

1 **Pierce Bainbridge Beck Price & Hecht LLP**

Brian J. Dunne (SBN 275689)

2 *bdunne@piercebainbridge.com*

Yavar Bathaee (SBN 282388)

3 *yavar@piercebainbridge.com*

Dan Terzian (SBN 283835)

4 *dterzian@piercebainbridge.com*

355 S. Grand Ave., 44th Floor

5 Los Angeles, California 90071

(213) 262-9333

6

Counsel for Plaintiff Tulsi Now, Inc.

7

8 THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

9 **Tulsi Now, Inc.**, a principal
campaign committee,

10

Plaintiff,

11

v.

12

Google, LLC, a Delaware limited
liability company, and **Does 1–10**,

13

Defendants.

14

Case No. 2:19-cv-06444-SVW-RAO

**First Amended Complaint for
Violations of:**

1. **First and Fourteenth
Amendments**
2. **Declaratory and Injunctive Relief**

JURY TRIAL DEMANDED

15

16

17

18

19

20

21

22

23

24

1 Plaintiff Tulsi Now, Inc. (the “Campaign”), principal campaign committee for
2 Presidential candidate Tulsi Gabbard, brings this lawsuit against Defendant Google,
3 LLC (“Google”) for serious and continuing violations of the Campaign’s right to free
4 speech. Since at least June 2019, Google has used its control over online political
5 speech to silence Tulsi Gabbard, a candidate millions of Americans want to hear from.
6 With this lawsuit, Gabbard seeks to stop Google from further intermeddling in the 2020
7 United States Presidential Election.

8 INTRODUCTION

9 1. We live in a time of unprecedented political upheaval and division in the
10 United States. Uncertainty and mistrust in American institutions—most notably, the
11 United States government—are at record highs. Everything from basic norms of civility
12 and compromise to the sanctity of American elections suddenly seems in flux. Ameri-
13 cans wonder how we got here, and they want to know where we’re going.

14 2. Against this backdrop, it is not surprising that the race for the 2020 Dem-
15 ocratic nomination for President of the United States is the most hotly contested—and
16 the most politically open—in recent memory. Americans want to hear fresh, diverse
17 voices as they seek a new leader in this time of turmoil. Americans *need* to hear those
18 voices.

19 3. Tulsi Gabbard is one of those voices. Gabbard is a four-term United States
20 Congresswoman, a Major with over sixteen years in the National Guard, and the first
21 female combat veteran to run for President.

22 4. In the June 26-27, 2019 Democratic Party presidential debates, tens of mil-
23 lions of Americans got to hear Gabbard’s voice for the first time. And people liked what
24 they heard: Gabbard quickly became the most searched-for Democratic presidential
candidate on June 27-28. In the crucial post-debate period—a time when presidential
candidates receive outsize interest, engagement, and donations—Americans around the
country wanted to hear more from Tulsi Gabbard.

1 5. To speak to these Americans, Gabbard operated a Google Ads account (the
2 “Account”). A Google Ads account allows a political candidate to speak directly to
3 people who want to hear from her. For example, millions of people were searching for
4 information on Gabbard on June 27-28, 2019. Through Google Ads, Gabbard could
5 instantaneously and directly speak to these people by linking them to her webpage,
6 which provides information about Gabbard’s background, policies, and goals.

7 6. Or at least that is how things are *supposed* to work on Google’s search
8 platform—one of the largest forums for political speech in the entire world. In practice,
9 however, Google plays favorites, with no warning, no transparency—and no accounta-
10 bility (until now).

11 7. On June 28, 2019—at the height of Gabbard’s popularity among internet
12 searchers in the immediate hours after the debate ended, and in the thick of the critical
13 post-debate period (when television viewers, radio listeners, newspaper readers, and
14 millions of other Americans are discussing and searching for presidential candidates),
15 Google suspended Tulsi’s Google Ads account without warning.

16 8. For hours, as millions of Americans searched Google for information about
17 Gabbard, and as Gabbard was trying, through Google, to speak to them, her Google Ads
18 account was arbitrarily and forcibly taken offline. Throughout this period, the Cam-
19 paign worked frantically to gather more information about the suspension; to get
20 through to someone at Google who could get the Account back online; and to under-
21 stand and remedy the restraint that had been placed on Gabbard’s speech—at precisely
22 the moment when everyone wanted to hear from her.

23 9. In response, the Campaign got opacity and an inconsistent series of an-
24 swers from Google. First, Google claimed that the Account was suspended because it
somehow violated Google’s terms of service. (It didn’t.) Later, Google changed its
story. Then it changed its story again. Eventually, after several hours of bizarre and
conflicting explanations while the suspension dragged on, Google suddenly reversed
course completely and reinstated the Account. To this day, Google has not provided a

1 straight answer—let alone a credible one—as to why Gabbard’s political speech was
2 silenced right precisely when millions of people wanted to hear from her.

3 10. But here’s the thing: Gabbard’s Google Ads account *had already been pre-*
4 *verified*, through a series of exacting hurdles, by Google. Specifically, in February
5 2019—months before Gabbard’s suspension—Gabbard’s Google Ads account was ap-
6 proved through Google’s Verified Political Advertiser program. Google knew *exactly*
7 who was operating Gabbard’s Google Ads account (Tulsi Gabbard) and for what pur-
8 pose (to speak to potential voters about Gabbard’s candidacy).

9 11. Google’s Verified Political Advertiser Program—a prior restraint on polit-
10 ical speech—was justified by Google for a single purpose: to prevent foreign intermed-
11 dling in elections. But Google’s suspension of Gabbard’s account did not even purport
12 to assert that Gabbard’s account—a verified account running indisputably normal cam-
13 paign ads about Gabbard and her candidacy—was somehow a foreign intermeddler in
14 the 2020 U.S. Presidential Election. Instead, Google cited justifications that could not
15 justify a prior restraint on political speech even if they turned out to have merit (which
16 in fact they did not).

17 12. Through its Verified Political Advertiser Program and other express ac-
18 tions, Google has taken and continues to take State action by exercising control over a
19 traditional State function: running elections. In fact, Google’s internal memoranda and
20 communications make clear it recognizes this fact. But with State action comes Con-
21 stitutional burdens, and rightly so: Google’s actions in unilaterally and arbitrarily im-
22 posing and contorting prior restraints on the speech of political candidates would have
23 outraged the Founders. They are anathema to our political system.

24 13. Google’s arbitrary and capricious treatment of Gabbard’s campaign should
raise concerns for policymakers everywhere about the company’s ability to use its dom-
inance to impact political discourse, in a way that interferes with the upcoming 2020

1 presidential election. In this case, Google has sought to silence Tulsi Gabbard, a presi-
2 dential candidate who has vocally called for greater regulation and oversight of (you
3 guessed it) Google. But this could happen to any candidate running in any election.

4 14. With this lawsuit, Tulsi is fighting back. She will be heard.

5 15. Through its illegal actions targeting Tulsi Gabbard, Google has caused the
6 Campaign significant harm, both monetary (including potentially millions of dollars in
7 forgone donations) and nonmonetary (the ability to provide Tulsi's important message
8 with Americans looking to hear it). But even more pressing is the ongoing threat of
9 targeted intermeddling in the 2020 United States presidential election by Google—an
out-of-control tech giant looking to play favorites unless enjoined by this Court.

10 16. The Campaign seeks declaratory and injunctive relief against Google for
its illegal behavior.

11 **JURISDICTION AND VENUE**

12 17. This Court has original subject matter jurisdiction under 28 U.S.C. § 1331
13 over the claims in this action.

14 18. This Court has personal jurisdiction over Google. Google is pervasively
15 present in California and in this judicial district, and is subject to general personal ju-
16 risdiction throughout this State.

17 19. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(1), (b)(2), and
18 (c). Google has multiple large offices in and around Los Angeles, California within this
19 judicial district, which houses engineering, sales, and marketing operations for Google
20 Ads, such that it is both a resident of this district for venue purposes with respect to this
21 matter and a substantial portion of the events and actions giving rise to the claims in
22 this matter took place in this judicial district. This Los Angeles County office space
23 currently exceeds 825,000 square feet, and in January 2019 Google leased an additional
24 584,000 square feet on top of that. Google also has engineering operations in Santa
Barbara County, California. Those engineering operations regard Google's algorithms

1 and artificial intelligence. Those operations are expanding into over 68,000 square feet
2 of office space.

3 **PARTIES**

4 20. Plaintiff Tulsi Now, Inc. is a principal campaign committee for Tulsi Gab-
5 bard, a candidate for President of the United States.

