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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF MERCED

11 ROMAN SCANLON, on behalf of
12 himself, the general public, and
13 those similarly situated,

14 Plaintiffs,

15 v.

16 CURTIS INTERNATIONAL,
17 LTD. and TECHNICOLOR SA
d/b/a TECHNICOLOR USA, INC.

18 Defendants.

Case No. 19CV-01882

Unlimited Civil Case

Class Action Complaint for Fraud,
Deceit, and/or Misrepresentation;
Breach of Contract; Violation of the
Consumer Legal Remedies Act; False
Advertising; Negligent
Misrepresentation; Unjust Enrichment;
and Unfair, Unlawful, and/or Deceptive
Trade Practices.

Jury Trial Demanded

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INTRODUCTION

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2 1. Plaintiff Roman Scanlon (“Plaintiff”) brings this Class Action
3 Complaint against Curtis International, Ltd. (“Curtis”) and Technicolor SA d/b/a
4 Technicolor USA, Inc. (“Technicolor,” and together with Curtis, “Defendants”),
5 on behalf of himself, and those similarly situated, for fraud, deceit, and/or
6 misrepresentation; violation of the Consumer Legal Remedies Act (“CLRA”);
7 false advertising; negligent misrepresentation; unjust enrichment; and unfair,
8 unlawful, and/or deceptive trade practices. The following allegations are based
9 upon information and belief, including the investigation of Plaintiff’s counsel,
10 unless stated otherwise.

11 2. This case concerns Defendants’ fraudulent statements concerning the
12 brightness of its digital home theater projectors, which it markets and advertises
13 under the RCA trademark.

14 3. Defendant Curtis describes itself as a manufacturer and distributor of
15 “quality, value priced consumer electronic[s] & appliances.” Defendant
16 Technicolor—the parent company of Curtis—states on its website that such
17 licensing arrangements are a way for companies “to benefit from the market
18 awareness and strength of long recognized and highly established brands such as
19 RCA, Thomson – as well as other trusted and respected global brands in the
20 consumer electronics sector.”

21 4. The package of Defendants’ top-selling projector, the RCA RPJ116,
22 represents that the projector has “2000 LED LUMENS,” making it “SUPER
23 BRIGHT.” Defendants make substantially similar statements on all of their RCA
24 projectors in the purported range of 2,000-3,100 lumens, including the RPJ104,
25 RPJ116, RPJ-116+, RPJ116-B-PLUS, RPJ119, RPJ129, and the RPJ136.

26 5. This complaint concerns models RPJ116, RPJ129, and RPJ136 (the
“RCA Projectors”). As described below, these models have been shown by

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1 independent testing to have a substantially lower lumen output than represented.
2 Plaintiff believes, however, that the brightness ratings of other RCA models have
3 also been misrepresented by Defendants. If so, Plaintiff will amend this complaint
4 to include those models after discovery has been obtained.

5 6. Defendants' claims about the brightness of the RCA Projectors are
6 false. As Plaintiff discovered after purchasing two of the RCA Projectors, they are
7 incapable of producing light output consistent with the lumens ratings stated on
8 their packaging. Independent testing confirmed that the true brightness of the
9 RPJ116, for example, is only 32 lumens—less than 2% of the advertised
10 brightness. Defendants' other RCA Projectors similarly fall far well below the
11 mark, with an actual lumens output of 1.6 – 6.1% of what is stated on their
12 packaging.

13 7. In recent weeks, in response to allegations of unfair competition and
14 false advertising from their competitor, Epson America, Inc., Defendants have
15 attempted to correct the false statements on their packaging with stickers showing
16 a far lower lumens rating for the RCA Projectors. For example, the RCA RPJ136
17 now states that it has a white light output of 215 lumens, rather than the 2,000
18 lumens originally advertised on the product's package.

19 8. Consumers consider the brightness of a projector to be one of the most
20 important aspects in the purchasing decision of a home theater projector and it is a
21 major determiner of cost. Defendants used a trusted brand name to deceive
22 consumers into paying an inflated price premium for the RCA Projectors.

23 **PARTIES**

24 9. Roman Scanlon is, and at all times alleged in this Class Action
25 Complaint was, an individual and a resident of California. Mr. Scanlon currently
26 resides in Merced, CA.

1 10. Defendant Curtis International Ltd. is a corporation incorporated under
2 the laws of Canada, having its principal place of business in Mississauga, Ontario.

