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Superior Court of CA
County of Santa Clara
26CV485291
By: NVasquez

ORDER ON SUBMITTED MATTER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

DAVID L. GREENE,

Plaintiff,

v.

GOOGLE LLC, and ALPHABET INC.,

Defendants.

Case No. 26CV485291

ORDER RE: DEFENDANTS' DEMURRER TO PLAINTIFF'S COMPLAINT

This matter came on for hearing before the Honorable Shella Deen on October 21, 2026, at 1:30 p.m. in Department 8. Having reviewed and considered the written submissions filed by the parties and having listened carefully to any arguments of counsel at the hearing, the Court now issues its order after hearing as follows.

Google LLC ("Google") and Alphabet Inc. ("Alphabet") demur to all four claims in plaintiff David L. Greene's ("Greene") complaint. Greene, a longtime public radio and podcast host, alleges that Google used recordings of his voice to create the default male voice for NotebookLM's "Audio Overviews" feature, then used that voice to market and sell the product without his permission. Defendants contend that Civil Code section 3344 does not apply to an AI-

generated voice resembling Greene's, that the complaint does not state any claim, that the Copyright Act preempts every claim, and that Alphabet is not a proper defendant. Greene opposes the demurrer.

For the reasons stated below, the court GRANTS defendants' request for judicial notice as to Exhibit A to the Wong Declaration and DENIES it as to Exhibits B through G. The court OVERRULES Google's demurrer to every cause of action. The court SUSTAINS Alphabet's demurrer to every cause of action WITH LEAVE TO AMEND.

I. BACKGROUND

A. The Allegations of the Complaint

For purposes of this demurrer, the court takes the following allegations from the complaint as true.

Greene hosted NPR's *Morning Edition* for almost ten years, hosted NPR's *Up First* podcast, and reported on the White House for NPR for four years. During that period, "[h]is voice became familiar to NPR listeners." (Compl., ¶¶ 22, 49-51.) He now hosts *Left, Right & Center* and other podcasts, including one nominated for a 2026 Ambie Award. (*Id.* at ¶¶ 2, 51, 67.) Greene alleges that his programs "reach millions of listeners and have made [him] one of the most well-known and respected radio and podcasting voices of his time." (*Id.* at ¶ 3.)

Google launched NotebookLM in July 2023 and introduced "Audio Overviews" in September 2024. The feature transforms documents uploaded by a user into a podcast-like conversation between two AI "hosts," one male and one female. (Compl., ¶¶ 34, 41, 52.) Its audio technology comes from AudioLM, a Google language model trained on audio. (*Id.* at ¶¶ 38-39.) Greene alleges that NotebookLM's audio output uses filler words, inflections, and tenors from training data to sound "realistic and conversational," making the product "stand out from other generative AI tools." (*Id.* at ¶ 14.) Google offers NotebookLM through paid subscriptions, including the $19.99-per-month Google One AI Premium tier. (*Id.* at ¶¶ 25, 46, 48.)

Greene alleges that Google "downloaded, trained on, and thereby misappropriated Mr. Greene's voice and/or recordings featuring his voice, using the same as inputs." (Compl., ¶ 35.)

He further alleges that, "[o]nce trained using Mr. Greene's voice," the male host renders new text into speech "with output audio calibrated to replicate Mr. Greene's unique vocal qualities, cadence, tone, pitch, and expressive style." Alternatively, he alleges that "regardless of the precise technical means used, Google deliberately made [the male host] to sound so substantially similar to Mr. Greene's voice that ordinary listeners reasonably believed the voice to be Mr. Greene's." (*Id.* at ¶ 65.) Google allegedly chose Greene's voice for the default male host to create familiarity for experienced podcast listeners and "in effect, maximize Google's profits." (*Id.* at ¶ 42.) The complaint alleges that the male host's voice "was (and still is) unquestionably Mr. Greene's voice," despite Google's failure to say so, and that Google knew of Greene's "vocal recognizability" and intended to exploit the commercial value of his identity, "resulting in actual confusion among users." (*Id.* at ¶¶ 61, 66.)

Greene identifies several facts supporting his belief that Google created the voice from his recordings. A journalist reported that a NotebookLM voice "sounded eerily like former 'Morning Edition' host David Greene." (Compl., ¶¶ 3, 63.) Listeners who heard the same AI hosts in Spotify's "Wrapped" podcast wrote that the male voice "sounds exactly like" Greene and "sounds very similar to" him. (*Id.* at ¶ 57 & Ex. 1.) A forensic voice-recognition firm reported a "confidence rating of 53-60%" on a scale from -100 to 100 percent, which the firm considers "relatively high" evidence that two samples are from the same speaker. The firm also found "little to no similarity" between the male host's voice and other NPR hosts' voices. (*Id.* at ¶ 59 & Ex. 2.) Its chief executive concluded that "the Google Podcast model was trained on DAVID GREENE's voice." (*Id.* at ¶ 59.) Greene also lodged audio exhibits comparing his recordings with Audio Overviews made from them. (*Id.* at ¶ 60 & Exs. 3-6.)

Greene alleges that Google uses the voice as the default host in a subscription product, in product demonstrations and promotional blog posts and videos, and in a December 2024 Spotify partnership whose "Wrapped" feature delivered a podcast "Built with Google's NotebookLM." (Compl., ¶¶ 17, 42, 46, 53-54, 56 & Ex. 1; Count One, ¶ 3, pp. 21-22.) He did not consent and was not paid. According to the complaint, media personalities usually receive compensation for use of their voices, and other compnies developing AI voice products license public figures' voices. (*Id.*

at ¶¶ 8, 18, 55, 71.) Greene alleges that Google's conduct falsely associates him with NotebookLM, lowers the value of his voice as a licensable asset, and creates AI-generated podcasts that compete with his work. (*Id.* at ¶¶ 67, 69, 72.) He also alleges that investigating the conduct consumed time and resources and postponed his podcast projects. (*Id.* at ¶¶ 67-68.)

Greene pleads four causes of action: (1) statutory right of publicity under Civil Code section 3344; (2) unfair competition under Business and Professions Code section 17200 et seq. ("UCL"); (3) common law misappropriation; and (4) quasi-contract and unjust enrichment. He seeks damages, restitution, disgorgement, and injunctive relief. (Compl., pp. 21-24.)