6 21. Defendant Google, LLC is a Delaware limited liability company with a
7 principal place of business in Mountain View, California. Google regularly conducts
8 business throughout California and in this judicial district—for example, at its large
9 Venice, California offices, which house Google Ads engineering, marketing, and sales
10 operations.

11 22. The true names and capacities, whether individual, corporate, associate, or
12 otherwise, of Defendants Does 1 through 10, inclusive, are presently unknown to Plain-
13 tiff, and for that reason these defendants are sued by such fictitious names. Plaintiff is
14 informed and believes and thereon alleges that each of the Doe defendants is in some
15 way legally responsible for the violations of law and injuries and harm caused as alleged
16 herein. If and when appropriate, Plaintiff will seek leave of court to amend this com-
17 plaint when the true names and capacities of said defendants are known.

18 **FACTS**

19 **I. GOOGLE’S UNRIVALED DOMINANCE IN SEARCH**

20 **A. Google’s Virtuous Circle**

21 23. Among the most dominant companies in the United States, Google reigns
22 supreme. The company’s crown jewel is its search business, which provides Google
23 with direct access to the desires and preferences of hundreds of millions of users
24 throughout the world.

25 24. Each day, users tell Google precisely what they’re looking for. And
Google’s vast technological infrastructure, which scours countless webpages, tell those
users where on the Internet they can find it.

1 25. This window into what a user wants is Google’s most valuable asset. And
2 the more tailored and personalized Google’s search results are, the more information
3 users will provide to Google (as opposed to some ostensible competitor). The complex
4 machine-learning and vast repository of personal information Google uses to run its
5 search business is unparalleled in sophistication, and as a result, Google’s searches have
6 become uncanny and even at times prescient.

7 26. The bargain Google has struck with Internet users is a powerful one. The
8 users value Google’s searches so much that they continue to provide Google with their
9 data, which Google then uses to improve its search capabilities. What results is a vir-
10 tuous circle—a feedback loop—that makes Google virtually the only company operat-
11 ing in the search market at scale.

12 27. The network effects of this feedback loop are staggering. Google is, as a
13 result, the gateway to the internet. Web browsers on the majority of computers access-
14 ing the internet every day open up to Google’s search engine by default. Search bars
15 on web browsers and operating systems also route queries straight to Google. This has
16 made web browsing virtually synonymous with the Google search product. Indeed,
17 major English dictionaries include the verb, “to google,” which means “to search the
18 internet for information about (a person, topic, etc.).”

19 28. Google’s own web browser, Chrome, has 51% of the web browser market,
20 and that browser places Google’s search product at the center of its focus.

21 29. Google has as a result of this ubiquity and dominance achieved an 88%
22 share of the U.S. search market. The second-place search engine run by Microsoft,
23 Bing, occupies a paltry 6% of the market, with Yahoo! and DuckDuckGo at 4% and 1%,
24 respectively.

 30. The numbers are even starker when searches through all platforms, includ-
ing, for example, YouTube and Google Maps, are considered. Data reported by
Jumpstart lists Google as holding a 94% share of the cross-platform search market, with
Yahoo! in a distant second at 2% market share.

1 31. Put simply, Google is synonymous with search. Google is the definition
2 of market dominance and no one comes close to matching or challenging it.

3 **B. Google's Search Advertising Business**

4 32. Google monetizes the valuable user information it collects through its
5 search product by displaying ads alongside search results.

6 33. These ads are mostly either paid for per-click or by user impression. For
7 many of the ads displayed by Google, monetization depends on relevance to the user
8 and his search query. Google thus leverages the vast data it receives from all over the
9 Internet to match advertisements with its users.

10 34. Google is one of two companies that does this in the search market at scale,
11 with Microsoft far behind in ad volume and users.

12 35. Google's search-based advertising revenues are jaw dropping. Google
13 LLC, the search-base arm of Google's parent company, Alphabet, reported \$136 billion
14 in revenue for its 2018 fiscal year, with \$116 billion in revenue coming from its adver-
15 tising business.

16 36. The reach and power of Google's advertising platform is unprecedented.
17 For the first time in history, an advertiser can upload or input an ad onto Google's plat-
18 form, precisely target search terms it would like the ad to run alongside, and then broad-
19 cast the ad to millions in a matter of days or even hours. All of this is typically done
20 without speaking to a single person, without negotiations, and without complex pricing.

21 37. Google's advertising platform is so powerful that it is rapidly diminishing
22 the size and significance of traditional advertisement media, such as print and television.

23 38. As Google's Director of Economic Policy told the U.S. House Committee
24 on the Judiciary's Subcommittee on Antitrust, Commercial, and Administrative law on
July 16, 2019:

 Across the wider business sector, the share of GDP going to
advertising in media has dropped by roughly 25% in the U.S.
since 2000. That's because digital ads are more relevant for
users and more efficient for merchants. A recent report

1 showed that for every \$3 spent on digital advertising, adver-
2 tisers would have to spend \$5 on print advertising to get the
3 same impact.

4 39. Google’s advertising platform also provides advertisers with the ability to
5 time their ads with expected events that would cause an uptick in related search terms.
6 All of this is virtually permission-less and frictionless—“Self-Service” advertising, as
7 Google called it when it launched the first iteration of its AdWords product on October
8 23, 2000. As Google’s press release launching that product explained:

9 Google’s AdWords program offers the following features:

- 10 • **New ads appear instantly:** Ads are online immedi-
11 ately after an order is placed.
- 12 • **Ad preview tools:** Shows how an advertisement will
13 look before it’s posted on Google’s search results page.
- 14 • **Unlimited ad creation:** Advertisers can create and run
15 as many different versions of an ad to see which ones
16 get the best response from users.
- 17 • **Advanced keyword targeting options:** Several tar-
18 geting options are available to enable the fine-tuning of
19 a campaign, including keywords, negative keywords,
20 phrase matches, and exact matches.
- 21 • **Web-based reporting tools:** Instant access to online
22 reporting tools that deliver click-through rates and
23 number of impressions delivered.
- 24 • **Ad performance feedback:** Advertisers see real-time
25 feedback—in the form of a visitor interest bar—to
26 gauge the overall effectiveness and popularity of an
27 ad.¹

28 40. With some changes, particularly to the advertisement approval process,
29 these features largely remain the same nearly two decades later. In contrast to traditional
30 media, an ad run on Google’s platform allows experimentation, real-time feedback, and
31 highly specific targeting of users and search terms.

32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

¹ Google Launches Self-Service Advertising Program, dated Oct. 23, 2000, <http://googlepress.blogspot.com/2000/10/google-launches-self-service.html>.

1 41. There is, in short, no means of advertising directly alongside the bulk of
2 the search activity in the United States but through Google. Because Google is the
3 gatekeeper of search, it is the gatekeeper of search-based advertising. There is no sub-
4 stitute—not even close.

5 **C. The Organic Page Ranking Process**

6 42. Without advertising, obtaining web traffic from Google’s search platform
7 requires appealing to the value system embodied by Google’s ranking algorithms.

8 43. Raising the profile of a webpage has become a profession in and of itself.
9 Search Engine Optimization (“SEO”) is the practice of structuring webpages and refer-
ring links to increase the ranking of a page or pages on search engines.

10 44. The entire SEO profession is now almost entirely devoted to increasing
11 webpages’ profiles *exclusively* on Google’s search platform. Because no search rival
12 comes close, it makes no sense to expend significant reinforces optimizing for other
13 platforms. This, in turn, also maintains the dominance of Google’s ranking and value
14 system, as the entire web is strongly incentivized to structure itself in a manner that will
be rewarded by Google’s search algorithms.

15 45. Without pre-existing interest in a page or significant SEO, it is virtually
16 impossible for a user to discover a newly posted page or even to discover a page about
17 a popular topic.