3 11. Defendant Technicolor SA is a corporation incorporated under the laws
4 of France, having its principal place of business in Paris, France. It does business
5 through Technicolor USA, Inc., a corporation incorporated under the laws of
6 Delaware, with its principal place of business in Indianapolis, Indiana. It also
7 owns and operates the RCA brand.

8 12. At all times herein mentioned, each of the Defendants was the agent,
9 servant, representative, officer, director, partner or employee of the other
10 defendants and, in doing the things herein alleged, was acting within the scope
11 and course of his/her/its authority as such, and with the permission and consent of
12 each Defendant.

13 13. At all times herein mentioned, each of the Defendants was a member
14 of, and engaged in, a joint venture, partnership and common enterprise, and acted
15 within the course and scope of, and in pursuance of, said joint venture, partnership
16 and common enterprise.

17 14. At all times herein mentioned, the acts and omissions of each of the
18 Defendants concurred and contributed to the various acts and omissions of each
19 and all of the other Defendants in proximately causing the injuries and damages
20 as herein alleged.

21 15. At all times herein mentioned, each of the Defendants ratified each and
22 every act or omission complained of herein.

23 16. At all times herein mentioned, each of the Defendants aided and
24 abetted the acts and omissions of each and all of the other Defendants in
25 proximately causing the damages, and other injuries, as herein alleged.
26

JURISDICTION AND VENUE

17. This action is brought by Plaintiff pursuant to, *inter alia*, the California Business and Professions Code, section 17200, et seq. Plaintiff and Defendants are “persons” within the meaning of the California Business and Professions Code, section 17201.

18. The injuries, damages and/or harm upon which this action is based, occurred or arose out of activities engaged in by Defendants within, affecting, and emanating from, the State of California.

19. Defendants have engaged, and continue to engage, in substantial and continuous business practices in the State of California, including in the City and County of Merced.

20. In accordance with California Civil Code Section 1780(d), Mr. Scanlon files herewith a declaration establishing that he resides in Merced, California, and that he purchased the RCA Projectors at issue at Walmart stores in California.

21. Plaintiff accordingly alleges that jurisdiction and venue are proper in this Court.

SUBSTANTIVE ALLEGATIONS

22. While traditionally associated with movie theaters, digital home projectors are used by consumers for both entertainment and business purposes.

23. The market for audio visual devices is extremely competitive. Manufacturers continually attempt to gain market share by introducing the latest cutting-edge features such as Bluetooth, Wi-Fi connectivity, and integration with popular home streaming services such as Netflix. Of all the features that projector manufacturers offer, one of the most important to consumers is brightness.

24. A bright image is necessary in order to show the clearest images with the best color performance and contrast effect. A high level of brightness is also

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1 critical when projectors are used during the day, because the brightness of the
2 bulb must compete with sunlight streaming through windows. Even a projector
3 with a high resolution and other cutting-edge features is virtually worthless
4 without sufficient brightness for the picture to display clearly.

5 25. The Federal Trade Commission explains that lumens are a measure of
6 brightness and that “[y]ou can use lumens to compare the brightness of any bulb,
7 regardless of the technology behind it, and regardless of whether it’s a halogen
8 incandescent, CFL or LED.”¹

9 26. The American National Standards Institute developed and approved
10 objective standards for measuring the lumen output of projectors, known as the
11 “ANSI Standard.” The ANSI Standard establishes protocols for measuring and
12 communicating important performance attributes of projectors—including how to
13 measure lumens. The ANSI Standard is widely used by projector manufacturers to
14 communicate brightness capabilities of projectors to customers.

15 **A. Defendants’ Brightness Claims for RCA Projectors**

16 27. Curtis describes itself as a manufacturer and distributor of “quality,
17 value priced consumer electronic[s] & appliances” which it sells under the RCA
18 trademark through a licensing agreement with Technicolor.

