

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

OPPERMAN, et al.,

v.

KONG TECHNOLOGIES, INC., et al.

No. 13-cv-00453-JST

**NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT**

**If you downloaded and used certain mobile applications  
on your Apple iPhone, iPad, or iPod device  
before February 23, 2012, you may be  
entitled to receive a payment.**

- The Settlement will provide a gross amount of \$5.3 million to pay claims from people that used the Find Friends feature (or in some cases where the feature activated automatically) of the following apps on their iPhone, iPad or iPod touch (“Apple iDevice”) during certain time periods: Foodspotting, Foursquare, Gowalla, Instagram, Kik, Path, Twitter, or Yelp (together these apps are called the “App Developers”). Each Class Member who properly and timely completes and submits a valid Claim Form will receive a payment in the form of credits redeemable as cash for purchases on Amazon.com or a postcard check.
- The Settlement resolves a lawsuit alleging that the App Developers improperly accessed contact information on Apple iDevices without consent (the “Litigation”). The App Developers deny all liability and all allegations of wrongful conduct.
- The two sides disagree on how much money, if any, could have been won if the case went to trial, or if the individuals who had their contact information accessed by the App Developers (the “Class Members”) could have won at trial.
- **Your legal rights and obligations are affected whether you act, or don’t act. Read this Notice carefully.**

## YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

The purpose of this Notice is to inform you of the Proposed Settlement Agreement and, if you are a Class Member, of your options. Each option has its consequences, which you should consider before making your decision. Your options as a Class Member are summarized below:

<b>MAKE A CLAIM</b>	If you are a Class Member, the only way to get a payment under the Settlement is to visit the Settlement Website located at <a href="http://www.iosappsettlement.com">www.iosappsettlement.com</a> and submit a valid online Claim Form. This will release your claims against the App Developers and result in a payment to qualified claimants.	Deadline: <b>November 10, 2017</b>
<b>OBJECT</b>	You may write to the Court about why you object to (i.e., don't like) the Settlement and think it shouldn't be approved. Filing an objection does not exclude you from the Settlement. You must still make a claim, even if you object, to receive payment.	Deadline: <b>November 10, 2017</b>
<b>EXCLUDE YOURSELF</b>	If you exclude yourself from the Settlement, you will not receive a payment under the Settlement. Excluding yourself is the only option that allows you to ever bring or maintain your own lawsuit against the App Developers regarding the allegations in the Litigation ever again.	Deadline: <b>November 10, 2017</b>
<b>GO TO THE "FAIRNESS HEARING"</b>	<p>The Court will hold a "Fairness Hearing" to consider the Settlement, the request for attorneys' fees and costs of the lawyers who brought the Litigation, and the Class Representatives' request for service awards for bringing the Litigation.</p> <p>You may, but are not required to, speak at the Fairness Hearing about any objection you filed to the Settlement. If you intend to speak at the Fairness Hearing, you must also submit a "Notice of Intention to Appear" to the Court and the parties' attorneys, indicating your intent to do so.</p>	Hearing Date: <b>December 14, 2017</b>
<b>DO NOTHING</b>	You will not receive payment under the Settlement. You will also release your claims against the App Developers, give up your right to object to the Settlement, and you will be not be able to be part of any other lawsuit about the legal claims in this case.	N/A

**These rights and options—and the deadlines to exercise them—are explained in more detail below.**

The Court in charge of this Litigation has preliminarily approved the Settlement and must decide whether to give final approval to the Settlement. The relief provided to Class Members will be provided only if the Court gives final approval to the Settlement and, if there are any appeals, after the appeals are resolved in favor of the Settlement. *Please be patient.*

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## BACKGROUND INFORMATION

### 1. *Why did I receive notice about this lawsuit?*

You received notice about this lawsuit because a Settlement has been reached in this Litigation. According to one or more of the App Developers' available records, you might be a member of the Settlement Class and may be eligible for the relief detailed below.