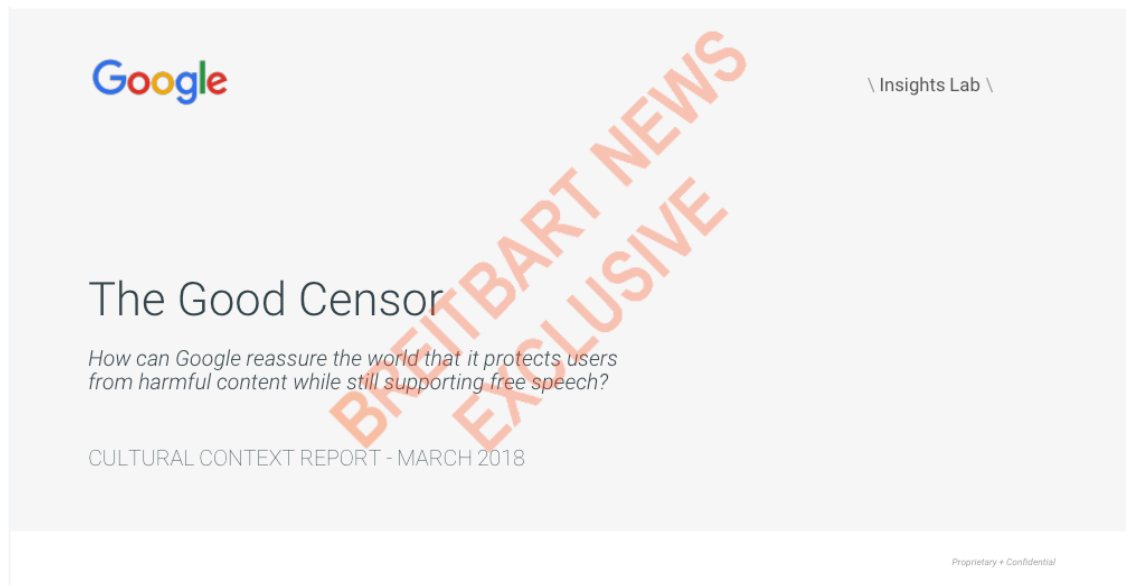
18 46. The only way to bootstrap Google’s organic search index process is
through advertising, and Google stands ready to monetize this important fact.

19 47. Put simply, for a new webpage, the only viable choice is to advertise, and
20 the most efficient way to do so is to pay Google to appear alongside its search results—
21 the way in which Google controls what content users “see” on the Internet hundreds of
22 millions of times per day.

1 **II. GOOGLE’S UNILATERAL POWER OVER POLITICAL**
2 **SPEECH ON THE INTERNET**

3 48. Google is a vital tool for political causes. A webpage dedicated to a polit-
4 ical issue or candidate may as well be invisible on the Internet if it is not indexed by
5 Google’s search engine. And if that page is poorly ranked (for example, appearing on
6 the second page of search results), it is unlikely to get any traffic.

7 49. Google’s role in the dissemination of political information is so vital that
8 governments throughout the world seek to suppress dissenters by censoring Google.
9 Google knows this. In fact, in March 2018, an internal presentation entitled, “The Good
10 Censor,” which was leaked and published by Breitbart News, makes clear that Google
11 understands its role in global politics.



19 50. Google plainly recognized that “censorship” by Google could give “gov-
20 ernments—and companies—the power to limit the freedom of individuals.”

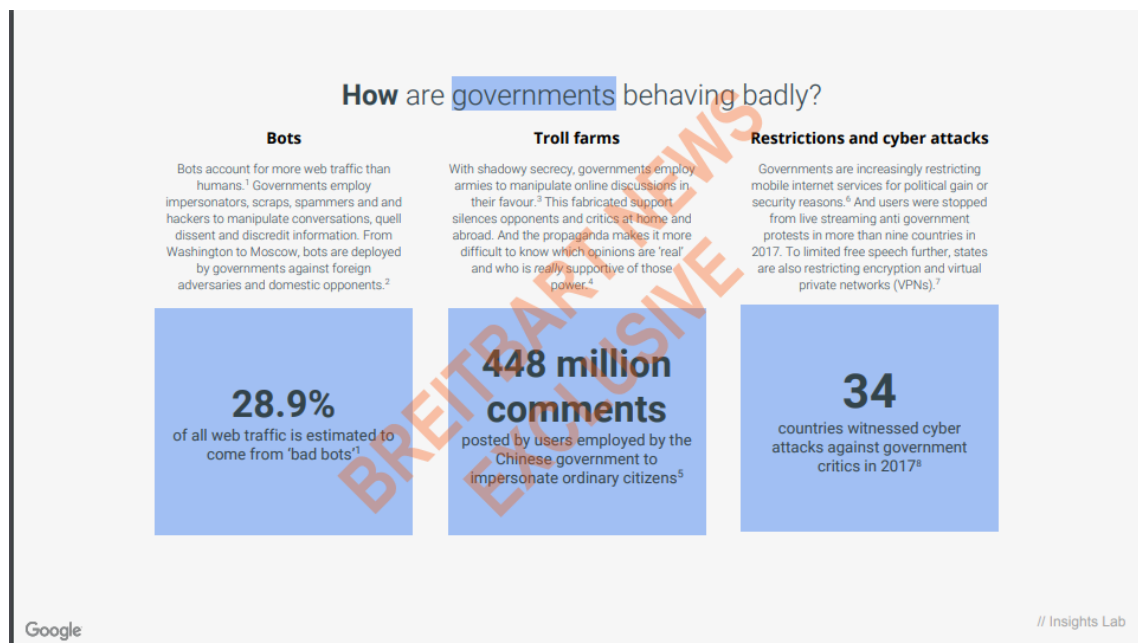


1
2
3
4
5
6
7
8 51. Google’s internal presentation was clear that “Users, Governments & Tech
9 firms are all behaving badly.” The presentation identified several reasons why: (a)
10 “[c]ommunication is fast and frictionless” on the internet, (b) “[a]nonymous conflict is
11 possible,” (c) “[e]veryone has a voice,” (d) users “meet like-minded people,” and (e)
12 “[s]cale is unprecedented.”

13 52. On this issue, Google was right—the scale is unprecedented. The Internet
14 allows political discourse—and even political manipulation—at a scale never before
15 seen in history. As Google explained in its presentation, the Internet allows political
16 discourse to be “supernational.” No government, no ruler or army has a cross-section
17 powerful enough to shut down the Internet. Google is the only thing sitting between
18 users worldwide and the webpages hosted on the Internet.

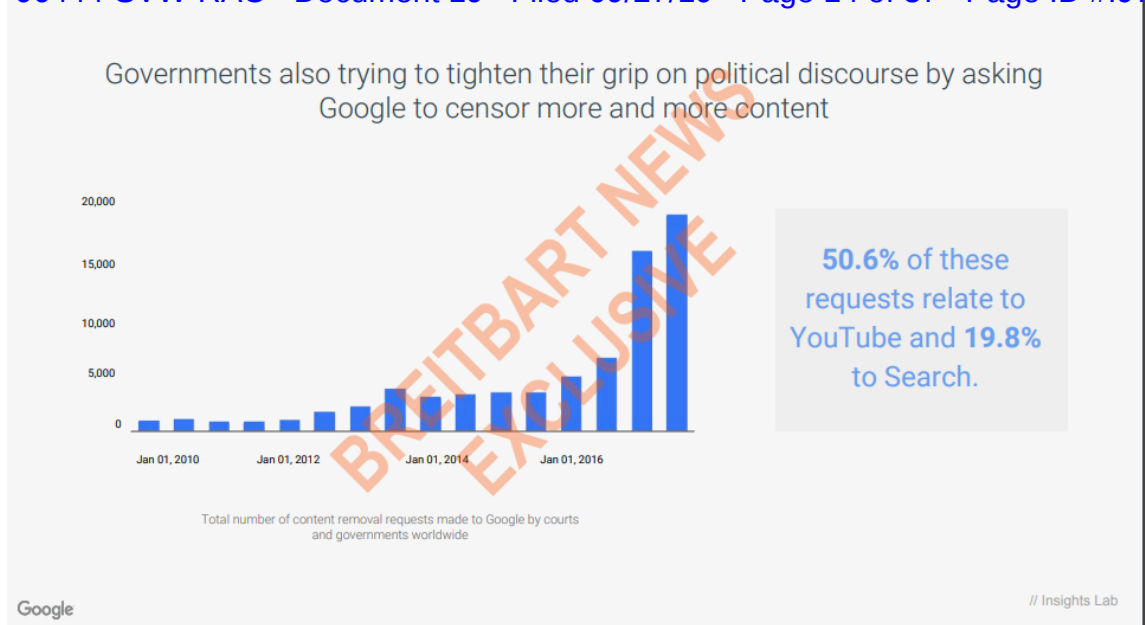
19 53. As Google’s presentation further explained, government actors use bots,
20 troll farms, restrictions, and cyberattacks to censor the internet:
21
22
23
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24



54. Google, however, has direct access to the flow of information. Removing a webpage from its search engine ensures that the page is relegated to complete obscurity. This is a power no government has but every government wants. If governments had this power, they would not have to resort to troll farms or bots to restrict the flow of information.

55. As Google’s own presentation recognized, governments have to come to Google to censor the internet. If Google does not agree, even governments have no direct power over political speech on the internet.



56. In its internal presentation, Google identified serious issues with how technology firms manage political speech on the internet, including “inconsistent interventions,” a “lack of transparency,” and the “underplaying of issues.”

How are tech firms mismanaging the issues?