19 28. Technicolor states on its website that such licensing arrangements are a
20 way for companies “to benefit from the market awareness and strength of long
21 recognized and highly established brands such as RCA, Thomson – as well as
22 other trusted and respected global brands in the consumer electronics sector.”²

23 29. Defendants have marketed and sold over a half-dozen different models
24 of projectors that purportedly have a brightness of 2,000 lumens or more. Current
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26 ¹ <https://www.consumer.ftc.gov/articles/0164-shopping-light-bulbs>

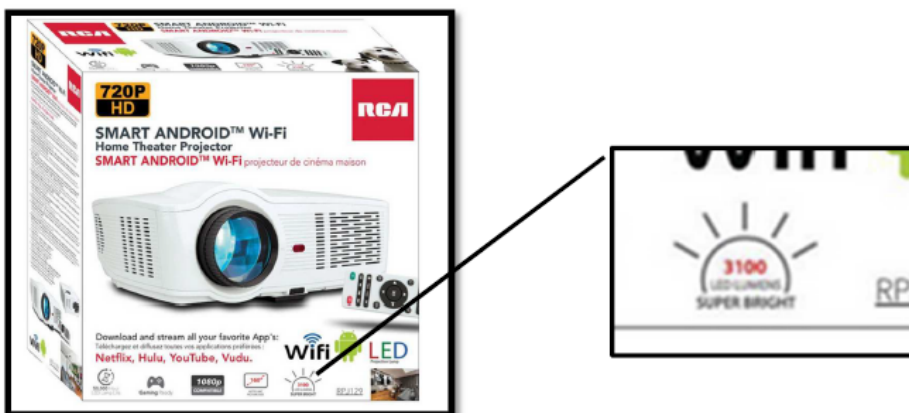
² <https://www.technicolor.com/trademark-licensing>

1 models include, without limitation, the RCA RPJ104, RPJ116, RPJ-116+,
2 RPJ116-B-PLUS, RPJ119, RPJ129, and RPJ136.

3 30. For each of these models, Defendants advertise a lumens rating
4 prominently on the box. For example, the packaging of the RCA RPJ 116
5 advertises that it has a “2000 LED LUMENS” rating and that it is “SUPER
6 BRIGHT”:



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14
15 31. The package of the RCA RPJ 129 similarly includes the words
16 “SUPER BRIGHT” with a “3100 LED LUMENS” rating:



32. The package of the RCA RPJ 136 also contains nearly identical packaging except that it has a “2200 LED LUMENS” rating:



33. Additionally, the packaging of all the RCA Projectors, including the images shown above, show the projector being used in a brightly lit indoor setting—a setting in which brightness is particularly important:



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2 **B. Epson's Independent Testing**

3 34. Epson, a major electronics manufacturer and competitor of Defendants
4 hired an independent third party to test Defendants' claims regarding the
5 brightness of their RCA Projectors.

6 35. In an amended complaint³ filed in the District of South Carolina, Epson
7 disclosed independent testing showing that each of the RCA Projectors had an
8 actual ANSI lumen rating that was substantially lower than what Defendants
9 claimed:

10

Model No.	Claimed Rating	Actual Output
RCA RPJ116	2,000 lumens	32 lumens
RCA RPJ129	3,100 lumens	190 lumens
RCA RPJ136	2,200 lumens	38 lumens

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17 36. Based on Epson's independent testing, it is likely that Defendants' other
18 projectors including, without limitation, the RCA RPJ104, RPJ-116+, RPJ116-B-
19 PLUS, and RPJ119 have light output that is significantly below the lumens rating
20 on their packaging.

21 37. Defendants sells the RCA Projectors through various retailers,
22 including both brick-and-mortar retailers and online retailers such as Amazon.com
23 and Walmart.

24

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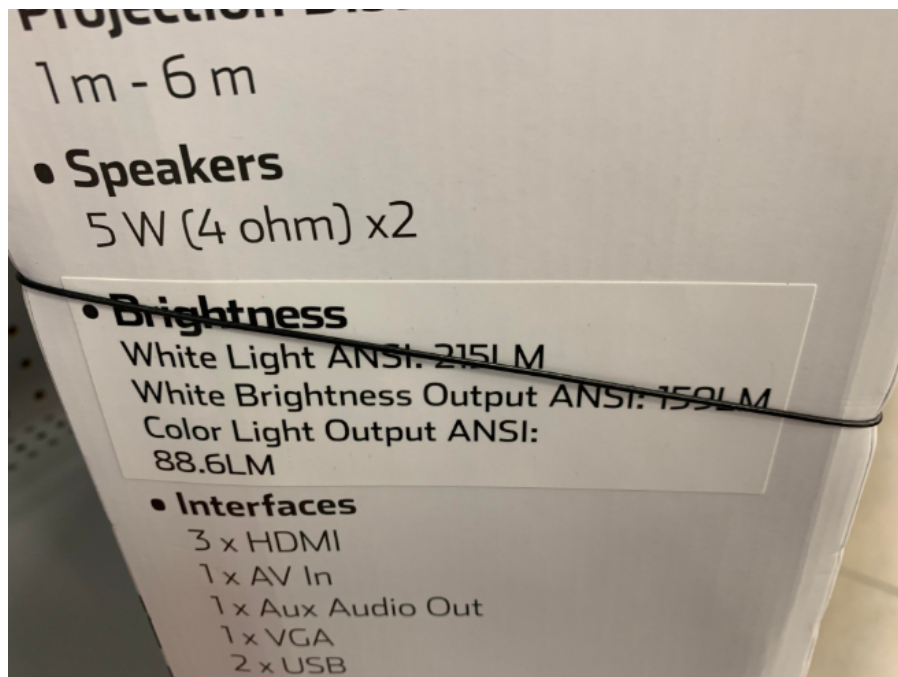
26 ³ *Epson America, Inc. v. Curtis International Ltd.*, 3:18-3134 (D.S.C.), Dkt. No. 22.

