacy interest in their personas, which Seamless has violated.

25 20. By these actions, Seamless has violated the California Right of Publicity,  
26 codified in Cal. Civ. Code § 3344, California common law prohibiting misappropriation of a  
27 name or likeness, and California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et*  
28 *seq.*



1 California; and Seamless’s violation of the intellectual property rights of Class Members who  
2 reside in California.

3 25. Venue is appropriate pursuant to 28 U.S.C. § 1391(b). A substantial portion of  
4 the events and conduct giving rise to the violations alleged in this complaint occurred in this  
5 district.

6 **PARTIES**

7 26. Plaintiff Doug Spindler is a citizen of California. Mr. Spindler resides in Orinda,  
8 California. Mr. Spindler has never used or subscribed to the website seamless.ai.

9 27. Defendant Seamless Contacts Inc. is a Delaware corporation with its  
10 headquarters in Worthington, Ohio. Defendant owns and operates the website  
11 www.seamless.ai.

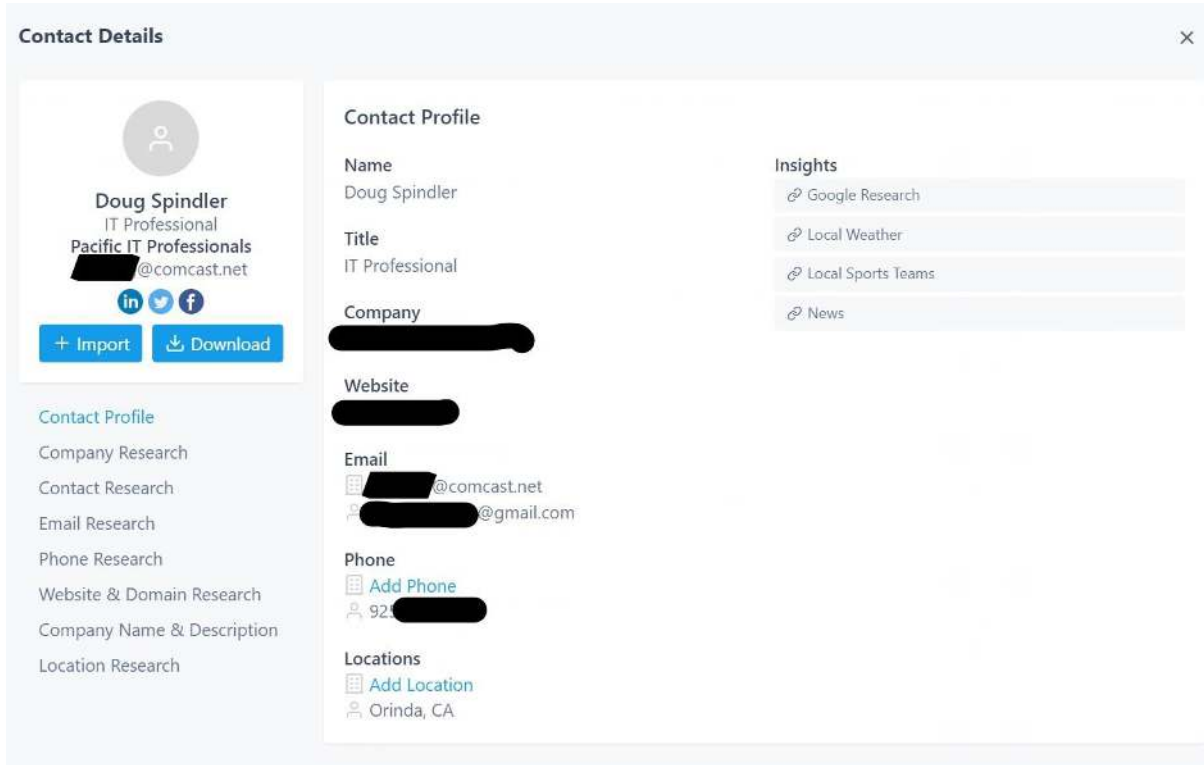
12 **FACTUAL ALLEGATIONS**

13 28. Plaintiff Doug Spindler has no relationship with Seamless. He is not a subscriber  
14 and has never used seamless.ai.