Inconsistent interventions

Human error by content moderators combined with AI that falls short when faced with complex context mean that digital spaces are rife with user’s frustrations about removed posts and suspended accounts, especially when it seems like plenty of bad behaviour is left untouched.

“[Richard] Spencer doesn’t get to be a verified speaker, Milo gets kicked off, but I know plenty of pretty abusive feminist users or left wing users, **expressing themselves in exactly the same way** that the right is being penalised for, **who are permitted** to perform certain kinds of speech. That’s going to get Twitter into trouble.”

Jason Pontin

Lack of transparency

The tech platforms’ algorithms are complicated, obscure and constantly changing. In lieu of satisfactory explanations for why bad things are happening, people assume the worse – whether that’s that Facebook has a liberal bias or that Youtube doesn’t care about weeding out bad content.

“Some entity complains about a major internet company’s practices, **the company claims that its critics don’t understand how its algorithms sort and rank content** and befuddled onlookers are left to sift through rival stories in the press.”

Frank Pasquale, Professor of Law, quoted in the FT¹

Underplaying the issues

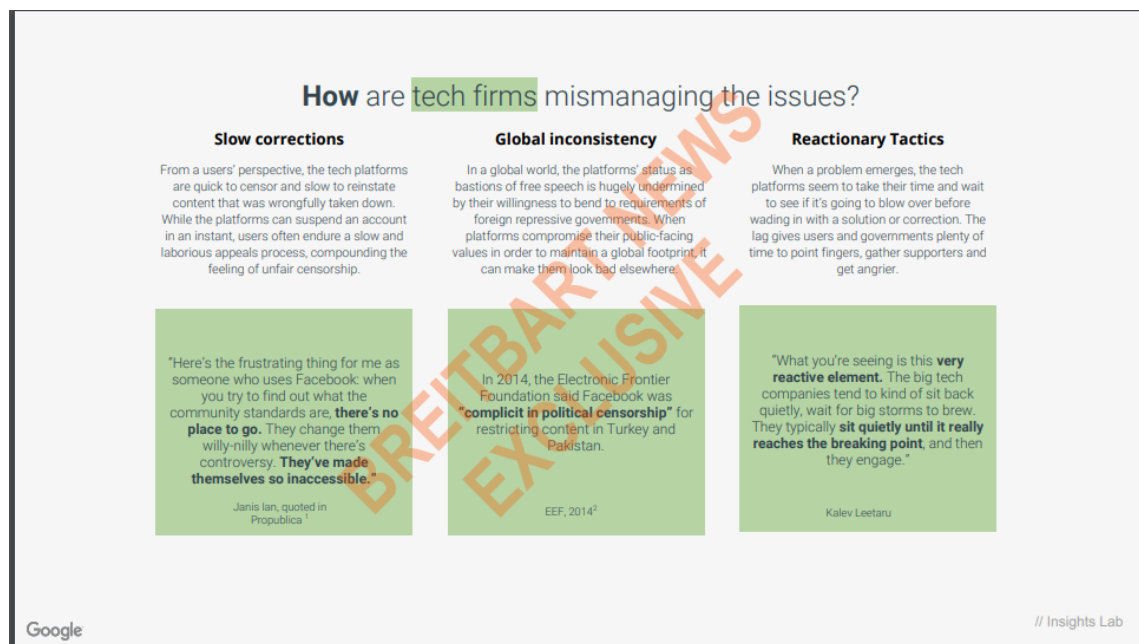
When faced with a scandal, the tech platforms have often underplayed the scope of the problem until facts prove otherwise. They’ve frustrated users by not giving their complaints and fears the respect and attention they’ve deserved, creating a picture of ill-informed arrogance.

“After the election, I made a comment that **I thought the idea misinformation on Facebook changed the outcome of the election was a crazy idea**. Calling that crazy was dismissive and I regret it.”

Mark Zuckerberg, quoted in the Guardian²

Google // Insights Lab

57. Google further identified additional problems, including “[s]low corrections,” “[g]lobal inconsistency,” and “reactionary tactics.”



58. The picture that emerges is that Google is plainly aware that tech platforms “are quick to censor and slow to reinstate content that was wrongfully taken down.” Critically, Google’s presentation made the following observation:

While the platforms can suspend an account in an instant, users often endure a slow and laborious appeals process, compounding the feeling of unfair censorship.

59. The presentation further noted that these problems would often be corrected only if they did not blow over:

When a problem emerges, the tech platforms seem to take their time and wait to see if it’s going to blow over before wading in with a solution or correction. The lag gives users and governments plenty of time to point fingers, gather supporters and get angrier.

60. As Google recognized, dealing with the problems of political discourse on the internet would require a transition from passive facilitation of speech to “active curation.” In other words, regulation. As Google explained in its internal presentation:

Tech firms have been moving from passive facilitation to active curation

In response to public outcries about the accessibility of unsavory and harmful content, tech firms have been adjusting their

1 software to make it harder to stumble upon it. Google’s au-
2 tocomplete blacklist means it’s less likely that children will
3 link to pornography while completing their biology home-
4 work. And by banning ads from payday lenders, Google also
5 made it a little less likely that their parents would become en-
6 trapped by exorbitant interest fees.

7 61. As stated above, Google actively regulates the information provided to us-
8 ers to further ostensible policy goals. In doing so, Google has expressly assumed a
9 traditional state function—policing content based on its own views of public good.

10 **III. GOOGLE IMPOSES A PRIOR RESTRAINT ON POLITICAL 11 AND ELECTION SPEECH**

12 **A. Google Pledges to Impose Stricter Regulations in Response to Elec- 13 tion Interference.**

14 62. During the 2016 presidential election, state-sponsored content farms
15 sought to interfere with the U.S. presidential elections. One of the core strategies em-
16 ployed by these state-sponsored operations was to create content that would mobilize
17 or radicalize some segment of the U.S. voting population during an election.

18 63. Internet advertisements allowed a direct input into the content displayed to
19 millions of Americans daily. Google’s search-based advertising, in particular, allowed
20 content farms and state-sponsored entities to display ads alongside carefully targeted
21 keywords for a fraction of the cost and risk associated with traditional intelligence or
22 disinformation operations.

23 64. After the 2016 election, Google discovered that foreign agents had pur-
24 chased ads on its wide-ranging networks in an effort to interfere with the 2016 presi-
dential election. Google’s own internal investigation of the matter showed that foreign
agents had purchased both search ads and traditional display ads on Google’s advertis-
ing network.

65. Google also found tens of thousands of dollars worth of ads with political
material that were purchased from foreign internet addresses, foreign building ad-
dresses, or purchased with foreign currency. Although not definitively purchased by

1 foreign government agents, their content and timing made it unlikely that they were
2 purchased by ordinary foreign citizens.

3 66. Google responded to reports that its advertising platform had been used by
4 foreign agents with a statement:

5 We have a set of strict ads policies including limits on politi-
6 cal ad targeting and prohibitions on targeting based on race
7 and religion. We are taking a deeper look to investigate at-
8 tempts to abuse our systems, working with researchers and
9 other companies, and will provide assistance to ongoing in-
10 quiries.

11 67. Google's existing advertising policies had proven inadequate to prevent
12 widespread manipulation of its service. To avoid further public outrage at its enabling
13 of foreign disinformation campaigns, Google would have to take more drastic measures.

14 68. On November 1, 2017, Google was called before the House Intelligence
15 Committee. Google's Senior Vice President & General Counsel, Kent Walker, opened
16 his testimony before the Committee by reaffirming Google's commitment to regulating
17 election advertising and to combat disinformation campaigns:

18 Google is deeply concerned about attempts to undermine
19 democratic elections. We are committed to working with the
20 Congress, law enforcement, others in our industry, and the
21 NGO community to strengthen protections around elections,
22 to ensure the security of users, and to help combat disinfor-
23 mation. We recognize the importance of this committee's
24 mandate, and we welcome the opportunity to share infor-
mation and talk about solutions.

69. Google's first pledge to Congress was to release a transparency report in-
dicating who had purchased political advertisements and how much they spent on them:

In 2018, we will release a transparency report sharing data
about who is buying election ads on our platform and how
much money is being spent. We'll pair that transparency re-
port with a database available for public research of election
and content from across our ads products.

We are also going to make it easier for users to understand
who bought the election ads they have seen on our networks.
Going forward, users will be able to easily find the name of

1 any advertiser running an election ad on Search, YouTube,
2 and the Google Display Network through an icon on the ad
itself.

3 70. Google also pledged to ensure that only “U.S. nationals” could “buy U.S.
4 election ads” and to “tightly restrict which advertisers can serve ads to audiences based
5 on political leanings.”