B. Procedural History

Greene filed this action on January 23, 2026, and manually lodged the audio exhibits. Google removed the case to federal court on a complete copyright-preemption theory. On July 23, 2026, the United States District Court for the Northern District of California (Breyer, J.) remanded the action. The district court concluded that Greene's claims are outside copyright's subject matter because they arise from the alleged misappropriation of his voice and identity, neither of which is copyrightable. It did not decide Google's motion to dismiss. (Declaration of Ryan Wong ("Wong Decl."), Ex. A, p. 3, fn. 3, pp. 4-7.) Defendants filed this demurrer on August 31, 2026; Greene opposed on October 8, 2026; and defendants replied on October 14, 2026. The court cites defendants' notice of demurrer and demurrer ("Dem."), memorandum of points and authorities ("Mem."), request for judicial notice ("RJN"), and reply ("Reply"), and Greene's opposition ("Opp."), using their internal page numbers. The parties met and conferred as required by Code of Civil Procedure section 430.41. (Dem., p. 6.)

II. REQUEST FOR JUDICIAL NOTICE

Defendants request judicial notice of the federal district court's remand order (Wong Decl., Ex. A) and six webpages with biographical information about the NPR hosts used as comparators in the forensic analysis (*id.* at Exs. B-G). Greene does not oppose the request and himself relies on Exhibit A.

The court GRANTS the request as to Exhibit A, a record of a court of the United States. (Evid. Code, § 452, subd. (d).) The court notices the order's existence and its holding, but not the truth of the factual statements it contains. (*Fremont Indemnity Co. v. Fremont General Corp.* (2007) 148 Cal.App.4th 97, 113-115 (*Fremont Indemnity*).) The order is not binding on any issue raised by this demurrer. It addressed only complete preemption for federal removal jurisdiction and expressly declined to consider the complaint's sufficiency. (Wong Decl., Ex. A, p. 3, fn. 3, p. 7.) The court considers its reasoning only as persuasive authority.

The court DENIES the request as to Exhibits B through G. Defendants offer them to show that the forensic-analysis comparators have "different regional, ethnic, and gender backgrounds" than Greene, and therefore to challenge the analysis. (Mem., p. 7 & fn. 5; RJN, p. 2.) Biographical information in webpages and news articles is not a fact "not reasonably subject to dispute" and "capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy." (Evid. Code, § 452, subd. (h).) Even if the court could notice the existence of those pages, it could not accept their contents as true. More importantly, a demurrer tests the pleading's legal sufficiency rather than the truth of its allegations. Thus, the exhibits do not concern an issue now before the court. (*Fremont Indemnity*, *supra*, 148 Cal.App.4th at pp. 113-115; see also *Mangini v. R. J. Reynolds Tobacco Co.* (1994) 7 Cal.4th 1057, 1063 [judicial notice limited to relevant matters], overruled on another ground in *In re Tobacco Cases II* (2007) 41 Cal.4th 1257, 1276.)

On its own motion, the court takes judicial notice of Senate Bill No. 1111 (2025-2026 Reg. Sess.), enacted as Statutes 2026, chapter 862, and its legislative history. The court addresses that material in Part IV.A.1.c. (Evid. Code, §§ 451, subd. (a), 452, subd. (c), 455.) The parties may discuss the enactment at the hearing.

III. LEGAL STANDARD

A demurrer asks whether a complaint alleges "facts sufficient to constitute a cause of action." (Code Civ. Proc., § 430.10, subd. (e).) In deciding it, the court accepts as true all properly pleaded material facts, but not contentions, deductions, or conclusions of fact or law. It also

considers judicially noticeable matters. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318 (*Blank*).) The court reads the complaint as a whole, gives it a reasonable interpretation (*ibid.*), and treats reasonably inferred facts as true along with expressly pleaded facts. (*Miklosy v. Regents of University of California* (2008) 44 Cal.4th 876, 883 (*Miklosy*).) The allegations are construed liberally, "with a view to substantial justice between the parties." (Code Civ. Proc., § 452.)

Ordinarily, a complaint need allege ultimate rather than evidentiary facts. A plaintiff may plead with less specificity when the defendant has superior knowledge of the facts. (*Doe v. City of Los Angeles* (2007) 42 Cal.4th 531, 550 (*Doe*).) Allegations made on information and belief are permissible if the plaintiff has information supporting that belief. (*Id.* at pp. 550-551 & fn. 5.) In ruling on the instant demurrer, the court does not consider whether Greene can prove the allegations or how difficult proof might be. (*Del E. Webb Corp. v. Structural Materials Co.* (1981) 123 Cal.App.3d 593, 604.) A demurrer cannot target only part of a cause of action. If a claim is sufficient under any legal theory, the demurrer to that cause must be overruled. (*PH II, Inc. v. Superior Court* (1995) 33 Cal.App.4th 1680, 1682 (*PH II*); *Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 38.) If the court sustains a demurrer, it should permit amendment where a reasonable possibility of cure exists, though the plaintiff bears the burden of showing how the defect can be cured. (*Blank, supra*, 39 Cal.3d at p. 318; *Goodman v. Kennedy* (1976) 18 Cal.3d 335, 349.)

IV. DISCUSSION

The court first considers the publicity claims because the UCL and quasi-contract claims partly depend on them. It then addresses copyright preemption and Alphabet's demurrer.

A. First Cause of Action: Statutory Right of Publicity (Civ. Code, § 3344)

Section 3344 creates liability for "[a]ny person who knowingly uses another's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods, or services, without that person's prior consent." (Civ. Code, § 3344, subd. (a)(1).) The statute supplements the common law misappropriation tort. A plaintiff must plead the common law

elements, a knowing use, and a direct link between the use and its commercial purpose. (*Eastwood v. Superior Court* (1983) 149 Cal.App.3d 409, 417-418 (*Eastwood*); *Newcombe v. Adolf Coors Co.* (9th Cir. 1998) 157 F.3d 686, 692-694 (*Newcombe*).) Defendants argue that the complaint alleges only an imitation of Greene's voice, not a use of his "voice," and that it does not plead the required direct commercial connection. (Mem., pp. 3-6; Reply, pp. 6-9.)

1. Use of Greene's "Voice"

a. *Midler* Does Not Resolve This Case on the Pleadings.