This Notice explains the nature of the Litigation, the general terms of the proposed Settlement, and your legal rights and obligations. To obtain more information about the Settlement, including information about how you can see a copy of the Settlement Agreement (which defines certain capitalized terms used in this Notice), see Question 22 below.

### 2. *What is this lawsuit about?*

This lawsuit involves several coordinated cases brought against several companies that developed apps for Apple iDevices (iPhone, iPad, or iPod Touch), and alleges that certain versions of the Foodspotting, Foursquare, Gowalla, Instagram, Kik, Path, Twitter, and Yelp apps obtained contact data from users' iDevices in violation of user's privacy rights, and that Apple aided and abetted that conduct. The lawsuit also alleges that Apple misrepresented the privacy and safety of its iDevices. This Settlement resolves all privacy claims against the App Developers and Apple, but does not affect the misrepresentation claim against Apple.

**Each of the App Developers deny each and every one of the allegations of unlawful conduct, any wrongdoing, and any liability whatsoever. No court or other entity has made any finding, ruling, judgment, or other determination that any of the App Developers have done anything unlawful or have any liability for the claims in this lawsuit. Each of the App Developers further deny that any Class Member is entitled to any relief and, other than for settlement purposes, that this Litigation is appropriate for certification as a class action.**

**The issuance of this Notice is not an expression of the Court's opinion on the merits or the lack of merits of the Representative Plaintiffs' claims in the Litigation.**

For information about how to learn about what has happened in the Litigation to date, please see Question 24 below.

### 3. *Why is this a class action?*

In a class action lawsuit, like this one, one or more people called "Class Representatives" (in this Litigation, Allen Beuershausen, Giuliana Biondi, Lauren Carter, Stephen Dean, Stephanie Cooley, Jason Green, Claire Hodgins, Gentry Hoffman, Rachelle King, Nirali Mandalaywala, Claire Moses, and Judy Paul, and Gregory Varner) sue on behalf of other people who have similar claims. The Class Representatives and those on whose behalf they have sued together constitute the "Class" or "Class Members." Their attorneys are called "Plaintiffs' Counsel" or "Class Counsel." The companies sued in this case (Foodspotting, LLC; Foursquare Labs, Inc.; Gowalla, Inc.; Instagram, LLC; Kik Interactive Inc.; Kong Technologies, Inc. (formerly known as Path, Inc.); Twitter, Inc.; and Yelp Inc.) are called the Defendants.

In a class action lawsuit, one court resolves the issues for everyone in the class, except for those class members who choose to exclude themselves. The Court, by order dated July 6, 2017, certified the Class in this case for purposes of settlement only. A copy of the Court's order may be found on the Settlement Website at [www.iosappsettlement.com](http://www.iosappsettlement.com).

#### 4. *Why is there a Settlement?*

The Class Representatives have made claims against the App Developers. The App Developers deny that they have done anything wrong or illegal and they do not admit to any liability. **The Court has not decided that the Class Representatives or the App Developers should win this Litigation. The Court has, however, determined that even if the Class Representatives are correct, the Class would only be potentially entitled to receive nominal damages for the privacy claims. Nominal damages are typically considered to be one dollar (\$1).**

Both sides have decided it would be in their best interests, and the Class Representatives believe it would be in your best interests, to settle the privacy claims in this case. The Settlement allows both sides to avoid the risks and cost of lengthy and uncertain litigation, and the uncertainty of a trial and appeals, and it permits Class Members to receive compensation without further delay. The Class Representatives and Class Counsel think the Settlement is fair and in the best interests of the Class Members.