6 71. Google’s most radical pledge, however, was to verify the identity of polit-
7 ical advertisers and ensuring that the person running the ad is permitted to do so. In
8 other words, Google would enact an advertiser and advertisement approval program—
9 *a prior restraint on political advertising* across its unrivaled search-advertising plat-
form:

10 Moving forward, we’ll go further, verifying the identity of
11 anyone who wants to run an election ad or use our political
interest-based tools and confirming that that person is permit-
ted to run that ad.

12 72. Put simply, Google’s solution to avoid further embarrassment and govern-
13 ment regulation of its platform was to impose the ultimate control on political speech
14 on its platform—pre-approval. Google would choose who could run ads on its platform,
15 what ads they could run, what topics they could address, and Google would enforce its
16 rules and apply its unfettered discretion over content *before* the ad could even begin to
run on Google’s platform.

17 **B. Google Begins Implementing Measures Against State-Sponsored Po-**
18 **litical Advertising**

19 73. On August 23, 2018, Google’s Kent Walker posted on Google’s company
20 news page, “An update on state-sponsored activity.”² The update announced that after
21 an investigation, Google had suspended users of Google’s platform that were linked to
the Russian-backed Internet Research Agency. Google had “identified and terminated”

22
23
24 ² An Update on State Sponsored Activity (Aug. 23, 2018),
<https://www.blog.google/technology/safety-security/update-state-sponsored-activity/>.

1 accounts linked to “coordinated influence operations, including while sharing English-
2 language political content in the U.S.”

3 74. Among the suspensions Google announced was just “1 YouTube channel
4 linked to the Internet Research Agency, which had only a single English language po-
5 litical video with 94 US views.”

6 75. The primary method for blocking these state-sponsored actors was re-
7 strictions based on IP addresses and locations. The methods employed were aimed at
8 blocking further uses of Google’s platform by state-run entities once identified, not po-
9 licing the content of the underlying ads.

10 76. Google linked on the same page its “Protect Your Election” site, which
11 provided tools and recommendations to sovereign entities holding elections and candi-
12 dates running for office. Google warned:

13 During elections, misleading low quality, offensive, and
14 downright false information can be used to influence voters.
15 Here are some resources to help you report, debunk and verify
16 information online.

17 77. Google’s proposed advice hinged on users providing feedback to Google.
18 In other words, Google would take measures once content had been reported:

19 **Direct Feedback**

20 Flag potentially offensive or unhelpful content that appears in
21 Autocomplete and Featured Snippets on Google Search using
22 our new direct feedback tool. Your feedback helps improve
23 our Search algorithms.

24 78. That month, on August 15, 2018, Google released the archive of political
ads that Kent Walker had promised Congress. The new database, called “Ad Library”
provided a searchable database of political advertising. The site also provided infor-
mation about candidates placing ads, the amount of money spent, the dates during which
the ads were live, the number of impressions, and type of ad.

79. Today, Google’s election and political advertising information is displayed
as part of its “Transparency Report.” As of the date of this Complaint, Google reported

1 \$111,189,600 in advertising spending since May 31, 2018, resulting from a total of
2 149,593 advertisements run on the platform.

3 80. So-called “battleground” and high-population states accounted for a sig-
4 nificant share of the political ad spending—for example, \$11,553,400 was spent in Flor-
5 ida, \$10,224,300 in California, and \$3,496,000 in Pennsylvania.

6 81. The most amount spent on advertising was “Trump Make America Great
7 Again Committee” at \$6,800,800. The remaining top 35 advertisers, which includes
8 Gabbard, spent amounts from \$755,000 to \$5,124,600.

9 **C. Google Implements Its Prior-Restraint on Election Speech and Political Ads.**

10 82. Although Google had measures such as IP address blocking, feedback sys-
11 tems, and transparency reports at its disposal, it in fact implemented something far more
12 extreme to preserve its control over political advertising. Specifically, Google imple-
13 mented a pre-approval process for all election-related advertising.

14 83. As Google explained in a May 4, 2018 release by Kent Walker:

15 As a first step, we’ll now require additional verification for
16 anyone who wants to purchase an election ad on Google in
17 the U.S. and require that advertisers confirm they are a U.S.
18 citizen or lawful permanent resident, as required by law. That
19 means advertisers will have to provide a government-issued
20 ID and other key information. To help people better under-
21 stand who is paying for an election ad, we’re also requiring
22 that ads incorporate a clear disclosure of who is paying for it.

23 84. Google now requires extensive vetting of those seeking to purchase polit-
24 ical ads on its platform. Those that do not meet pre-qualification requirements and en-
25 dure the pre-qualification process simply cannot not place political advertisements on
26 Google.

27 85. The pre-qualification application process requires two steps and can take
28 five business days to complete. Under the first step, the campaign must provide Google
29 with the following information: the campaign’s Google Ads Customer ID, the cam-
30 paign’s name, the campaign’s Federal Election Commission ID, the campaign’s email

1 address; and statements under penalty of perjury that the campaign is based in the
2 United States and is legally permitted to purchase election ads.

3 86. After the campaign provides this information to Google, *Google verifies*
4 *that the information is correct*. Once successfully verified, Google then requires com-
5 pletion of a second step to verify the identity of the campaign's authorized representa-
6 tive. This second step requires that the individual provide Google with: the campaign
7 name; the campaign's federal Employer Identification Number; the campaign's address;
8 the individual's name; a copy of the individual's government-issued ID (a current U.S.
9 passport, state ID, or driver's license); and statements under penalty of perjury that the
10 individual is (1) a United States citizen or a lawfully admitted permanent resident, and
11 (2) the campaign applying for verification is based in the United States and is legally
12 permitted to run election ads in the United States.

13 87. After the individual provides Google with all the above information,
14 Google confirms the information and verifies the account. Only after successfully ob-
15 taining this verification may a campaign may buy and place ads through Google.

16 88. With the announcement of its new policy, Google imposed a regulatory
17 scheme that even some governments are unable to impose—one where Google has com-
18 plete discretion to pre-approve political speech based on its own preferences, with no
19 appellate review or due process to account for mistakes or misconduct. And because
20 Google is the only choice for search-based advertising at scale, it is now able to pick
21 and choose whose voice will be heard in an election.

22 **IV. GOOGLE CENSORS TULSI GABBARD**

23 **A. Gabbard's Background and Message**

24 89. Gabbard is the first female combat veteran ever to run for the presidency
and is the first female combat veteran ever elected to Congress, along with Tammy
Duckworth. Gabbard has served for over six years on the Foreign Affairs Committee
and the Armed Services Committee where she's been intimately involved with sensi-
tive, national security issues. A war veteran of two tours of duty in the Middle East and

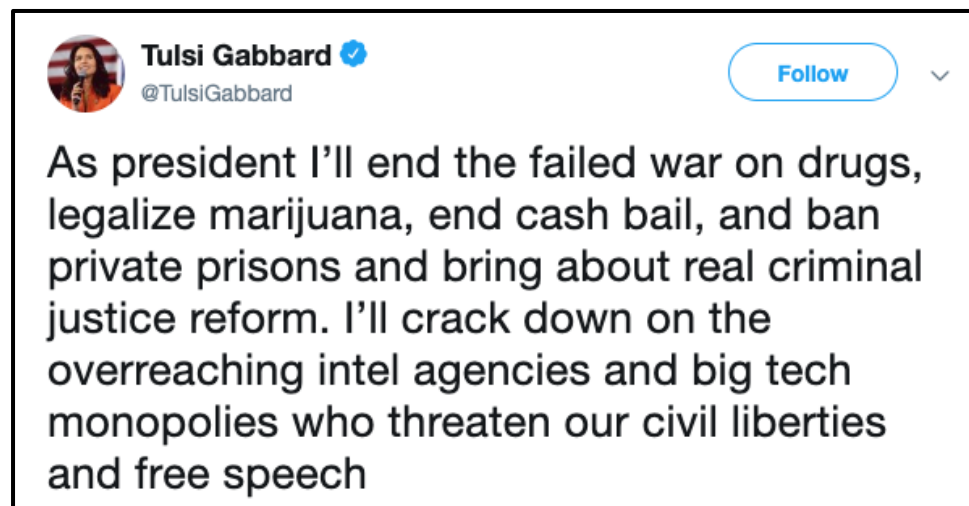
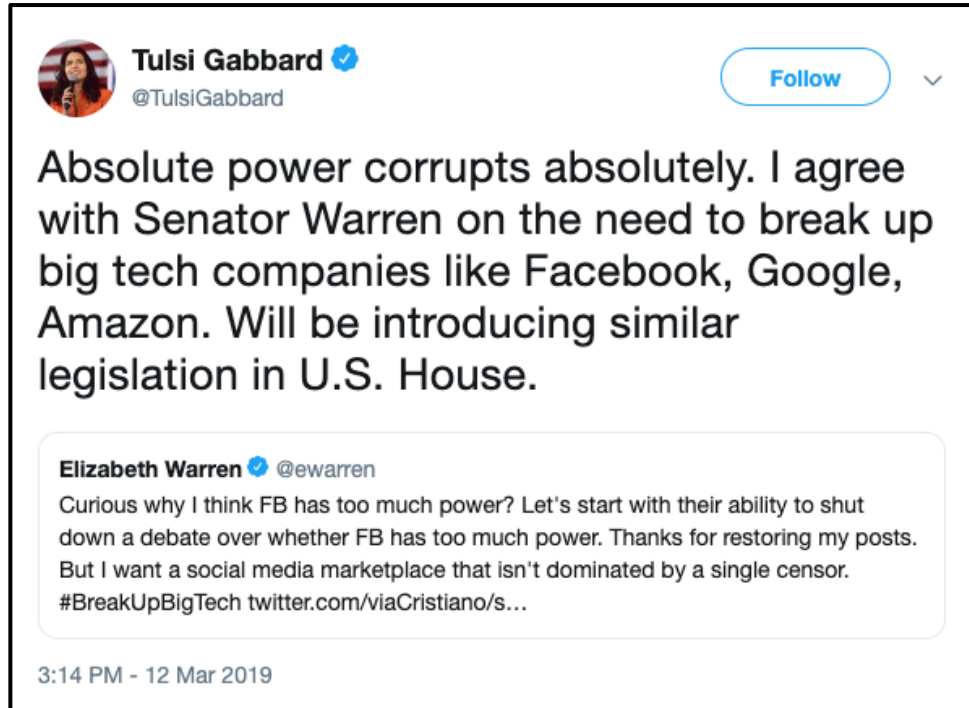
1 presently a major in the US Army National Guard having served for over 16 years,
2 Gabbard is an outspoken critic of regime change wars and the new cold war.