Defendants chiefly rely on *Midler v. Ford Motor Co.* (9th Cir. 1988) 849 F.2d 460 (*Midler*). There, Bette Midler declined an invitation to sing in a Ford commercial, so the advertising agency hired Ula Hedwig and instructed her to "sound as much as possible like the Bette Midler record." (*Id.* at p. 461.) The imitation was effective, and several people told Midler the commercial "sounded exactly" like her record. (*Id.* at pp. 461-462.) The Ninth Circuit held that section 3344 was "of no aid to Midler" because "[t]he voice they used was Hedwig's, not hers." (*Id.* at p. 463.) It nevertheless allowed a common law claim. The court reasoned that "[a] voice is as distinctive and personal as a face" and held that when "a distinctive voice of a professional singer is widely known and is deliberately imitated in order to sell a product, the sellers have appropriated what is not theirs." (*Ibid.*)

Defendants interpret *Midler* as holding that section 3344 can never apply when a voice merely sounds like the plaintiff's, regardless of how the similarity was achieved. (Mem., p. 4; Reply, pp. 6-7.) *Midler* does not reach that far because its analysis depended on whose voice the defendants used. The Ford commercial used another person's voice. Even though Hedwig closely imitated Midler, the performance came from Hedwig's own voice and was not a commercial use of Midler's voice. Here, the complaint alleges that Google trained its voice model on Greene's recordings, adjusted its output to duplicate his voice, and generated a voice that is "unquestionably Mr. Greene's voice." (Compl., ¶¶ 35, 61, 65.) The complaint identifies no Hedwig. As pleaded, Greene is the only human voice from which the male host's voice derives.

Defendants respond that the agency in *Midler* also used Midler's record to instruct the imitator. (Reply, p. 7.) That comparison is unpersuasive at the pleading stage. Hedwig heard the

record and then performed with her own voice. As described and alleged in the complaint, an AI model has no voice of its own and produces sound from its training data. Accepting these allegations as true, the output is not someone else's voice that happens to resemble Greene's. It is a digital rendering of Greene's voice created from Greene's voice.

The complaint also does not concede, as defendants argue, that it presents only "a voice imitation case" or that Greene "does not allege his actual voice narrates" Audio Overviews. (Reply, p. 6; Dem., p. 3.) It alleges that the voice is Greene's (Compl., ¶ 61) and alternatively that Google made it resemble Greene's "regardless of the precise technical means used" (*id.* at ¶ 65). Alternative pleading is permitted. (*Adams v. Paul* (1995) 11 Cal.4th 583, 593.) That is especially so when the defendant possesses the facts about how its voice model was created. (*Doe*, *supra*, 42 Cal.4th at p. 550.) The additional sound-alike theory may be outside the statute under *Midler*, but it does not defeat the claim because a demurrer cannot be directed to only part of a cause of action. (*PH II*, *supra*, 33 Cal.App.4th at p. 1682.)

Finally, defendants cite the district court's statement that Greene's "voice misappropriation claims are just like those in *Midler*, but with AI rather than a voice actor." (Mem., p. 4, quoting Wong Decl., Ex. A, p. 7; Reply, p. 6.) The statement is taken out of context. The district court was deciding only whether the claims fall within copyright's subject matter. It referred to *Midler* because that case held that a voice is not copyrightable, and concluded that Greene's claims, like Midler's, concern a personal attribute rather than a work of authorship. (Wong Decl., Ex. A, pp. 5-7.) The order did not interpret "voice" in section 3344 and expressly declined to consider the complaint's sufficiency. (*Id.* at p. 3, fn. 3.)

b. The Statutory Text

Statutory text is generally the best guide to legislative intent. (*Day v. City of Fontana* (2001) 25 Cal.4th 268, 272.) Section 3344 covers the knowing use of another's "voice . . . in any manner." (Civ. Code, § 3344, subd. (a)(1).) The text does not restrict "voice" to an unmodified recording of the plaintiff. The phrase "in any manner" points in the opposite direction. The statute defines "photograph" to include every "photographic reproduction, still or moving" (*id.* at subd. (b)), and the Ninth Circuit has recognized that a representations made from the plaintiff's image

can constitute the plaintiff's "likeness." (*Newcombe*, *supra*, 157 F.3d at pp. 692-693 [drawing that closely tracked a newspaper photograph of plaintiff].) The court finds no textual reason to distinguish a digital reproduction of a voice generated from recordings of that voice from a reproduction of a person's image.

The court recognizes that this is a novel application of a statute enacted well before generative AI. The Legislature enacted section 3344 in 1971 to protect a person's "name, photograph, or likeness" and added "voice" and "signature" in 1984. (See *Eastwood*, *supra*, 149 Cal.App.3d at p. 417 [quoting earlier text]; Stats. 1984, ch. 1704.) On a developed record, the boundary between a digital reproduction of a voice and a digital imitation may be difficult to define. But the question on demurrer is only whether the pleaded facts, assumed true, describe use of Greene's voice. They do. Whether Google actually made the male host's voice from Greene's recordings or from another source that merely resembles him is a factual question. If the evidence establishes the latter, *Midler* may confine Greene to his common law claim. At this stage, however, the complaint sufficiently alleges a use of Greene's voice under section 3344.

c. Legislative History and Later Enactments

Defendants contend that the Legislature's treatment of "digital replicas" establishes that section 3344 does not cover them. (Mem., pp. 4-5; Reply, pp. 7-8.) Even assuming that the application of "voice" to AI-generated output is uncertain enough to justify considering extrinsic materials, those materials do not support defendants' position.

AB 1836. In 2024, the Legislature amended section 3344.1, the statute governing publicity rights of deceased personalities. (Assem. Bill No. 1836 (2023-2024 Reg. Sess.) (AB 1836); Stats. 2024, ch. 258.) Unlike section 3344, section 3344.1 generally exempts plays, books, audiovisual works, musical works, and similar expressive works. (Civ. Code, § 3344.1, subd. (a)(1)(B)(i).) AB 1836 created a separate cause of action for digital replicas of a deceased personality's voice or likeness "in an expressive audiovisual work or sound recording." (*Id.* at subd. (a)(2)(A)(i).) The committee analysis described that change as "a carveout, specific to digital replicas, in the expressive works exemption." (Assem. Com. on Privacy and Consumer Protection, Analysis of Assem. Bill No. 1836 (2023-2024 Reg. Sess.) as proposed to be amended, for hearing on Apr. 16,

2024, p. 6.) The amendment therefore addressed uses outside section 3344.1 because of its expressive-works exemption. It did not redefine "voice," a term both statutes use (Civ. Code, § 3344.1, subd. (a)(1)(A)), and it concerned an exemption absent from section 3344. Defendants' reliance on the rule that omission of a provision from a similar statute reflects a different intent (Reply, p. 7, citing *In re Jennings* (2004) 34 Cal.4th 254, 273) consequently has limited force.