#### 5. *How do I know if I am part of the Settlement?*

The Court has decided that everyone in the United States who fits one or more of the following descriptions is a Class Member for purposes of the proposed Settlement:

- (A) who received from Apple's App Store a copy of versions 2.5 through 3.1 of the iOS mobile application entitled **Foodspotting**, and activated via such app on their Apple iDevice the "Find iPhone Contacts" feature of the Foodspotting mobile application between August 9, 2011 and February 19, 2012;
- (B) who received from Apple's App Store one or more of versions 1.1 through 4.2 of the iOS mobile application entitled **Foursquare**, and did one or both of the following between April 4, 2009 and February 14, 2012: (1) for versions 1.1 through 4.2, activated via such app on their Apple iDevice (iPhone, iPad, iPod Touch) the "Add Friends" feature of the Foursquare mobile application or (2) for versions 3.1 through 4.2, registered via their iDevice as a Foursquare user through the Foursquare mobile application;
- (C) who received from Apple's App Store one or more of versions 1.5.0 through 4.1 of the iOS mobile application entitled **Gowalla**, and did one or both of the following within the Gowalla mobile application between February 23, 2010 and February 23, 2012: (1) selected a checkbox stating "Automatically connect with friends from my address book" and then depressed a "Let's Get Started" button; (2) depressed a "Find Friends" button and then depressed an "Address Book" button;
- (D) who (i) owned an Apple iDevice on which he or she registered an account for any of the versions 1.0.0 through 2.0.7 of the **Instagram** App obtained from Apple's App Store; (ii) utilized the Find Friends feature of the Instagram App between October 6, 2010 and February 10, 2012; and (iii) resided within the United States at the time he or she registered an Instagram account and used the Find Friends Feature;
- (E) who (i) owned an Apple iDevice on which he or she downloaded from Apple's App Store, installed, and registered an account on the **Kik** App; (ii) installed version 5.4.0 of the Kik App; (iii) after installing version 5.4.0, utilized the Suggested Friends feature of the Kik App between December 22, 2011 and February 11, 2012; (iv) as a result of such use of the Suggested Friends Feature, had contacts data uploaded to Kik's servers in non-hashed format; and (v) resided within the United States at the time he or she registered a Kik account and used the Suggested Friends Feature;

- (F) who received from Apple's App Store a copy of version 2.0 through 2.0.5 of the iOS mobile application entitled **Path**, and who were Path registrants and activated via such app on their Apple iDevice the Path mobile application between November 29, 2011 and February 7, 2012;
- (G) who received preinstalled on an Apple iDevice and/or from Apple's App Store a copy of versions 3.3 through 4.0.1 of the iOS mobile application entitled **Twitter** between March 11, 2011 and February 21, 2012, and activated via such app on their Apple iDevice the "Find Friends" feature of the Twitter mobile application; and/or
- (H) who received from Apple's App Store a copy of versions 4.0.0 through 5.6.0 of the iOS mobile application entitled **Yelp**, and activated via such app on their Apple iDevice the "Find Friends" feature of the Yelp mobile application between January 16, 2010 and February 22, 2012.

Excluded from the Class are (a) the App Developers, (b) any entities in which the App Developers have a controlling interest or which have a controlling interest in the App Developers, (c) the App Developers' respective officers, directors, employees, subsidiaries, affiliates, and attorneys, and (d) the Judge presiding over the Litigation and any of his employees or immediate family members.

#### **6. *I'm still not sure if I am included.***

If you are still not sure whether you are included, you can write the Settlement Administrator for free help. The Settlement Administrator is *Opperman et al v. Kong Technologies* Claims Administrator, P.O. Box 404000, Louisville, KY 40233-4000.

Information about the Settlement Agreement can also be found at the Settlement Website maintained by the Settlement Administrator at [www.iosappsettlement.com](http://www.iosappsettlement.com).

The Settlement Website has links to the notice and other important documents in the case.