3 90. Gabbard’s presidential campaign is the culmination of a long career of pub-
4 lic service and a desire to step up when called upon for duty. As a child, Gabbard’s
5 parents would enlist her and her siblings in “service days,” where the family would pick
6 up litter from beaches or prepare food for homeless families. At the age of 21, Gabbard
7 began serving in the Hawaii State Legislature.

8 91. After the United States was attacked by terrorists on September 11, 2001,
9 Gabbard enlisted in the Army National Guard, and served two deployments to the Mid-
10 dle East as a soldier. After fighting in Iraq, Gabbard returned to Hawaii to serve on the
11 Honolulu City Council. And today, Gabbard continues to serve—now as a fourth-term
12 United States Congresswoman and as a Major in the National Guard with sixteen years
13 of service.

14 92. During her career in Congress, Gabbard has moved to limit the power of
15 big tech companies like Google and has fought to keep the internet open and available
16 to all. Gabbard has co-sponsored legislation that prohibits multi-tiered pricing agree-
17 ments for the privileged few, and she has spoken in favor of reinstating and expanding
18 net neutrality to apply to internet firms like Google.

19 93. Gabbard has repeatedly voiced her concerns about the power wielded by
20 Google and other Big Tech firms on Twitter:
21
22
23
24



18
19
20

94. Google is well aware of Gabbard’s policies and actions while in Congress—and of her plan to rein in Silicon Valley’s excesses as President.

21

B. Tulsi Gabbard’s Google Ads Account

22
23
24

95. Tulsi Gabbard’s message is resonating with the American people. After the June 26–27, 2019 Democratic debate—when millions of Americans heard Gabbard’s message for the first time—she was the single most searched-for candidate. And, she accomplished this despite having the third-lowest amount of speaking time.

1 96. In early 2019, in order to share her message with the American people, the
2 Campaign created a Google Ads account. The Account was governed by various terms
3 of use. Among other provisions, the terms provided that Google had the right to reject
4 or remove a specific target, ad, or destination at any time for any or no reason.

5 97. To run political ads, however, Gabbard would have to be vetted and ap-
6 proved by Google. If she and her campaign failed to do so, they would effectively be
7 shut out of the search advertising market entirely during the most vital time in Gabbard's
8 campaign.

9 98. Gabbard and her campaign applied for approval, and on February 18, 2019,
10 they obtained it. Google verified the Campaign's and Gabbard's information and
11 granted the Campaign permission to run election ads.

12 **C. Google Abruptly Suspends Tulsi Gabbard's Google Ads Account**

13 99. On June 28, 2019, right in the heart of a key post-debate campaigning and
14 fundraising period for Gabbard, the Campaign witnessed internet searches for Gabbard
15 start skyrocketing in real time. Millions of Americans wanted to hear from Tulsi Gab-
16 bard, and they went to Google to hear what she had to say.

17 100. The Campaign wanted to speak to the millions of Americans asking about
18 Gabbard through Google. It wanted to answer their questions about Gabbard and to
19 amplify her message. The Campaign acted quickly and purchased ads to display when
20 people searched Google for certain terms relating to Gabbard.

21 101. The ads published were uncontroversial, often mentioning the candidate
22 along with a call for support. There was no basis to conclude the advertisements were
23 not from the verified candidate or the Campaign. They were, indisputably Tulsi Gab-
24 bard ads—about Tulsi Gabbard, created and purchased by Tulsi Gabbard and her Cam-
25 paign.

26 102. Nonetheless in late June 2019, on the exact day when millions of Ameri-
27 cans turned to Google to learn more about Gabbard—on the exact day when Americans
28

1 made Tulsi Gabbard the most searched-for Democratic candidate on Google—Google
2 abruptly suspended the Account, revoking its pre-approval.

3 103. On June 28, 2019, millions of Americans asked Google about Tulsi Gab-
4 bard. Gabbard sought to answer them. But Google silenced her.

5 104. Despite the drastic nature of Google’s action—arbitrarily suspending the
6 advertising account of a major candidate for President of the United States the day after
7 a debate, at precisely the moment that candidate was trending on Google—Google of-
8 fered only pretext and unjustifiable excuses for suspending the Account.

9 105. First, Google said that the Account was suspended due to “problems with
10 billing information or violations of our advertising policies.” This, of course, had noth-
11 ing to do with the stated purpose for Google’s extreme measure of imposing a pre-ap-
12 proval process for political ads—preventing election meddling.

13 106. Then Google said the Account was suspended because Google “identified
14 suspicious behavior in the payment activity in your account.” Not so. The advertise-
15 ments were paid for and submitted by the campaign and Gabbard. There was no evi-
16 dence to the contrary, and Google could cite none.

17 107. Later, Google changed course again and said the Account was “temporarily
18 suspended to verify your billing information and policy compliance.” Of course, that
19 excuse was also not true. Gabbard had been running ads for some time, and no such
20 problem had before emerged. In any event, Google knew everything about the cam-
21 paign. It could have continued to run the ads so as not to interfere with election speech
22 and then sought revision of the campaign’s payment information. In no event would a
23 payment issue justify revocation of a prior-restraint approval for political and election
24 speech.

25 108. Eventually, Google lifted the suspension with no real explanation—just an
opaque statement that Google had “re-reviewed your account and you can now use it to
advertise.” The inexplicable suspension and reversal gave Google’s leaked presentation
prophetic significance:

1 While the platforms *can suspend an account in an instant,*
2 *users often endure a slow and laborious appeals process,*
 compounding the feeling of unfair censorship.

3 109. That is precisely what happened to the Gabbard campaign. The Campaign
4 was *preapproved* by Google to run ads; then that approval was revoked with no redress
5 or recourse; then the approval was quietly (yet inexplicably) reinstated sometime later.
6 There was no appeal, no redress, not even a human being to talk to about it. Google
7 had—and used—unfettered discretion to pick and choose who could speak during an
 election *and when*.

8 110. Google’s prior restraint regulation on speech—its Verified Election Adver-
9 tiser preapproval process—was ostensibly justified for one reason, to combat election
10 interference. Yet none of Google’s proffered reasons for suspending Gabbard’s *already*
11 *verified* account even purported to implicate election interference.

12 111. Google’s excuses make no sense in light of the pre-approval process. In
13 fact, the purpose of the pre-approval process is to eliminate the possibility of interrup-
 tion after approval has occurred.

14 112. To this day, Google has yet to credibly explain why it suspended the Ac-
15 count—let alone at the precise moment that Gabbard was trending across Google’s
16 search and media platforms.

17 113. But even though Google couldn’t explain *why* it was silencing Tulsi—a
18 prominent Google critic—right as her presidential bid began picking up steam on
19 Google, it certainly didn’t reverse course any time soon. Instead, for hour after hour, as
20 people throughout the country searched for Tulsi Gabbard, and after the Campaign had
21 promptly reached out to Google for explanation and reinstatement of the Account, the
 suspension continued.