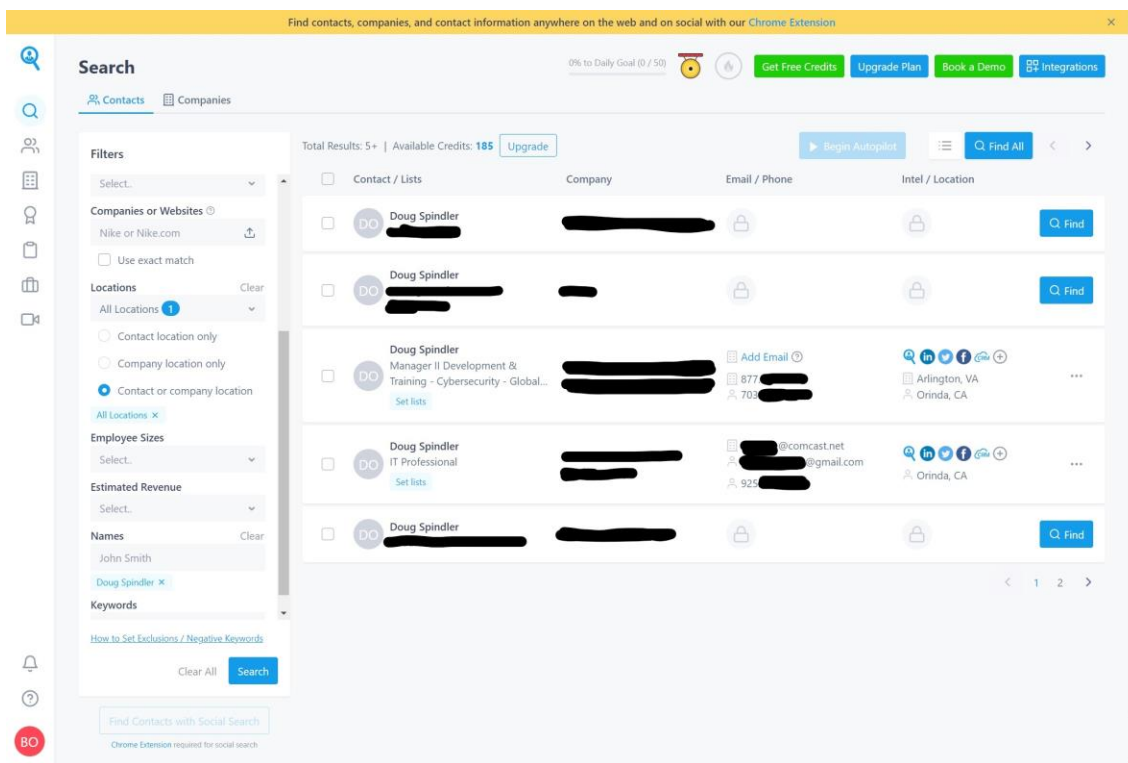
15 29. Mr. Spindler did not give consent to Seamless to use his name, likeness,  
16 personal information, or persona in any way. Had Seamless requested his consent, Mr. Spindler  
17 would not have provided it.

18 30. Seamless uses Mr. Spindler’s name and persona in advertisements promoting  
19 paid subscriptions.

1 31. Seamless publicly displays a profile of personal information about Mr. Spindler  
2 on the Internet. The profile accurately states his name, city of residence, phone number, email  
3 addresses, place of work, and job title. The profile uniquely identifies Mr. Spindler. A  
4 screenshot depicting the profile is shown below. For privacy, Plaintiff’s counsel redacted Mr.  
5 Spindler’s employer, email address, and phone number.