SB 11 and SB 683. In 2025, the Legislature passed Senate Bill No. 11 (2025-2026 Reg. Sess.) (SB 11), which would have stated that a voice or likeness includes a digital replica for purposes of section 3344. The Governor vetoed the bill. Defendants argue that the Legislature "would not have needed to add the use of 'digital replicas' to either statute if the existing language and caselaw encompassed such use," invoking the principle that a statutory amendment indicates an intent to change the rule stated. (Mem., p. 5, citing *Butcher v. Brouwer* (1942) 21 Cal.2d 354, 358.) That principle applies to enacted amendments. "Unpassed bills, as evidences of legislative intent, have little value." (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1987) 43 Cal.3d 1379, 1396.) The veto also concerned a separate consumer-warning requirement. (Assem. Com. on Privacy and Consumer Protection, Analysis of Sen. Bill No. 1111 (2025-2026 Reg. Sess.) as amended Mar. 23, 2026, for hearing on June 16, 2026, pp. 1, 7.) Defendants now disclaim any inference from the veto. (Reply, p. 8, fn. 4.) The parties' opposing readings of the SB 11 committee analysis provide little guidance about what the Legislature meant by "voice" in 1984. Defendants read it as acknowledging no existing remedy for victims of AI impersonation, while Greene reads it as describing a clarification. (*Id.* at p. 8, fn. 4; Opp., p. 4, fn. 3.) Greene also overstates the significance of Senate Bill No. 683 (2025-2026 Reg. Sess.). (Opp., p. 4, fn. 3.) The Governor signed SB 683, which added injunctive relief to section 3344. But the version of section 3344 in that bill containing digital-replica language depended on SB 11's enactment and never became effective. (Stats. 2025, ch. 590, §§ 1.5, 2.) Signing a bill whose digital-replica provision never operated does not endorse a particular interpretation of existing law.

SB 1111. The parties do not address this recent and relevant development. On September 30, 2026, after defendants filed their demurrer but before Greene opposed it, the Governor signed Senate Bill No. 1111 (2025-2026 Reg. Sess.) (SB 1111). It adds subdivision (f) to section 3344:

"For the purposes of this section, a voice or likeness includes a digital replica, as defined in Section 3344.1." (Stats. 2026, ch. 862.) The Legislative Counsel's Digest says the bill "would clarify that, for purposes of this cause of action, a voice or likeness includes a digital replica." (Legis. Counsel's Dig., Sen. Bill No. 1111 (2025-2026 Reg. Sess.).) As a regular-session enactment, SB 1111 takes effect on January 1, 2027. (Cal. Const., art. IV, § 8, subd. (c)(1).)

The court does not decide whether new subdivision (f) applies to conduct before its operative date, and the ruling does not depend on SB 1111. Whether an amendment changes existing law or clarifies it is ultimately for the courts to decide. The Legislature's characterization deserves consideration but is neither conclusive nor binding. (*McClung v. Employment Development Dept.* (2004) 34 Cal.4th 467, 471-473.) Still, the enactment substantially weakens defendants' premise that the Legislature's treatment of digital replicas shows that section 3344 excludes them. The Legislature has now added digital replicas to section 3344, and the Legislative Counsel's Digest calls the addition a clarification. At minimum, the legislative record does not establish that "voice" excludes the conduct alleged here. The complaint alleges continuing use and seeks injunctive relief. (Compl., ¶ 61; Prayer, ¶ 7.) The amendment may therefore affect this case in ways that do not turn on retroactivity, an issue on which the court expresses no opinion.

2. Direct Connection to a Commercial Purpose

Defendants contend that the complaint must include facts showing the voice was a "substantial factor" in sales. (Mem., pp. 5-6, citing *Johnson v. Harcourt, Brace, Jovanovich, Inc.* (1974) 43 Cal.App.3d 880, 895 (*Johnson*); Reply, pp. 8-9.) *Johnson* does not impose that pleading burden. There, plaintiffs sued a publisher for reprinting in a college English textbook a magazine article about a janitor who found and returned a large amount of cash. The Court of Appeal held that the article "was not so 'directly' connected with the sale of the textbook that it falls within the purview of section 3344," because "[i]t was only used as an educational tool." (*Johnson, supra*, 43 Cal.App.3d at p. 895.) Its observation that the article was not "a substantial factor in the students' purchases of the book" (*ibid.*) explained why an incidental use in an expressive work was not a use for advertising or selling. It did not require plaintiffs to quantify their identities' contribution to sales, and defendants identify no case that applies *Johnson* in that manner.

The complaint pleads the necessary connection. Section 3344 applies both to uses "on or in products" and to uses "for purposes of advertising or selling." (Civ. Code, § 3344, subd. (a)(1).) Greene alleges both. His voice is the default male host in a subscription product; Google chose it "to create familiarity for seasoned podcast listeners and, in effect, maximize Google's profits"; and Google used it in demonstrations, promotional materials, and a Spotify partnership promoting NotebookLM. (Compl., ¶¶ 17, 42, 46, 53-54, 56; Count One, ¶ 3, pp. 21-22.) These are facts, not a conclusory recitation. When a defendant makes a plaintiff's identity part of the product and uses it in promotion, the link to commercial purpose is direct. (See *Eastwood, supra,* 149 Cal.App.3d at p. 418 [use of plaintiff's name and likeness to promote sales of publication]; *Newcombe, supra,* 157 F.3d at pp. 693-694 [question of fact].) Subdivision (e) does not assist defendants. It states that use of a person's voice "in a commercial medium" does not require consent "solely because the material containing such use is commercially sponsored or contains paid advertising," and makes directness "a question of fact." (Civ. Code, § 3344, subd. (e); see Reply, p. 8.) That provision concerns identity appearing in commercially sponsored content, such as a broadcast or publication carrying advertising. Greene instead alleges that the voice is itself part of Google's product. If subdivision (e) applies, it confirms that the issue is factual and cannot be resolved against Greene on demurrer.

Nor does the complaint attribute NotebookLM's success only to its technology. (Mem., pp. 5-6; Reply, p. 8.) A product may succeed for multiple reasons. The complaint alleges that the realistic, conversational quality of the AI hosts' voices distinguishes NotebookLM (Compl., ¶ 14) and that users make podcasts with the male host's voice because of the appeal connected to Greene (id., ¶ 4). The district court read the complaint in the same manner. (Wong Decl., Ex. A, p. 2 [NotebookLM "received recognition for its AI voices sounding more real and conversational than voices from similar products"].) The extent to which the voice contributed to Google's revenue is a question of proof. These are factual allegations, unlike the conclusory allegations found insufficient in *Wozniak v. YouTube, LLC* (2024) 100 Cal.App.5th 893, 925, and *Hilltop Properties v. State of California* (1965) 233 Cal.App.2d 349, 355.

Defendants also contend that Spotify's increased engagement cannot establish a direct connection because the pertinent connection is between the defendant's use and the defendant's own commercial purpose. (Reply, p. 8, fn. 5.) That argument does not help them. The complaint alleges that Google used the voice in a partnership promoting Google's product and that Google "leveraged Mr. Greene's voice in order to achieve greater financial success for itself and its partners." (Compl., ¶ 54 & Ex. 1.) Using a partner's platform to promote one's own product is a use for advertising purposes.