22 114. Over the course of several hours, Google simply refused to engage with a
23 major presidential candidate whom it had unilaterally silenced, just as she was trending
24 across the internet.

1 115. Google’s suspension of the Account caused irreparable damage to the
2 Campaign. Interest and searches for Gabbard during the post-debate timeframe had
3 skyrocketed. Ads directing searchers to her campaign page would have brought Tulsi
4 Gabbard’s unique message to millions of Americans—and would have undoubtedly in-
5 creased the campaign donations Gabbard received.

6 116. Presidential primary candidates can receive millions of dollars in donations
7 in the hours shortly after a debate. While the Account was suspended, Gabbard was
8 incapable of communicating to voters through Google or its affiliated websites—by far
9 the most effective, and important, method of communication in the Campaign’s arsenal.

10 117. Additionally, Gabbard has learned that email communications sent by the
11 Campaign are classified as Spam by Google’s Gmail product at disproportionately high
12 rates. Few Gmail users regularly check their spam folders. Many never do. Gmail’s
13 Spam filter—which relies on secret algorithms designed and controlled entirely by
14 Google—appear to go out of their way to silence messages from the Campaign, further
15 hindering Tulsi’s ability to convey her message to the American people.

16 118. These actions by Google did not just prevent Gabbard and the Campaign
17 from reaching voters, they also hindered voters from associating with a candidate whose
18 views matched their own. In other words, as evidenced by the massive search hits for
19 Gabbard after the debate, voters were drawn to Gabbard and her views, and attempted
20 to associate with her politically online (online searches for candidates regularly lead to
21 donations, signing up for email lists, signing up to volunteer, or at minimum engaging
22 with those candidates’ websites and social media). But Google’s actions toward Gab-
23 bard and her campaign—from suspending the Account to disproportionately sending
24 the Campaigns emails to Spam in Gmail—not only hinder Gabbard’s message, they
directly touched on the associational rights of likely voters as well.

1 **V. THE THUMB ON THE SCALE: GOOGLE’S POLITICAL SUP-**
2 **PORT OF ITS POLICY CHAMPIONS**

3 119. Google’s stated mission is “to organize the world’s information and make
4 it universally accessible and useful.” According to Google, “people around the world
5 turn to Search to find information, learn about topics of interest, and make important
6 decisions.” Consistent with this mission, Google provides a forum for members of the
7 public to interact, share ideas, and engage in important topics across the country and the
8 globe.

9 120. But this mission is not executed equally. Google does not treat all political
10 viewpoints equally. The company has been criticized by many on the right for censoring
11 content that favors conservative viewpoints. However, Google’s favoritism of political
12 and policy ideas is more nuanced and self-serving. Simply put, Google supports view-
13 points, political causes, and candidates that favor its policy positions over those that do
14 not.

15 121. For example, Google-affiliated donors gave \$817,855 to Barack Obama’s
16 presidential candidacy in 2008, which ranked sixth among all donations to Obama’s
17 campaign. In 2012, that number was \$804,240, which ranked third. Google did not
18 even rank in the top twenty donors for Obama’s Republican opponents in either election.
19 The Obama Administration’s close ties to Google are now well-known: During
20 Obama’s two terms in office, Google officials met with the White House on more than
21 427 occasions, while at least fifty-three officials moved between Google and the White
22 House and vice versa. Not surprisingly, the Obama Administration championed many
23 of the top policies on Google’s wish list, while Obama’s Federal Trade Commission
24 closed its antitrust investigation of the company without any meaningful sanctions.

25 122. The disparity grew even more stark during the last presidential election.
26 Google employees gave \$1.3 million to Hillary Clinton’s presidential campaign, com-
27 pared with \$26,000 to the Trump campaign. What’s more, Eric Schmidt, the chairman
28 of Alphabet (Google’s parent company), counseled Clinton on strategy during her pres-
29 idential campaign, and financed Civis Analytics, a startup which provided data and

1 other technology for her campaign. Robert Epstein, a social psychologist and internet
2 researcher, argues persuasively that Google’s pro-Clinton search bias may have shifted
3 as many as 2.6 million votes to Clinton during the 2016 election.

4 123. After President Trump won the election, an internal Google video leaked
5 showing Google’s co-founder Sergey Brin, its CEO Sundar Pichai, and other high-rank-
6 ing Google officers speaking, with dismay, about Trump’s election victory. Their alarm
7 may have been well-founded: In May of this year, Trump’s Department of Justice an-
8 nounced it was exploring whether to open a case against Google for potential antitrust
9 violations. Google has confirmed that the United States Department of Justice is inves-
10 tigating it for potential antitrust violations.

11 124. Now that Google is facing increased antitrust scrutiny, Google has made
12 common cause with the conservative Koch Foundation, funding several conservative
13 groups in the Koch network to publish op-eds, studies and white papers opposing anti-
14 trust investigations of Big Tech.

15 125. Public information shows that Google manipulates its advertising policies
16 and perhaps even its search results based on political concerns and policy goals.
17 Google blocked several conservative news websites from its Google Now stories feed,
18 including the Daily Caller, Drudge Report, and Media Matters.

19 126. More recently, Google employees engaged in an internal lobbying cam-
20 paign to block Breitbart from Google’s advertising program. As part of this internal
21 lobbying campaign, one Google employee pressed that “[t]here is obviously a moral
22 argument to be made [to blocking Breitbart] as well as a business case.” While it’s not
23 entirely clear what “business case” the Google employee was referring to, it’s important
24 to note that Breitbart has been among Google’s staunchest critics, alleging that the com-
pany routinely censors conservative viewpoints.

127. While there is no law against a company’s employees engaging in political
activity, Google is no ordinary company. As a result of its power, it helps to run elec-
tions with its search results and ad offerings, including exercising unilateral control over

1 nearly all internet search and search advertising—perhaps the single most important
2 platform through which presidential primary candidates communicate with potential
3 voters, and vice versa. Quite simply, Google could unilaterally and decisively end a
4 presidential candidate’s bid for office if it chose to—for example, by tweaking its search
5 algorithms to disfavor the candidate; or blocking the candidate from its ad platforms; or
6 keeping the candidate’s communications from getting to interested voters who use
7 Gmail for email communications.

8 128. And, in fact, the above is exactly what Google has done, and likely will
9 continue to do, to disfavor the presidential candidacy of Tulsi Gabbard, one of the few
10 independent voices within the Democratic party and vocal critic of Google. Google has
11 manipulated its search advertising, and likely its email filtering, to disfavor Gabbard.
12 What is next, if not enjoined by a Court?

13 **VI. GOOGLE ADS EMPLOYEES’ PUBLIC SUPPORT OF COM-** 14 **PETING CAMPAIGNS**

15 129. Google’s bias against Gabbard is further demonstrated by the particular
16 Google employees administrating her Google Ads account.

17 130. For example, one Google employee administrating Gabbard’s Google Ads
18 account, Employee A, has the title “Account Manager, Democratic Elections.”

19 131. Employee A has control over the Campaign’s Google Ads account and was
20 a point of contact for the Campaign—including during the period when the Campaign’s
21 account was suspended.

22 132. Employee A’s social media accounts include repeated, public support for
23 the presidential campaign of Beto O’Rourke, one of Gabbard’s opponents in the 2020
24 Democratic Presidential Primary.

133. Employee A’s direct superior, Employee B, is a Google employee whose
title is “Account Executive, Elections.”

134. Employee B has publicly (and exclusively) supported Pete Buttigieg’s
presidential campaign, including through social media accounts that identify Employee

1 B as a Google employee. In fact, one of Employee B’s social media accounts features
2 a photograph of Employee B at Pete Buttigieg’s presidential campaign headquarters in
3 South Bend, Indiana. Pete Buttigieg is one of Gabbard’s opponents in the 2020 Demo-
4 cratic Presidential Primary.

5 **VII. GOOGLE’S ALGORITHMS**

6 135. An algorithm is a sequence of instructions telling a computer what to do.
7 Algorithms do not write themselves. They are written by people.

8 136. Google employees write Google’s algorithms. The employees tell the al-
9 gorithms what to do, and the algorithms do it.

10 137. Google’s algorithms aren’t rogue actors. If a Google algorithm suspends
11 an account, that is because Google programmed the algorithm to do so, such that ac-
12 count suspension was intentionally caused by Google.

13 138. Moreover, if Google created a pre-approval process, then its algorithms
14 should have taken that into account. Any algorithm should have avoided suspension of
15 highly sensitive election advertisements—particularly if the advertiser and/or the ad-
16 vertisement had been pre-approved and could not conceivably pose an election interref-
17 erence threat.