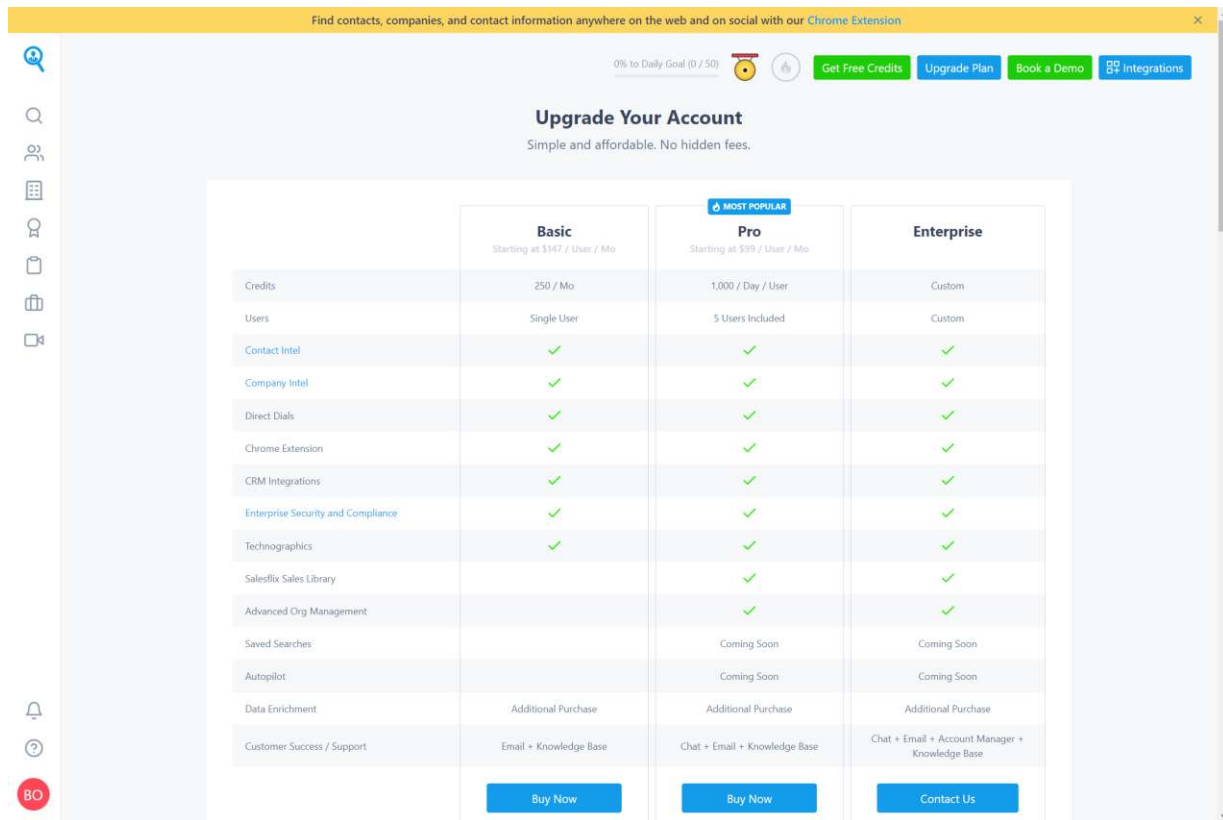
1 32. Seamless provides a publicly accessible “Search” page on which users may  
 2 search, and have searched, for Mr. Spindler by name. Anyone who creates a free trial account  
 3 on Seamless may access the “Search” page and search for Mr. Spindler without paying for a  
 4 subscription. Below is the result of a search for “Doug Spindler” performed on the “Search”  
 5 page using a free trial account. The third and fourth results uniquely identify Plaintiff Doug  
 6 Spindler. For privacy, Plaintiff’s counsel redacted the first, second, and fifth results, which  
 7 correspond to individuals who share Mr. Spindler’s first and last name. Plaintiff’s counsel also  
 8 redacted Plaintiff’s place of work and contact information.





33. As shown in the screenshot above, in response to a search for Mr. Spindler’s name, Seamless displayed (1) search results showing Mr. Spindler’s personal information; (2) a counter displaying how many “Available Credits” remained in the free trial allowance (here, there are 185 credits remaining); and (3) an “Upgrade” button prompting the trial user to purchase a paid subscription to obtain more “Credits.”

34. Users who expended their allowance of “Credits” and attempted to continue searching and viewing Mr. Spindler’s and Class Members’ profiles, or who clicked the “Upgrade” or “Upgrade Plan” buttons displayed adjacent to the search results, received a screen prompting them to purchase a paid subscription. The screen prompting subscription is shown below.



1           35.     As shown above, Seamless used Mr. Spindler’s name and persona to advertise  
2 three types of subscription plans. A “Basic” plan costs \$147 per user, per month, and allows the  
3 subscriber to search, view, and download 250 Class Member profiles per month. A “Pro” plan  
4 costs \$99 per day, per user, and allows the subscriber to search, view, and download 1,000  
5 Class Member profiles per day. An “Enterprise” plan is a custom arrangement negotiated  
6 between the subscriber and Seamless.

7           36.     Seamless advertised that users who purchased a paid subscription would receive  
8 a variety of services, including:

- 9           a.     The ability to search, view, and download profiles about Mr. Spindler and  
10                millions of Class Members and other individuals;
- 11           b.     The ability to set up “Real-Time Alerts” that will notify the subscriber when  
12                Mr. Spindler “change[s] or leave[s] [his] job”;
- 13           c.     Streamlined integration with a variety of customer relationship management  
14                (CRM) tools;
- 15           d.     “Company Intel,” which provides a searchable database on more than 100  
16                million companies, including the ability to search and view contact  
17                information for individual employees of each company; and
- 18           e.     “Data Enrichment” tools through which Seamless will provide additional  
19                personal information about the subscriber’s existing list of sales prospects

20           37.     Seamless’s purpose in using Mr. Spindler’s name, personal information, and  
21                persona on its website is to solicit the purchase of paid subscriptions.