3. Remaining Elements

Defendants challenge the remaining elements only through their attack on the common law claim. (Mem., pp. 3-4.) As discussed in Part IV.B, the complaint adequately pleads those elements. It also alleges knowing use. (Compl., ¶¶ 61, 66; Count One, ¶ 5, p. 22.)

The court OVERRULES Google's demurrer to the first cause of action.

B. Third Cause of Action: Common Law Misappropriation

The common law tort requires "(1) the defendant's use of the plaintiff's identity; (2) the appropriation of plaintiff's name or likeness to defendant's advantage, commercially or otherwise; (3) lack of consent; and (4) resulting injury." (*Eastwood, supra*, 149 Cal.App.3d at p. 417.) A voice may identify a person. The Ninth Circuit has explained that when voice sufficiently identifies a celebrity, "the right of publicity protects against its imitation for commercial purposes without the celebrity's consent." (*Waits v. Frito-Lay, Inc.* (9th Cir. 1992) 978 F.2d 1093, 1098 (*Waits*); see *Midler, supra*, 849 F.2d at p. 463.) Defendants dispute every element except lack of consent. (Mem., pp. 6-11; Reply, pp. 9-12.)

1. Use of Greene's Identity

Defendants argue that Greene must plead facts showing his voice is "distinctive" and "widely known," that the defendant "deliberately imitated" it "in order to sell a product," and that "people who were familiar with [the] plaintiff's voice who heard the [appropriation] believed [the] plaintiff performed it." (Mem., p. 6, quoting *Midler, supra*, 849 F.2d at p. 463, and *Waits, supra*, 978 F.2d at p. 1101.) The first three propositions derive from *Midler*. The fourth does not. It comes from a jury instruction which, as *Waits* observed, "effectively added an additional element to

Midler's formulation of voice misappropriation: actual confusion." (*Waits*, *supra*, 978 F.2d at p. 1101, fn. 3.) *Waits* further stated: "The validity of this instruction is not before us in this appeal and we express no opinion on this issue." (*Ibid.*) Defendants' memorandum omits that qualification. They cite no California authority making listeners' belief that the plaintiff performed the work an element of the tort, much less a pleading requirement. In any event, the complaint alleges facts that meet every requirement defendants identify.

a. Distinctive and widely known

Greene alleges that he hosted Morning Edition for nearly a decade, hosted Up First, reported on the White House for four years while his voice "became familiar to NPR listeners," and now reaches "millions of listeners." (Compl., ¶¶ 2-3, 22, 49-51.) Defendants contend these allegations demonstrate only that Greene's journalism, rather than his voice, is well known. (Mem., pp. 6-7; Reply, p. 10.) That distinction is difficult to maintain for a radio broadcaster. A radio host reaches the audience through the voice, and it is reasonable to infer that the voice is widely known. The complaint also pleads factual support for distinctiveness rather than merely applying a label. Listeners identified the male host's voice specifically as Greene's (Compl., ¶¶ 57, 63 & Ex. 1), and a forensic comparison found substantially greater similarity between that voice and Greene's than between that voice and other NPR hosts' voices (*id.* at ¶ 59 & Ex. 2). Recognition of Greene in particular, rather than of a generic broadcaster, supports an inference that his voice is distinctive. Defendants compare these allegations with the trial record in *Waits*, which described Tom Waits's "raspy, gravelly singing voice." (Reply, p. 9, citing *Waits*, supra, 978 F.2d at p. 1097.) But *Waits* reviewed a jury verdict, and *Midler* reviewed summary judgment. Neither case requires a plaintiff to plead an adjectival description of their voice. Distinctiveness is a question for the trier of fact. (*Waits*, *supra*, 978 F.2d at p. 1102.)

Defendants' central response is that the complaint "concedes" the male host sounds like "your typical NPR explainer." (Mem., pp. 1, 7, 10; Reply, pp. 6, 10.) It does not. That phrase is from a third-party review that the complaint quotes. The review stated that the "podcast," "hosted by the same male and female voices every time, has the flow and cadence of your typical NPR explainer." (Compl., ¶ 62.) The reviewer described the conversational style of the AI-generated

podcasts, not the male host's voice as generic. The complaint does not adopt the comment as its own allegation. Even if the comment could support defendants' reading, the court cannot draw adverse inferences against the plaintiff on demurrer. (*Miklosy, supra*, 44 Cal.4th at p. 883.) Greene offers a competing inference: his prominence may explain why his voice exemplifies the public-radio sound. (Opp., p. 6, fn. 5.) Selecting between those inferences is not appropriate at the pleading stage. Nor have defendants shown that Greene "pleads himself out of court" (Reply, p. 10) by quoting a reviewer whose words, read in context, are consistent with his claim.

b. Deliberate imitation and identification

The complaint alleges that Google chose Greene's voice as the default host to create familiarity with podcast listeners, built the voice from his recordings, calibrated it to replicate his vocal traits, knew that he was recognizable, and could not have produced the similarity by accident. It also alleges that ordinary listeners thought the voice was Greene's and that users were actually confused. (Compl., ¶¶ 42, 61, 65-66.) Defendants argue that the journalist's use of "David Greene imposter" establishes that the writer knew the voice was not Greene's. (Mem., p. 7; Reply, p. 10.) That is one possible interpretation. Another is that the writer immediately recognized the voice as Greene's, the recognition that gives it commercial value. The court must adopt the inference favorable to the plaintiff. (*Miklosy, supra*, 44 Cal.4th at p. 883.)

c. The forensic analysis

Defendants describe the forensic results as "akin to a coin flip" and challenge the scale, methodology, and comparators. (Mem., pp. 7-8 & fn. 5; Reply, pp. 10-11.) Those arguments concern the evidence's weight, not the legal sufficiency of the pleading. The complaint alleges that the analysis found "relatively high" similarity and "little to no similarity" between the male host's voice and other NPR hosts' voices. (Compl., ¶ 59 & Ex. 2.) The court accepts those allegations as true and cannot assess the analysis's reliability on demurrer. (*Fremont Indemnity, supra*, 148 Cal.App.4th at pp. 113-114.) Defendants' authorities concern trial expert testimony or conclusory expert assertions under federal pleading standards. (*Jennings v. Palomar Pomerado Health Systems, Inc.* (2003) 114 Cal.App.4th 1108, 1117; *Koehler v. Litehouse, Inc.* (N.D. Cal. Dec. 13, 2012, No. CV 12-04055 SI) 2012 WL 6217635, 2012 U.S. Dist. LEXIS 176971; *Galang v. Wells*

Fargo Bank, N.A. (E.D. Cal. Nov. 28, 2018) 2018 WL 6201952, 2018 U.S. Dist. LEXIS 201768* at p. *13, fn. 3.) In any event, the analysis is only one of several alleged facts supporting the claim.