## **THE PROPOSED SETTLEMENT**

#### **7. *What relief does the Settlement provide to the Class Members?***

The App Developers have agreed to pay, collectively, \$5.3 million (the "Settlement Amount") to be used to pay claims by Class Members after deduction of some of the costs of administration, Class Counsel's fees and costs, and incentive awards for the Class Representatives. The share of each Class Member who makes a claim will be based on the number of Class Members who make claims and the number of relevant apps used by each Class Member who makes a claim. All amounts remaining after payment of administration costs, Class Counsel's fees and costs, and incentive awards for the Class Representatives will be divided amongst the Class Members who make a claim pursuant to the instructions in this Notice.

Administrative costs apportioned to Foodspotting, Gowalla, Yelp, and any administrative costs apportioned to Twitter in excess of \$125,000, will be deducted from those Defendants' shares of the \$5.3 million Settlement Amount. The other App Developers will pay the administrative costs apportioned to them in addition to their share of the \$5.3 million Settlement Amount. In addition, if Class Members choose to receive postcard checks instead of an Amazon.com credit, the incremental cost of sending those checks (not including postage) will be deducted from the Settlement Amount.

## HOW TO RECEIVE A PAYMENT – SUBMITTING A CLAIM FORM

### 8. *How can I get a payment?*

To qualify for a payment, you must be a Class Member and complete and submit a valid online Claim Form. The Claim Form can be found on the Settlement Website at [www.iosappsettlement.com](http://www.iosappsettlement.com). To complete the Claim Form, you must enter your Class Member Identification Number, if you received the notice via email. You must complete and submit the Claim Form online by no later than November 10, 2017, in order to be eligible for payment.

After submitting a Claim Form, you must inform the Settlement Administrator if the email or mailing address provided on the Claim Form changes. No payments will be made until the Settlement is finally approved and all appeals, if any, are concluded. *Please be patient.*

Because of the nominal size of the Settlement (based on the Court's ruling that only nominal damages are available to the Class), **the primary method of distributing settlement payments is by an electronic credit that can be used as cash at Amazon.com.** You need to provide an email address on the Claim Form where you want your electronic credit code to be sent. The Amazon.com credit codes do not expire.

For people who cannot use Amazon.com credits, there is an option to receive a postcard check. Mailing postcard checks is significantly more expensive than sending Amazon.com credits by email, and the incremental handling cost will reduce the amount available for all Class Members. You should only request a check if you cannot use the electronic credit. In addition, if you choose to receive a check, 35 cents will be deducted from your settlement payment to cover the postage. Given the nominal damages nature of the case, choosing to receive a check may substantially reduce your recovery. Checks will be valid only for 90 days after they are mailed. Any money claimed by checks which are then not cashed within that time frame will be donated to the Electronic Frontier Foundation, an organization that works to protect online privacy. Please note that if you request a check and do not cash the check within 90 days, you will not be able to recover this money.

You will be bound by the Settlement whether or not you submit a Claim Form unless you exclude yourself from the Settlement, but if you do not submit a Claim Form, you will not be entitled to any payment under the Settlement.

### 9. *When will I get a payment?*

As described below in Questions 17 and 18, the Court will hold a "Fairness Hearing" on December 14, 2017, at 2:00 p.m., to decide whether to approve the Settlement. If the Court approves the Settlement, after that, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. You can check on the progress of the case on the website dedicated to the Settlement at [www.iosappsettlement.com](http://www.iosappsettlement.com). *Please be patient.*

## THE LAWYERS IN THIS CASE AND THE CLASS REPRESENTATIVES

### 10. *Do I have a lawyer in this case?*

The Court has appointed five law firms to represent Class Members. These lawyers are called Class Counsel and they are experienced in handling class action litigation. Class Counsel are:

Kerr & Wagstaffe LLP  
101 Mission Street, 18th Floor  
San Francisco, CA 94105

Phillips, Erlewine, Given & Carlin LLP  
50 California Street, 32nd Floor  
San Francisco, CA 94111

Edwards Law  
The Haehnel Building  
1101 East 11th Street  
Austin, TX 78702

Law Offices of Carl F. Schwenker  
The Haehnel Building  
1101 East 11th Street  
Austin, TX 78702

Gardy & Notis, LLP  
501 Fifth Avenue, Suite 1408  
New York, NY 10017

You can contact these lawyers by email at [AppDeveloperSettlement@kerrwagstaffe.com](mailto:AppDeveloperSettlement@kerrwagstaffe.com).