18 139. Here, the Campaign’s Google Ads account was pre-verified by Google on
19 February 18, 2019, so Google knew that the Account belonged to Tulsi Gabbard and
20 her campaign. Google knew that the Campaign was buying and placing ads for Tulsi
21 Gabbard’s presidential campaign. And yet Google (perhaps in whole or in part through
22 its algorithms) suspended her account.

23 * * *

24 140. Google has established a clear policy of using its power over speech to
25 favor certain political viewpoints over others. For example, since June 2019, Google
26 has used its unique control over political advertising and election speech to try to silence
27 Tulsi Gabbard, a presidential candidate who has spoken out against Google.

1 141. But Tulsi will not be silenced. Google is trying to change the outcome of
2 an American presidential election, and the government has been unwilling and unable
3 to do anything about it. This action seeks to change that.

4 **COUNT ONE**

5 **(Violations of the First and Fourteenth Amendments to the U.S. Constitution)**

6 142. The Campaign realleges and incorporates by reference each of the preced-
7 ing paragraphs as if fully set forth herein.

8 143. The First Amendment to the United States Constitution protects the free-
9 dom of speech and association, and protects against viewpoint discrimination in the
10 access and use of public spaces, quasi-public spaces, and limited public spaces. It also
11 protects the rights of all Americans to freely associate with others. The Due Process
12 Clause of the Fourteenth Amendment similarly provides these protections.

13 144. Google creates, operates, and controls its platform and services, including
14 but not limited to Google Search, Google Ads, and Gmail as a public forum or its func-
15 tional equivalent by intentionally and openly dedicating its platform for public use and
16 public benefit, inviting the public to utilize Google as a forum for free speech. Google
17 serves as a state actor by performing an exclusively and traditionally public function by
18 regulating free speech within a public forum, helping to run elections, and regulating
19 election advertising. Accordingly, speech cannot be arbitrarily, unreasonably, or dis-
20 criminarily excluded, regulated, or restricted on the basis of viewpoint or the identity
21 of the speaker on Google's platform.

22 145. Google's actions, and the actions of its agents, deprive the Campaign of its
23 constitutional rights. Google has restricted the Campaign's speech and expressive con-
24 duct by adopting and applying subjective, vague, and overbroad criteria (the "Subjec-
25 tive Criteria") that give Google unfettered and unbridled discretion to censor speech for
26 arbitrary, capricious, or nonexistent reasons. The Subjective Criteria fail to convey a
27 sufficiently definite warning to the Campaign (or the public) as to what is prohibited or
28 restricted and, as a result, they allow Google to censor speech at its whim and based on

1 subjective animus towards the speaker and/or her particular political or religious view-
2 point.

3 146. Google applies the Subjective Criteria as a pretext to censor and restrict
4 the Campaign's speech, based not on the content of the speech but because of Tulsi
5 Gabbard's identity and political viewpoints. Google has restricted the Account, but has
6 not restricted similar Google Ads accounts for other presidential candidates. Google's
7 application of Subjective Criteria and corresponding restraints on the Campaign's
8 speech is arbitrary and capricious, and/or is based on political or other animus towards
9 the identity and viewpoints of the speaker (*i.e.*, the Campaign), not the actual content
of the speech.

10 147. Further, because Google's actions impeded the Campaign's ability to asso-
11 ciate, at a crucial political moment, with voters who feel similarly to Tulsi Gabbard on
12 important issues, Google's actions impinge on and violate the Campaign's rights to free
13 association and assembly. Google's actions also violate the Campaign's rights to free
14 association and assembly by blocking potential voters' access to information and mes-
15 sages from Account. And Google's actions were done with the intent to deprive the
Campaign—like other voices critical of Google—of their First Amendment rights.

16 148. No compelling, significant, or legitimate reason justifies Google's speech-
17 restricting actions towards the Campaign (e.g., suspending the Account; manipulating
18 Gmail Spam algorithms to target communications from Tulsi). Even if some interests
19 did exist to justify Google's suspension rules generally, the restrictions imposed on the
20 Campaign's speech are not narrowly or reasonably tailored to further such interests.
21 Given Google's monopolistic control over the internet, the Campaign has no alternative
channel affording a reasonable opportunity to reach its full intended audience.

22 149. Google's discriminatory policies are not (and its discriminatory application
23 of those policies is not) viewpoint neutral; they are unreasonable in time, place, and
24 manner; and they are unreasonable in relation to the nature, purpose, and use of the
forum. They impose an unreasonable restraint on the Campaign's protected political

1 speech, motivated by impermissible discrimination against the Campaign’s identity and
2 viewpoint.

3 150. As a direct and proximate result of Google’s violations of the clearly es-
4 tablished law of public forums, Gabbard and the Campaign have suffered and continue
5 to suffer immediate and irreparable injury in fact, including lost income, decreased
6 viewership and engagement, and damage to brand and reputation, for which there exists
7 no adequate remedy at law.

8 151. Google’s wrongful actions were taken with oppression, fraud, or malice.
9 These actions were arbitrary and capricious. And they were taken as part of Google’s
10 normal course of business, effectuated through both Google-designed algorithms and
11 Google employees and agents.

12 **COUNT TWO**
13 **(Declaratory and Injunctive Relief)**

14 152. The Campaign realleges and incorporates by reference each of the preced-
15 ing paragraphs as if fully set forth herein.

16 153. An actual controversy exists between the Campaign and Google as to
17 whether Google’s policies and procedures, and their application thereof, violate the
18 United States Constitution. The correct interpretation is that Google’s policies and pro-
19 cedures, facially and as applied, violate the Campaign’s speech and association rights
20 under the United States Constitution.

21 154. Unless the court issues an appropriate declaration of rights, the parties will
22 not know whether Google’s policies and procedures, and Google’s application of their
23 policies and procedures, comply with the law, including the Federal constitution, and
24 there will continue to be disputes and controversy surrounding Google’s policies and
procedures and application thereof.

1 155. Unless the court issues an appropriate injunction, Google’s illegal and un-
2 constitutional behavior will continue, harming both the Campaign and the general pub-
3 lic, which has an overwhelming interest in a fair, unmanipulated 2020 United States
4 Presidential Election cycle.

5 156. This injunction and declaratory relief is key to more than just the 2020
6 United States Presidential Election Cycle. Tulsi is a sitting United States Congress-
7 woman. Even if she is not ultimately the Democratic Nominee, she will be running for
8 reelection in the House of Representatives in 2020. It is critical that there are no further
9 prior restraints against her advertising.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, the Campaign prays for relief as hereinafter set forth below:

12 1. For a declaration that Google has violated the Campaign’s free speech
13 rights, both facially and as applied, under the First and Fourteenth Amendments to the
14 United States Constitution;

15 2. For an injunction requiring Google to (i) cease and desist capriciously re-
16 stricting or otherwise censoring the Account, (ii) from censoring or restricting the Cam-
17 paign’s speech based on Google’s unfettered discretion, or the use or application of ar-
18 bitrary, capricious, vague, unspecified, or subjective criteria guidelines and (iii) from
19 imposing a prior restraint on election-related speech;

20 3. For attorneys’ fees and costs of suit; and

21 4. For any and all further relief that the Court deems just and proper.
22
23
24

1 Dated: September 27, 2019

Respectfully submitted,

2

3

Pierce Bainbridge Beck Price & Hecht LLP

4

5

6

By: /s/ Brian J. Dunne

7

Brian J. Dunne (SBN 275689)
bdunne@piercebainbridge.com

8

Yavar Bathaee (SBN 282388)
yavar@piercebainbridge.com

9

Dan Terzian (SBN 283835)
dterzian@piercebainbridge.com

10

355 S. Grand Ave., 44th Floor
Los Angeles, California 90071

11

(213) 262-9333

12

Counsel for Plaintiff Tulsi Now, Inc.

13

14

15

16

17

18

19

20

21

22

23

24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

DEMAND FOR JURY TRIAL

Plaintiff Tulsi Now demands a trial by jury pursuant to Federal Rule of Civil Procedure 38 and Local Rule 38-1.

Dated: September 27, 2019 Respectfully submitted,

Pierce Bainbridge Beck Price & Hecht LLP

By: /s/ Brian J. Dunne
Brian J. Dunne (SBN 275689)
bdunne@piercebainbridge.com
Yavar Bathaee (SBN 282388)
yavar@piercebainbridge.com
Dan Terzian (SBN 283835)
dterzian@piercebainbridge.com
355 S. Grand Ave., 44th Floor
Los Angeles, California 90071
(213) 262-9333

Counsel for Plaintiff Tulsi Now, Inc.