22           38.     Plaintiff does not know how Seamless obtained his name and personal  
23                information. On information and belief, Seamless extracted Spindler’s name and personal  
24                information from online sources including his social media accounts and his employer’s  
25                website.

26           39.     Seamless did not obtain permission from Mr. Spindler or his employer prior to  
27                extracting his personal information and using Mr. Spindler’s persona to advertise paid  
28                subscriptions. On information and belief, Seamless did not obtain permission from any of the

1 sources from which it extracted Mr. Spindler's personal information.

2 40. Mr. Spindler has intellectual property and privacy interests in his name, likeness,  
3 and persona recognized by California statutory and common law. He has the right to exclude  
4 anyone from making commercial use of his persona without his permission.

5 41. Seamless has injured Mr. Spindler by taking his intellectual property without  
6 compensation; by invading his privacy rights protected by statute and common law; and by  
7 unlawfully profiting from its exploitation of his personal information.

8 42. Seamless's illegal actions caused Mr. Spindler mental injury and disturbed his  
9 peace of mind. Mr. Spindler is deeply uncomfortable in the knowledge that Seamless is using  
10 his name and persona to advertise and as part of a commercial product he has no interest in  
11 supporting. Mr. Spindler believes his persona is rightly his to control. Seamless's illegal use  
12 has left him worried and uncertain about his inability to control how his name and persona is  
13 used. Mr. Spindler feels that Seamless's use of his name, persona, personal information, and  
14 browsing history is an alarming invasion of his privacy. Mr. Spindler believes that Seamless's  
15 collection and publication of personal details about him encourages and enables identity fraud.  
16 He believes Seamless's use of his personal information encourages and enables harassing  
17 marketing and sales communications.

18 **CLASS ACTION ALLEGATIONS**

19 43. Plaintiff brings this action both individually and as a class action pursuant to  
20 Fed. R. Civ. P. 23(b)(2) and (b)(3) and seeks to represent the following Class defined as:

21 All current and former California residents who are not subscribers of Seamless and  
22 whose names and personal information Seamless incorporated in profiles used to  
23 promote paid subscriptions.

24 44. Excluded from the proposed Class are Plaintiff's counsel; Seamless, its officers  
25 and directors, counsel, successors, and assigns; any entity in which Seamless has a controlling  
26 interest; and the judge to whom this case is assigned and the judge's immediate family.

27 45. The members of the proposed Class are so numerous that joinder of individual  
28 claims is impracticable. Seamless advertises that it has profiles on individuals who are

1 employees of over one hundred million companies. The Class likely comprises millions of  
2 people.

3 46. There are significant questions of fact and law common to the members of the  
4 Class. These include:

- 5 a. Whether Seamless’s misappropriation of names and personal information,  
6 and use of that information in the advertising techniques described in this  
7 Complaint, constitutes the knowing use without consent of another’s name,  
8 photograph, or likeness on or in products or for purposes of advertising  
9 products within the meaning of Cal. Civ. Code § 3344;
- 10 b. Whether Seamless solicited and obtained written consent from Plaintiff and  
11 the Class prior to using their personas in advertisements promoting its  
12 website, as required by Cal. Civ. Code § 3344;
- 13 c. Whether Seamless’s use of Plaintiff’s and Class Members’ names and  
14 personal information in advertisements and as part of their subscription  
15 products falls within the exceptions for “use in connection with any news,  
16 public affairs, or sports broadcast or account, or any political campaign”  
17 within the meaning of Cal. Civ. Code § 3344;
- 18 d. The amount of Seamless’s “profits from the unauthorized use” of Plaintiff’s  
19 and Class Members’ names and personal information;
- 20 e. Whether Seamless’s conduct described in this Complaint violates California  
21 common law prohibiting misappropriation of a name or likeness;
- 22 f. Whether Plaintiff and Class Members are entitled to the injunctive,  
23 declaratory, monetary, punitive, and other relief requested in this Complaint.