You will not personally be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

#### **11. *How will the lawyers be paid?***

If the Court approves the Settlement, the Court will be asked to approve attorneys' fees of no more than thirty percent (30%) of the Settlement Amount (\$1.59 million), and the reimbursement of up to \$150,000 in expenses. All attorneys' fees and expenses awarded by the Court will be deducted from the Settlement Amount. The Court may award less than these amounts.

Class Counsel's application for an award of attorneys' fees, reimbursement of expenses, and incentive awards to the Class Representatives will be filed with the Court and made available for download and/or viewing on the Settlement Website no later than September 22, 2017, at [www.iosappsettlement.com](http://www.iosappsettlement.com), as well as at the office of the Clerk of the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102, during normal business hours.

#### **12. *Will the Class Representatives receive any compensation for their efforts in bringing this Litigation?***

Class Counsel also will apply for incentive or service awards to the Class Representatives for their services to the Class of up to \$15,000 each. The incentive awards, up to a total of \$195,000, will also be deducted from the Settlement Amount. The Court will make the final decision as to the amount, if any, to be paid to the Class Representatives, and may award less than these amounts.



## DISMISSAL OF LITIGATION AND RELEASE OF ALL CLAIMS

### 13. *What am I giving up to obtain relief under the Settlement?*

If the Court approves the proposed Settlement, unless you exclude yourself from the Settlement, you will be releasing your claims against the App Developers. This generally means that you will not be able to file a lawsuit, continue prosecuting a lawsuit, or be part of any other lawsuit against the App Developers regarding the allegations in the Litigation, or against Apple for aiding and abetting the App Developers with respect to those allegations.

Specifically, Class Members are releasing all manner of known or unknown past, present or future claims, causes of actions, suits, petitions, demands in law or equity, or any allegations of liability or damages, debts, contracts, agreements, obligations, promises, charges, penalties, losses, attorneys' fees, costs, interest, or expenses of any nature whatsoever, fixed or contingent, whether asserted in law or equity, that have been, could have been, may be, or could be asserted against the App Developers that are based upon, arise out of, are related to or connected with any "Find Friends" or similar features, user-facing disclosures or consents relating thereto, accessing or uploading the contacts or address book data stored on any SETTLEMENT CLASS MEMBER'S iDevice during the CLASS PERIOD, or retaining such contacts or address book data. For the avoidance of doubt, RELEASED CLAIMS shall also include the claims for fraudulent transfer previously alleged against Gowalla and Facebook, Inc. and the claim for aiding and abetting Gowalla in the Consolidated Amended Class Action Complaint (ECF No. 362), and referenced in the Stipulation filed on June 27, 2014 (ECF No. 476).

These claims are being released against the App Developers and any of their RELATED PARTIES. RELATED PARTIES means each of a PERSON'S past or present directors, officers, employees, partners, principals, agents, underwriters, issuers, insurers, co-insurers, reinsurers, controlling shareholders or members, any entity in which a PERSON has a controlling interest, a PERSON'S legal representatives, accountants, auditors, consultants, predecessors, successors, parents, subsidiaries, divisions, partners and privities, assigns, spouses, heirs, representatives, associates, any members of his/her/its immediate families, or any trust of which any PERSON is the settlor or which is for the benefit of any PERSON and/or member(s) of his or her family and all persons acting by, through, under, or in concert with the PERSON. RELATED PARTIES specifically excludes all other Defendants named in the above-captioned Litigation.

In addition, the App Developers are releasing all claims they may have against any CLASS MEMBER arising from or related to any of the contentions or allegations in this Litigation.

