

## Restaurant operator files class action lawsuit against Google for allegedly deceptive online food ordering practices



Scott N. Opincar | Friday, April 1, 2022

On March 8, 2022, Left Field Holdings, an operator of six Lime Fresh Mexican Grill restaurants located in Miami, filed a class-action lawsuit against Google LLC in the United States District Court for the Northern District of California.

The complaint alleges that:

- In 2019, Google began directing consumers looking up restaurants online into one of two new scenarios. The first was a website allegedly owned and controlled by Google designed to capture an actual order for the restaurant's food items, which Google then sold to third party food-delivery companies like "Postmates" for fulfillment.
- Google designed its websites to appear as if they were offered, sponsored, and approved by the restaurant, when they were not.
- Google added a large "Order Online" button just below the tradename of the restaurant on its search engine results page so that consumers searching for the restaurant form the mistaken belief that the button will direct them to the restaurant's website, when instead the button directs them to Google's webpages.
- Google's conduct is unfair and deceptive and leads consumers to an unauthorized storefront wherein consumers can place orders for the restaurant's products under the restaurant's tradename. Google

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then, unbeknownst to the restaurant, routes the order to a food delivery provider which then places the food order with the restaurant and charges the restaurant its fees.

- If the restaurant had received the order directly, the restaurant would have avoided the third-party delivery provider's fees.
- The second scenario alleges that when Google does not have a delivery provider willing to accept its orders, it directs a consumer into another website allegedly owned and controlled by Google. This webpage links the consumer to competing delivery providers such as Doordash, Grubhub, and others, all of whom pay Google a fee upon the customer being diverted away from the restaurant and into their websites.
- Google's use of the restaurant's tradename violates the Lanham Act by causing confusion or deception as to the affiliation, connection, or association of Google and the restaurant.
- From January to August 2020, Google "intercepted" more than 1,000 orders from Lime Fresh customers who would have otherwise ordered directly from the restaurant. Nine out of 10 of the orders were for pickup. The restaurants had to pay fees as high as 30% to delivery providers on those orders, some of which was passed on to Google.

The complaint's proposed plaintiff class is any U.S. restaurant for whom Google created an ordering button or an online storefront used to generate orders.

Google has released a statement stating that the lawsuit mischaracterizes Google's product and that Google plans to defend itself vigorously.

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**Scott N. Opincar**