24 47. Plaintiff’s claims are typical of those of the proposed Class. Plaintiff and all  
25 members of the proposed Class have been harmed by Seamless’s misappropriation and misuse  
26 of their identifies, names, likenesses, personas, and other personal information in  
27 advertisements promoting Seamless subscriptions. Seamless presents its advertisements in the  
28 same way for each Class Member.

1           48.     Just as it did with Mr. Spindler, Seamless appropriated the personal information  
2 and personas of all Class Members without their permission or permission from the various  
3 sources from which it appropriated their information. Seamless's sole purpose in appropriating  
4 Class Members' information and personas was to solicit the purchase of paid subscriptions.  
5 Seamless has injured the Class Members by taking their intellectual property without  
6 compensation; by invading their privacy rights protected by statute and common law; and by  
7 unlawfully profiting from its exploitation of their personal information.

8           49.     The proposed class representative will fairly and adequately represent the  
9 proposed Class. The class representative's claims are co-extensive with those of the rest of the  
10 Class. Plaintiff is represented by qualified counsel experienced in class action litigation of this  
11 nature.

12           50.     A class action is superior to other available methods for the fair and efficient  
13 adjudication of these claims because individual joinder of the claims of all members of the  
14 proposed Class is impracticable. Many members of the Class do not have the financial  
15 resources necessary to pursue this claim, and even if they did, the size of their interest in the  
16 case may not be large enough to merit the cost of pursuing the case. Individual litigation of  
17 these claims would be unduly burdensome on the courts in which individualized cases would  
18 proceed. Individual litigation would greatly increase the time and expense needed to resolve a  
19 dispute concerning Seamless's common actions towards an entire group. Class action  
20 procedures allow for the benefits of unitary adjudication, economy of scale, and comprehensive  
21 supervision of the controversy by a single court.

22           51.     The proposed class action may be certified pursuant to Rule 23(b)(2) of the  
23 Federal Rules of Civil Procedure. Seamless has acted on grounds generally applicable to the  
24 proposed Class, such that final injunctive and declaratory relief is appropriate with respect to  
25 the Class as a whole.

26           52.     The proposed class action may be certified pursuant to Rule 23(b)(3). Questions  
27 of law and fact common to Class Members predominate over questions affecting individual  
28 members, and a class action is superior to other available methods for fairly and efficiency

1 adjudicating the controversy.

2 **FIRST CAUSE OF ACTION**

3 **Violation of California Right of Publicity Statute, Cal. Civ. Code § 3344**

4 53. Plaintiff incorporates by reference the allegations contained in all preceding  
5 paragraphs of this Complaint.

6 54. California’s right of publicity statute prohibits the “knowing[] use[] of another’s  
7 name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise,  
8 or goods, or for purposes of advertising or selling, or soliciting purchases of, products,  
9 merchandise, goods or services, without such person’s prior consent.” Cal. Civ. Code § 3344.

10 55. By engaging in the foregoing acts and omissions, Seamless used Plaintiff’s and  
11 Class Members’ names, likenesses, photographs, and personas for commercial purposes  
12 without consent. Plaintiff’s and Class Members’ names and personas have commercial value as  
13 demonstrated by Seamless’s use and similar use by Seamless’s competitors.

14 56. Each use of a Class Members’ name and personal information in a profile is a  
15 separate and distinct violation of Cal. Civ. Code § 3344.

16 57. Cal. Civ. Code § 3344 provides that a person who violates the statute is liable  
17 “in an amount equal to the greater of seven hundred fifty dollars (\$750) or the actual damages,”  
18 in addition to “any profits from the unauthorized use.” The statute also provides for “[p]unitive  
19 damages” and “attorney’s fees and costs.”

20 58. As a result of Seamless’s violation of Cal. Civ. Code § 3344, Plaintiff and the  
21 Class have suffered injury to their privacy rights and actual damages both economic and  
22 emotional. Plaintiff and Class Members have been denied the economic value of their names,  
23 likenesses, and personas, which Seamless misappropriated without compensation to Plaintiff  
24 and the Class. Plaintiff and the Class Members were denied their statutorily protected right to  
25 refuse consent and protect their privacy and the economic value of their names, likenesses, and  
26 personas. Plaintiff and the Class Members suffered emotional disturbance from the  
27 misappropriation and misuse of their names and personal information.

28 59. Plaintiff on behalf of the Class seeks: actual damages, including Seamless’s

1 profits from its misuse; statutory damages; compensatory damages for the royalties Seamless  
2 failed to pay; punitive damages; nominal damages; the award of attorneys' fees and costs; the  
3 entry of an injunction prohibiting Seamless's illegal conduct; and declaratory relief.