The claims being released include claims that the RELEASING PERSONS do not know or suspect to exist in their favor, which, if known by them, would have materially affected their decisions to enter into this Agreement. The RELEASING PERSONS understand and acknowledge that they are familiar with California Civil Code section 1542, which provides as follows:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

The Settlement Agreement, available on the Internet at the website [www.iosappsettlement.com](http://www.iosappsettlement.com) contains the full terms of the release. Capitalized terms in the release are defined in the Settlement Agreement.

## HOW TO EXCLUDE YOURSELF FROM THE SETTLEMENT

### 14. *How do I exclude myself from the Settlement?*

If you do not want to receive a payment from the Settlement, and you want to keep the right to sue or continue to sue the Defendants on your own about the legal issues in this case, then you must take certain steps to get out of the Settlement. This process is called excluding yourself from, or “opting out” of, the Class.

To exclude yourself from the Settlement, you must send a letter in the mail with the following: (a) your name; (b) the email address or Twitter handle on which you received notice; (c) your current street address and email address; (d) your signature; and (e) the following statement: “I do not want to be part of the Class in *Opperman et al. v. Kong Technologies, Inc., et al.*, United States District Court for the Northern District of California case number 13-cv-00453-JST”

You must mail your exclusion request postmarked no later than November 10, 2017 to the following address:

*Opperman et al v. Kong Technologies* Claims Administrator  
P.O. Box 404000, Louisville, KY 40233-4000

You cannot exclude yourself by telephone or email. If you ask to be excluded, you will not get any settlement payment and you cannot object to the Settlement. You will not be bound by anything that happens in this lawsuit. You will be free to pursue your own claims against the App Developers or Apple concerning the matters resolved in the Settlement, at your own expense, if you choose to do so, without any guarantee of success.

## HOW TO OBJECT TO THE SETTLEMENT

### 15. *How do I tell the Court that I do not like the Settlement?*

At the date, time, and location stated in Question 18 below, the Court will hold a Fairness Hearing to determine if the Settlement is fair, reasonable, and adequate, and to also consider Class Counsel’s request for an award of attorneys’ fees and costs, and a service award to the Class Representatives.

If you are a Class Member and you do not exclude yourself from the class, you may object to the Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must submit a written objection including your name and address; evidence of membership in the Class; the basis for the objection; all arguments and authority supporting the objection; and any evidence supporting the objection. You must also state whether you intend to appear at the Fairness Hearing, either with or without counsel. An objection will be deemed timely submitted and will be considered by the Court **only if it is filed with the Court by November 10, 2017 at 450 Golden Gate Avenue, San Francisco, CA 94102.**

**IF YOU DO NOT TIMELY MAKE YOUR OBJECTION, YOU WILL BE DEEMED TO HAVE WAIVED ALL OBJECTIONS AND WILL NOT BE ENTITLED TO SPEAK AT THE FAIRNESS HEARING.**

It is your responsibility to ensure timely filing with the Court of any objection. If you intend to appear at the Fairness Hearing with your own lawyer, your counsel must file a notice of appearance with the Court within ten (10) business days after the objection is postmarked. Any Class Member who fails to timely file a written objection will not be permitted to speak at the Fairness Hearing, either with or without counsel.

You can ask the Court to deny approval of the Settlement by filing an objection. You cannot ask the Court to order a larger or different settlement. The Court can only approve or deny the Settlement the parties have agreed to. If the Court denies approval, none of the benefits of the Settlement will be paid and the lawsuit will continue.

If you object to the Settlement, you must still complete a timely Claim Form in order to receive payment under the Settlement.