1 38. To promote the sale of the RCA Projectors, Defendants provide to all
2 such retailers information relating to the RCA Projectors and represent that they
3 have a lumens rating of 2,000 – 3,100 lumens.

4 39. Defendants makes these statements and representations to retailers with
5 the knowledge and intent that the retailers will present this information to
6 consumers.

7 40. Many of these web retailers still show the false lumens rating on their
8 websites.

9 41. After being sued by Epson for making their false representations
10 regarding the brightness of the RCA Projectors, Defendants began placing
11 corrective stickers on the packaging for RCA Projectors. For example, Defendants
12 placed a sticker on the RPJ136, stating that its color light output is 88.6 lumens,
13 white brightness output is 159 lumens, and white light output is 215 lumens—
14 rather than the 2,000 lumens originally advertised:



1 42. Defendants also added a corrective sticker to state that the best viewing
2 conditions for the RPJ136 are in a dark room—contradicting the earlier
3 representation that the product is appropriate for use in brightly-lit rooms:



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17 **C. Plaintiff’s Experience**

18 43. On or about August 21, 2018, Mr. Scanlon purchased an RCA RPJ129
19 home theater projector on sale for \$74.99 at a Walmart store in Los Banos,
20 California.

21 44. Mr. Scanlon observed the packaging that clearly stated that the
22 brightness rating of the projector was “3,100 LED LUMENS” and that it was
23 classified as “SUPER BRIGHT.” The brightness of the screen was important to
24 him because he wanted the projector to produce a vibrant and bright picture
25 quality. Mr. Scanlon purchased the projector based on Defendants’ 3,100 lumens
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1 representation, and would not have purchased the projector, even at the sale price,
2 had he known that the 3,100 lumens representation was false.

3 45. After testing the projector, Mr. Scanlon noticed that the light was dim
4 and did not perform in accordance with the images on the box. Believing the
5 projector was defective, he attempted to return the item to Walmart on or about
6 August 26, 2018.

7 46. The sales associate who helped him was inexperienced and unable to
8 complete the return because complications relating to the fact that the item was on
9 sale when Mr. Scanlon purchased it. The associate convinced Mr. Scanlon that the
10 RCA projectors were generally of high quality and that she owned the RCA RPJ
11 136 herself. Based on her representations, Mr. Scanlon believed that he had
12 merely experienced bad luck, and that the particular projector he had purchased
13 was uniquely defective. Further, the RPJ129 models were still on sale, so he
14 decided to purchase two more models at the same price. When he purchased the
15 two additional RPJ129s, Mr. Scanlon believed they would work as advertised. Mr.
16 Scanlon would not have purchased the projectors, even at the sale price, had he
17 known that the 3,100 lumens representations were false.

18 47. Mr. Scanlon wanted to mount the two projectors, so he purchased a
19 mounting kit to do so. He did not test the two additional projectors immediately,
20 because he wanted to wait for the mounting kit to arrive. When the mounting kit
21 arrived, he tested the RPJ129, and determined that it was much like the first
22 projector he purchased—much dimmer than advertised.

23 48. On November 23, 2018, Mr. Scanlon returned to Walmart for the Black
24 Friday sale. Remembering the sales associate's recommendation, he purchased
25 three of the RCA RPJ136 projectors, which had an advertised brightness of "2,200
26 LUMENS," with the "SUPER BRIGHT" language underneath. Because the
projectors they were for his young nephews and other family members, he

1 thought the lower lumens rating would be sufficient for their needs. Mr. Scanlon
2 would not have purchased the projectors, even at the sale price, had he known that
3 the 2,200 lumens representations were false.