2. Appropriation to Defendants' Advantage

a. Appropriation

Defendants argue that Greene's theory depends on training and that he must plead which recordings Google used to train the specific models involved, as federal courts have required in AI training cases. (Mem., pp. 8-10, citing *In re Mosaic LLM Litigation* (N.D. Cal. July 8, 2025, No. 24-cv-01451-CRB) 2025 WL 2402677, 2025 U.S. Dist. LEXIS 153961, and *In re Google Generative AI Copyright Litigation* (N.D. Cal. 2025) 809 F.Supp.3d 903, 914; Reply, pp. 11-12.) The argument fails for two reasons.

First, the common law claim does not depend on training. The defendants in *Midler* and *Waits* used human imitators. The tort turns on deliberate imitation of a distinctive voice to sell a product, not on the particular technology used. (*Midler*, *supra*, 849 F.2d at p. 463; *Waits*, *supra*, 978 F.2d at p. 1098.) Greene alleges that Google intentionally made the male host sound like him "regardless of the precise technical means used." (Compl., ¶ 65.) Together with the allegations already discussed, that statement pleads appropriation of Greene's identity whether or not Google trained its model on his recordings.

Second, the training allegations are sufficiently pleaded. The federal decisions defendants cite applied the federal plausibility standard to copyright claims, where copying particular works is the gravamen. California requires ultimate facts. (*Doe*, *supra*, 42 Cal.4th at p. 550.) The complaint alleges as an ultimate fact that Google trained its voice model on Greene's recordings. (Compl., ¶¶ 35, 65.) It also explains the basis for that belief: the voice closely resembles Greene's; listeners identified it as his; a forensic comparison distinguished it from other NPR hosts' voices; Greene's career produced a substantial body of recorded speech; and Google's audio model trains on that kind of audio. (*Id.* at ¶¶ 3, 39-40, 42, 57, 59, 61, 63, 65 & Exs. 1-2.) That information supports Greene's belief, and the facts about the recordings Google used are particularly within Google's knowledge. (*Doe*, *supra*, 42 Cal.4th at pp. 550-551 & fn. 5.)

Defendants call that inference "circular." (Mem., p. 9.) It is not. The complaint alleges that listeners and a forensic comparison found the voice so similar to Greene's that Google's use of his recordings is the most likely explanation. Inferring a cause from observed effects is not circular reasoning. Nor does training on a "massive" corpus (*id.* at p. 10) preclude calibrating output to reproduce a particular speaker. The complaint alleges that Google used its audio model "to identify a voice that could function as a consistent and default host" and selected Greene's. (Compl., ¶ 42.)

b. Advantage

Defendants argue that *Newcombe* requires a defendant to "exploit" the plaintiff's identity and receive a "direct[] benefit[]" from it. (Mem., pp. 8, 10; Reply, p. 11.) Newcombe applied the element as stated in *Eastwood*: whether the likeness was appropriated "to defendant's advantage, commercially or otherwise." (*Newcombe*, *supra*, 157 F.3d at pp. 692-693.) Its "directly benefited" language concerned a magazine publisher that received only payment for advertising space. The advertiser, which used the plaintiff's likeness to draw attention to its product, did use it to its commercial advantage. (*Id.* at p. 693.) Google occupies the advertiser's position. The complaint alleges that Google uses Greene's voice as a default host in a paid product, in promotions, and in a commercial partnership. (Compl., ¶¶ 42, 46, 53-54, 56; Count One, ¶ 3, pp. 21-22.) That is use to Google's commercial advantage. *Cross v. Facebook, Inc.* (2017) 14 Cal.App.5th 190, 210-211, does not compel a different result. There, in affirming the denial of an anti-SLAPP motion, the court explained that the plaintiff's identity appeared only in third-party content, not in the adjacent advertisements, and the plaintiff had not shown anyone used his identity to gain an advantage. Here, Google allegedly created and deployed the voice itself. That Google never identified the male host as Greene (Mem., p. 10) is no defense. The defendants in *Midler* and *Waits* did not use the plaintiffs' names either. The misappropriation was the use of the voice to evoke the plaintiff's identity. (*Midler*, *supra*, 849 F.2d at pp. 462-463; *Waits*, *supra*, 978 F.2d at p. 1098.)

3. Resulting Injury

Defendants argue that the complaint alleges only speculative future injury. (Mem., pp. 10-11, citing *Slivinsky v. Watkins-Johnson Co.* (1990) 221 Cal.App.3d 799, 807; Reply, p. 12.) When an appropriated identity has commercial value, "the injury may be largely, or even wholly, of an

economic or material nature." (*Waits, supra*, 978 F.2d at p. 1103, quoting *Motschenbacher v. R. J. Reynolds Tobacco Co.* (9th Cir. 1974) 498 F.2d 821, 824.) Greene alleges that voices like his have market value, other companies pay public figures to license their voices, and Google took that value without payment. He further alleges that the false association with NotebookLM has reduced the value of his voice as a licensable asset, impaired his ability to license it to others, and produced AI-generated podcasts that compete with his work. (Compl., ¶¶ 8-9, 18, 67, 69, 71-72; Count One, ¶ 6, p. 22; Count Three, ¶ 3, p. 23.) Those allegations describe a present economic injury. Greene need not identify a particular lost contract at the pleading stage. *Slivinsky* states the general rule that injury is essential, but it does not require a nationally known broadcaster alleging uncompensated commercial exploitation of his voice to plead more. Defendants' assertion that Greene did not allege a lost-licensing-fee theory (Reply, p. 12, fn. 12) ignores paragraphs 8, 9, 18, and 71 of the complaint. Their argument that the theory is a preempted copyright claim confuses the value of Greene's voice with the value of his recordings. The court need not decide whether the alleged diversion of Greene's time (Compl., ¶¶ 67-68) independently establishes injury.

The court OVERRULES Google's demurrer to the third cause of action.