**16. *What is the difference between excluding myself and objecting to the Settlement?***

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

## **FAIRNESS HEARING**

**17. *What is the Fairness Hearing?***

The Court has preliminarily approved the Settlement and will hold a hearing to decide whether to give final approval to the Settlement. The purpose of the Fairness Hearing will be for the Court to:

- decide if the Settlement is fair, reasonable and adequate and in the best interests of the Class, if it should be approved, and if the Judgment should be entered;
- decide if the Class has been fairly and adequately represented by the Plaintiffs who brought the case and by Class Counsel, who have represented the Plaintiffs in the Litigation;
- consider Class Counsel's requests for an award of attorneys' fees and reimbursement of expenses;
- consider any requests for incentive awards for the Class Representatives;
- consider all comments on, or objections to, the Settlement; and
- consider any other issues relating to the Settlement and the Litigation that the Court thinks are necessary.

**18. *When and where is the Fairness Hearing?***

On December 14, 2017 at 2:00 p.m., a hearing will be held on the fairness of the proposed Settlement. At the Fairness Hearing, the Court will be available to hear any objections and arguments concerning the proposed Settlement's fairness. The Fairness Hearing will take place before the Honorable Jon S. Tigar in Courtroom 9 (19th Floor) of the U.S. District Court for the Northern District of California, located at 450 Golden Gate Avenue, San Francisco, CA 94102. The hearing may be postponed to a different date or time or location without notice. Please check the Settlement Website at [www.iosappsettlement.com](http://www.iosappsettlement.com) for any updates about the Settlement generally or the Fairness Hearing specifically. If the date or time of the Fairness Hearing changes, an update to the Settlement website will be the only way you will be informed of the change.

After the Fairness Hearing, the Court will decide whether to approve the Settlement. We do not know how long this decision will take.

**19. *Do I have to come to the Fairness Hearing?***

No. Class Counsel will answer any questions the Judge may have during the Fairness Hearing. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend. You do not have to attend the hearing to receive money from this Settlement, but you do have to submit a timely and valid Claim Form as discussed above.

**20. *May I speak at the Fairness Hearing?***

Yes. If you wish to speak at the hearing, or wish to have an attorney hired by you at your own expense do so for you, you or your attorney must file with the Court a written notice of your intention to appear by November 10, 2017.

As described above in Question 15, you may speak at the Fairness Hearing only if (a) you have timely served and filed an objection, and (b) you have timely served and filed a notice of intent to appear.

You cannot speak at the Fairness Hearing if you have excluded yourself.

**21. *What if I do nothing?***

If you are a Class Member and do nothing, you will receive no payment from this Settlement. And, unless you exclude yourself, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the App Developers, Apple, or their Related Parties, for the claims released in the Settlement.

**ADDITIONAL INFORMATION**

**22. *How do I get more information?***

This Notice summarizes the proposed Settlement. All court records in the Litigation, including complete copies of the Settlement Agreement, may be examined between 9:00 a.m. and 4:00 p.m. Monday through Friday, excluding court holidays, at the office of the Clerk of the Court, 450 Golden Gate Avenue, San Francisco, CA 94102 or any time by accessing the Court docket through the Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>. You can also view the full Settlement Agreement and other important papers from this case at the Settlement Administrator's website, [www.iosappsettlement.com](http://www.iosappsettlement.com).

**23. *What if my address or other information has changed or changes after I submit a Claim Form?***

It is your responsibility to inform the Settlement Administrator of your updated information. You may do so at the address below:

*Opperman et al v. Kong Technologies* Claims Administrator  
P.O. Box 404000, Louisville, KY 40233-4000

**24. *What if I have other questions about the Settlement or this Notice?***

If you have any questions about the proposed Settlement or this Notice, you may contact the Settlement Administrator, go to the Settlement Website at [www.iosappsettlement.com](http://www.iosappsettlement.com), or contact the lawyers listed in response to Question 10 above.

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**PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE FOR INFORMATION ABOUT THIS SETTLEMENT.**

Dated: July 6, 2017

By: Order of the Northern District of California  
HONORABLE JON S. TIGAR  
UNITED STATES DISTRICT COURT JUDGE