4 **SECOND CAUSE OF ACTION**

5 **Tort of Appropriation of a Name or Likeness**

6 60. Plaintiff incorporates by reference the allegations contained in all preceding  
7 paragraphs of this Complaint.

8 61. California common law recognizes the tort of "appropriation, for the defendant's  
9 advantage, of the plaintiff's name or likeness." *Eastwood v. Superior Court*, 149 Cal.App.3d  
10 409, 416 (Cal. Ct. App. 1983).

11 62. By engaging in the forgoing acts and omissions, Seamless (1) used the identities  
12 of Plaintiff and the Class in advertisements for subscriptions and as part of its subscription  
13 products; (2) appropriated Plaintiff's and Class Members' names and likenesses to Seamless's  
14 commercial advantage; (3) failed to obtain Plaintiff's and Class Members' consent; and (4)  
15 injured Plaintiff's and Class Members' by causing harm both economic and emotional. *See*  
16 *Eastwood*, at 417.

17 63. Plaintiff on behalf of the Class seeks monetary recovery in the amount of the  
18 commercial advantage Seamless's derived from its misuse, compensatory damages for  
19 Seamless's failure to pay royalties owed, and the entry of an injunction prohibiting Seamless's  
20 tortious acts.

21 **THIRD CAUSE OF ACTION**

22 **California Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq.**

23 64. Plaintiff incorporates by reference the allegations contained in all preceding  
24 paragraphs of this complaint.

25 65. Seamless has and is engaged in unfair competition, as that term is defined in the  
26 California Unfair Competition Law, Cal. Bus. & Prof. Code. § 17200 et seq. ("UCL").

27 66. As described in this complaint, Seamless's misappropriation and use without  
28 consent of Plaintiff's and Class Members' names, photographs, likenesses, and personal

1 information is a violation of California’s Right of Publicity statute, Cal. Civ. Code § 3344 and  
2 California common law prohibiting misappropriation of a name or likeness.

3 67. By engaging in the conduct described in this complaint and violating California  
4 law, Seamless engaged in and continues to engage in “unlawful” business acts and practices  
5 prohibited by the UCL.

6 68. By engaging in the conduct described in this complaint, including profiting from  
7 the sale and use in advertising of personal information it misappropriated without consent,  
8 Seamless engaged in and continues to engage in “unfair” business acts and practices prohibited  
9 by the UCL.

10 69. As a result of Seamless’s actions, Plaintiff and Class Members have been  
11 injured. Plaintiff and Class Members lost the economic value of their names, personas, and  
12 likenesses, and are entitled to restitution, declaratory relief and an injunction. Plaintiff and  
13 Class Members were denied their rights to refuse consent and protect their privacy.

14 **PRAYER FOR RELIEF**

15 70. WHEREFORE Plaintiff, individually and on behalf of the Class, requests the  
16 following relief:

- 17 (a) For an order certifying the proposed Class and appointing Plaintiff and his  
18 counsel to represent the Class;
- 19 (b) For a declaration that Seamless’s acts and omissions constitute a knowing  
20 misappropriation of names, likeness, photographs, and other personal  
21 information, and infringe on privacy and intellectual property rights, in violation  
22 of California law;
- 23 (c) For nominal damages awarded in recognition of Seamless’s violation of the  
24 statutorily protected property and privacy rights of Plaintiff and the Class;
- 25 (d) For preliminary and permanent injunctive relief enjoining and preventing  
26 Seamless from continuing to operate its website without appropriate safeguards  
27 to ensure people’s personal information is not used illegally without their  
28 consent;



1 (e) For restitution for Plaintiff and members the class for the value that Defendants  
2 derived from misappropriating their names, likenesses, photographs, and  
3 personas;

4 (f) For an award of damages, including without limitation damages for actual harm,  
5 profits earned by Seamless in using misappropriated names and identities to sell  
6 subscriptions, reasonable royalties for the infringement of Plaintiff and Class  
7 Members' intellectual property rights; and statutory damages;

8 (g) For an award of reasonable attorneys' fees and costs incurred by Plaintiff and  
9 the Class Members; and

10 (h) Orders granting such other and further relief as the Court deems necessary, just,  
11 and proper.

12 **JURY TRIAL DEMAND**

13 Plaintiff hereby demands a jury trial for all individual and Class claims so triable.

14  
15 Respectfully submitted,

16  
17 Dated: February 7, 2022

By:           /s/ Michael F. Ram            
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