C. Second Cause of Action: Unfair Competition Law

1. Standing

A private plaintiff must have "suffered injury in fact" and "lost money or property as a result of the unfair competition." (Bus. & Prof. Code, § 17204.) Economic injury may be shown in "innumerable ways," including an allegation that the plaintiff had "a present or future property interest diminished" or was "deprived of money or property to which he or she has a cognizable claim." (*Kwikset Corp. v. Superior Court* (2011) 51 Cal.4th 310, 323.) Greene alleges that his voice is a licensable commercial asset, that Google diminished its value, and that Google obtained revenue belonging to him. (Compl., ¶¶ 8, 69, 71-72; Count Two, ¶ 12, p. 23.) California treats the commercial value of a person's identity as a property interest. (See Civ. Code, § 3344.1, subd. (b); *Comedy III Productions, Inc. v. Gary Saderup, Inc.* (2001) 25 Cal.4th 387, 403.) The complaint also alleges casuation by attributing the diminished value to Google's use of the voice and the resulting false association with NotebookLM. (Compl., ¶ 69.) A reduction in the value of a

property interest is a recognized economic injury under *Kwikset*, and Greene alleges that the reduction has already occurred. Defendants' cases are distinguishable. *Yeh v. Barrington Pacific, LLC* (2026) 117 Cal.App.5th 1303, 1324, affirmed summary judgment against tenants who paid an application fee and received the screening services covered by that fee, so they lost nothing. *Drum v. San Fernando Valley Bar Assn.* (2010) 182 Cal.App.4th 247, 252, involved an attorney who did not allege losing or being denied money or property. Neither involved alleged appropriation and diminution of the commercial value of an asset owned by the plaintiff. As with the common law claim, the court need not decide whether Greene's diverted time would itself establish standing. (See Reply, p. 13.)

2. The Unlawful Prong

The UCL's unlawful prong "borrows" violations of other laws and makes them independently actionable. (*Berryman v. Merit Property Management, Inc.* (2007) 152 Cal.App.4th 1544, 1554.) Defendants' only objection to the unlawful prong is that it depends on the publicity claims. (Mem., p. 12; Reply, p. 13.) Because the complaint adequately pleads a section 3344 violation, it pleads a predicate violation. The unlawful prong is therefore sufficient, and the court need not reach the unfair and fraudulent prongs. (*PH II, supra*, 33 Cal.App.4th at p. 1682.)

The court OVERRULES Google's demurrer to the second cause of action.

D. Fourth Cause of Action: Quasi-Contract and Unjust Enrichment

Defendants argue that California recognizes no independent cause of action for unjust enrichment. (Mem., p. 13, citing *Durell v. Sharp Healthcare* (2010) 183 Cal.App.4th 1350, 1370; Reply, p. 14.) The Courts of Appeal are divided on that question. (*O'Grady v. Merchant Exchange Productions, Inc.* (2019) 41 Cal.App.5th 771, 791.) Even courts declining to recognize a standalone claim treat one so labeled as a quasi-contract claim for restitution. (*Rutherford Holdings, LLC v. Plaza Del Rey* (2014) 223 Cal.App.4th 221, 231 (*Rutherford*).) Greene labeled his fourth claim "Quasi-Contract / Unjust Enrichment," and both sides agree the issue is whether he alleges receipt of a benefit and its unjust retention at his expense. (Opp., p. 12, fn. 9; Mem., p. 13.) The court construes the claim on that basis.

1. Benefit

"The term 'benefit' 'denotes any form of advantage.'" (*Ghirardo v. Antonioli* (1996) 14 Cal.4th 39, 51.) The complaint alleges that Google used the commercial value of Greene's voice to develop, promote, and sell NotebookLM and avoided the licensing fees other companies pay. (Compl., ¶¶ 4, 42, 46, 71; Count Four, ¶ 2, p. 24.) For the reasons stated in Parts IV.A.2 and IV.B.2, those allegations sufficiently plead an advantage. Defendants' assertion that the complaint credits NotebookLM's success to its technology rather than the voice (Mem., p. 13) fails for the reasons already explained.

2. Unjust Retention

Defendants argue that retention is unjust only when the plaintiff conferred the benefit through mistake, fraud, coercion, or request. (Reply, pp. 14-15, citing *Nibbi Brothers, Inc. v. Home Federal Savings & Loan Assn.* (1988) 205 Cal.App.3d 1415, 1422, and *Astiana v. Hain Celestial Group, Inc.* (9th Cir. 2015) 783 F.3d 753, 762.) That formulation concerns voluntarily conferred benefits, where the inquiry is whether the plaintiff acted as a volunteer. Greene alleges no voluntary conferral. Nor is that formulation the sole ground for restitution. A quasi-contract claim also lies when "the defendant obtained a benefit from the plaintiff by fraud, duress, conversion, or similar conduct." (*McBride v. Boughton* (2004) 123 Cal.App.4th 379, 388.) Greene alleges that Google took the commercial value of his identity without consent or compensation while others in the market pay for those rights. (Compl., ¶¶ 8, 16, 18, 55, 71.) That alleged conduct resembles conversion, and the Legislature has made a person who uses another's identity without consent liable for "any profits from the unauthorized use." (Civ. Code, § 3344, subd. (a)(1).) Defendants' remaining argument, that the claim fails with the publicity claims (Mem., pp. 13-14), fails because those claims survive.

The court OVERRULES Google's demurrer to the fourth cause of action.

E. Copyright Preemption

Defendants argue that the Copyright Act preempts all four claims. (Mem., p. 14; Reply, p. 15.) Federal law preempts a state claim if it falls within copyright's subject matter and asserts rights equivalent to the exclusive rights of a copyright holder. (17 U.S.C. §§ 102, 103, 106, 301(a); *Laws v. Sony Music Entertainment, Inc.* (9th Cir. 2006) 448 F.3d 1134, 1137-1138 (*Laws*); see

Fleet v. CBS, Inc. (1996) 50 Cal.App.4th 1911, 1919-1920 (*Fleet*).) Defendants fail at the first step. A voice is not copyrightable (*Midler, supra*, 849 F.2d at p. 462), and neither is a likeness (*Downing v. Abercrombie & Fitch* (9th Cir. 2001) 265 F.3d 994, 1003-1005; *KNB Enterprises v. Matthews* (2000) 78 Cal.App.4th 362, 374). Every claim rests on the alleged appropriation of Greene's voice and identity. (Compl., Count One, ¶ 2, p. 21; Count Two, ¶¶ 9-12, pp. 22-23; Count Three, ¶ 2, p. 23; Count Four, ¶ 2, p. 24.) The court agrees with the district court that the claims are "fundamentally about the program's outputs," not its inputs. (Wong Decl., Ex. A, p. 5.)

Defendants' authorities demonstrate the difference. In *Fleet*, the alleged exploitation was distribution of a film containing the actors' performances. (*Fleet, supra*, 50 Cal.App.4th at pp. 1913, 1919-1921.) In *Laws*, the claim arose from use of a sample from a copyrighted recording of the singer's performance. (*Laws, supra*, 448 F.3d at pp. 1136, 1141.) Greene does not allege that Google publicly reproduced or distributed his recordings. He alleges that Google generated new speech in a voice resembling his, speech he never recorded. Copyright would not reach that conduct even if Greene owned every recording he made. A sound-recording copyright does not extend to an independent fixation of other sounds, "even though such sounds imitate or simulate those in the copyrighted sound recording." (17 U.S.C. § 114(b); see *Laws, supra*, 448 F.3d at pp. 1140-1141 [distingushing voice imitation claims].) Defendants argue that Greene conceded preemption by alleging Google trained its model on his recordings. (Reply, p. 15 & fn. 14.) He did not. The training allegation describes the means of appropriation, not its subject, and the complaint alleges appropriation "regardless of the precise technical means used." (Compl., ¶ 65.) Defendants' observation that the *Laws* plaintiff did not own the copyright in the recording (Reply, p. 15) does not address the point. The relevant issue is not ownership of the recordings but that the claims do not rest on them.

To the extent the complaint claims that copying Greene's recordings is independently actionable, federal law may preempt that theory. (See Wong Decl., Ex. A, p. 5, fn. 6; Compl., ¶ 72.) But every cause of action also states a claim based on appropriation of Greene's voice and identity, and a demurrer cannot be directed at part of a cause of action. (*PH II, supra*, 33 Cal.App.4th at p. 1682.) Preemption therefore does not justify sustaining the demurrer.

F. Alphabet

Alphabet argues that the complaint does not allege a basis to hold it responsible for its subsidiary's conduct. (Mem., pp. 14-15; Reply, p. 15.) The court agrees.

A parent corporation is not ordinarily liable for a subsidiary's acts simply because it owns the subsidiary. (*United States v. Bestfoods* (1998) 524 U.S. 51, 61 (*Bestfoods*); *Sonora Diamond Corp. v. Superior Court* (2000) 83 Cal.App.4th 523, 538-541 (*Sonora Diamond*).) A parent may be liable if the subsidiary is its alter ego, acts as its agent, or if the parent itself participated in the wrongful conduct. (See *Bestfoods*, *supra*, 524 U.S. at pp. 61-64.) To plead alter ego liability, a plaintiff must allege (1) such unity of interest and ownership that the entities' separate personalities no longer exist, and (2) that treating the acts as solely those of the subsidiary would sanction fraud or promote injustice. (*Rutherford*, *supra*, 223 Cal.App.4th at pp. 235-236; *Vasey v. California Dance Co.* (1977) 70 Cal.App.3d 742, 749 (*Vasey*).) A bare alter-ego conclusion is insufficient. (*Vasey*, *supra*, 70 Cal.App.3d at p. 749.) Nor is ownership of all corporate stock, even with managerial control, enough. (*Leek v. Cooper* (2011) 194 Cal.App.4th 399, 415.) An agency theory requires control beyond ownership. The parent must do more than set general policy and direction and must effectively take over the subsidiary's day-to-day operations. (*Sonora Diamond*, *supra*, 83 Cal.App.4th at pp. 541-542.)

The complaint alleges that Google LLC is a subsidiary of XXVI Holding Inc., which is an Alphabet subsidiary, and that Alphabet "wholly owns and controls" Google. It further alleges that each entity is the other's "alter ego," that Google is Alphabet's "agent," that defendants "operated as a single, unified entity," that each receives subscription revenue, and that they share a chief executive officer. (Compl., ¶¶ 23-25, 30, 48.) Defendants understate the allegations when they describe paragraph 30 as "[t]he only allegation directed at Alphabet" (Mem., p. 15), but the allegations remain inadequate. The alter ego and agency allegations are legal conclusions, while ownership, control, and shared officers are ordinary features of a parent-subsidiary relationship. (See *Bestfoods*, *supra*, 524 U.S. at p. 69 [directors and officers holding positions with both parent and subsidiary can and do "change hats"].) The complaint does not allege facts showing that honoring Google LLC's separate existence would promote injustice. It also alleges no facts that

Alphabet participated in developing, training, deploying, or promoting the male host's voice. Referring collectively to both defendants as "Google" does not fill that gap, particularly when the complaint itself alleges that Google LLC is a separately organized indirect subsidiary of Alphabet and says nothing about Alphabet's own NotebookLM role. (Compl., ¶¶ 23-24.)

Greene has not explained how he could amend, and his opposition does not request leave. That does not foreclose leave to amend. The issue remains open even if a plaintiff has not raised it. When a plaintiff has not yet had an opportunity to amend in response to a demurrer, "leave to amend is liberally allowed as a matter of fairness, unless the complaint shows on its face that it is incapable of amendment." (*City of Stockton v. Superior Court* (2007) 42 Cal.4th 730, 746-747.) This is the first challenge to Greene's original complaint. The facts about Alphabet's role are largely in defendants' possession, and nothing apparent from the complaint necessarily establishes that the defect cannot be cured. (*Blank, supra*, 39 Cal.3d at p. 318.)

The court SUSTAINS Alphabet's demurrer to each cause of action WITH LEAVE TO AMEND.

At the hearing, plaintiff asked to preserve the ability, after the 10-day period ends, to assert allegations against Alphabet or add Alphabet back as a party if discovery uncovers facts supporting its liability. The Court declines to extend the time to amend indefinitely. This order does not prevent plaintiff from later seeking leave to amend under Code of Civil Procedure sections 473, subdivision (a)(1), and 576. Any such motion must comply with California Rules of Court, rule 3.1324, including a declaration stating when the facts supporting the proposed amendment were discovered and why plaintiff did not seek amendment sooner. In ruling on any such motion, the Court will evaluate plaintiff's diligence and any prejudice to defendants. The Court expresses no opinion on the merits of a future motion or on any defense to it.

V. DISPOSITION

The request for judicial notice is GRANTED as to Exhibit A to the Wong Declaration and DENIED as to Exhibits B through G. On its own motion, the court takes judicial notice of Senate Bill No. 1111 (2025-2026 Reg. Sess.) (Stats. 2026, ch. 862) and its legislative history.

The demurrer of defendant Google LLC is OVERRULED as to the first, second, third, and fourth causes of action.

The demurrer of defendant Alphabet Inc. is SUSTAINED WITH LEAVE TO AMEND as to the first, second, third, and fourth causes of action.

Plaintiff may file a first amended complaint within 10 days after service of notice of this order. Any amendment may only add or revise allegations concerning Alphabet's liability. Google LLC must file a responsive pleading within 10 days after service of the first amended complaint or, if plaintiff does not amend within the time allowed, within 10 days after that period expires.

IT IS SO ORDERED

Dated: October 23, 2024

HON. SHELLA DEEN
JUDGE OF THE SUPERIOR COURT