4 49. None of the RCA Projectors Mr. Scanlon purchased had any stickers to
5 clarify that the statements on the packaging were false.

6 50. After purchasing and using the projectors, Mr. Scanlon discovered that
7 none of the projectors were capable of achieving the advertised brightness ratings.

8 51. As a result of Defendants' misrepresentations, Mr. Scanlon has
9 sustained an out of pocket loss of, at a minimum, the difference in price between a
10 projector capable of achieving the advertised brightness, and projectors that are
11 not capable of doing so, which could be established using regression techniques
12 such as hedonic regression to analyze market prices of various home theater
13 projectors advertised as being capable and/or not being capable of displaying
14 video at the advertised lumens and/or survey techniques such as conjoint analysis.

15 52. Mr. Scanlon intends to purchase RCA Projectors in the future and
16 specifically wishes to purchase RCA Projectors with a brightness rating of at least
17 2,000 lumens, so that he can benefit from the bright and vibrant picture quality.
18 He therefore is likely to be deceived again by any misrepresentations with respect
19 to the brightness ratings of such RCA Projectors. Mr. Scanlon will be unable to
20 determine whether such representations are false without purchasing and testing
21 such RCA Projectors.

22 **CLASS ALLEGATIONS**

23 53. In addition to their individual claims, Plaintiff brings this action
24 pursuant to section 382 of the California Code of Civil Procedure and section
25 1781 of the California Civil Code on behalf of a Class consisting of all persons,
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1 natural or otherwise, who, while residing in California, purchased an RCA
2 Projector.

3 54. Excluded from the Class are Curtis International, Ltd.; Technicolor
4 SA; Technicolor USA, Inc.; and their affiliates, successors and assigns, officers
5 and directors, and members of their immediate families.

6 55. The proposed Class is so numerous that joinder of all members is
7 impracticable. The precise number of members in the Class is not yet known to
8 Plaintiff, but it is well in excess of 1,000 people.

9 56. There are questions of law and fact that are common to the Class,
10 including, but not limited to, the following:

- 11 • whether the RCA Projectors are capable of achieving the brightness
12 advertised by Defendants;
- 13 • whether Defendants misled class members by representing that the
14 RCA Projectors are capable of achieving the brightness level
15 advertised;
- 16 • whether Defendants breached their obligations to the class;
- 17 • whether Defendants engaged in the alleged conduct knowingly,
18 recklessly, or negligently;
- 19 • the amount of revenues and profits Defendants received and/or the
20 amount of monies or other obligations lost by class members as a
21 result of such wrongdoing;
- 22 • whether class members are entitled to injunctive relief and other
23 equitable relief and, if so, what is the nature of such relief; and
- 24 • whether class members are entitled to payment of actual, incidental,
25 consequential, exemplary, and/or statutory damages plus interest,
26 and if so, what is the nature of such relief.

23 57. Plaintiff's claims against Defendants are typical of the claims of the
24 Class because Plaintiff and all other members of the class purchased an RCA
25 Projector with the same packaging and documentation. With respect to the class
26

1 allegations, Plaintiff was subject to the exact same business practices and written
2 representations.

3 58. Plaintiff will fairly and adequately protect the interests of the Class.

4 59. Plaintiff has demonstrated his commitment to the case, has diligently
5 educated himself as to the issues involved, and to the best of his knowledge does
6 not have any interests adverse to the proposed class.

7 60. The questions of law and fact common to the members of the class
8 predominate over any questions affecting only individual members.

9 61. A class action is superior to other available methods for a fair and
10 efficient adjudication of this controversy as many members of the proposed class
11 have damages arising from Defendants wrongful course of conduct which would
12 not be susceptible to individualized litigation of this kind, including, but not
13 limited to, the costs of experts and resources that may be required to examine the
14 business practices in question.

15 62. Given the relative size of damages sustained by the individual members
16 of the Class, the diffuse impact of the damages, and homogeneity of the issues,
17 the interests of members of the Class individually controlling the prosecution of
18 separate actions is minimal.

19 63. There is no litigation already commenced, nor is there anticipated to be
20 subsequent litigation commenced by other members of the Class concerning
21 Defendants' alleged conduct. Consequently, concerns with respect to the
22 maintenance of a class action regarding the extent and nature of any litigation
23 already commenced by members of the Class are non-existent.

24 64. Plaintiff is unaware of any difficulties that are likely to be encountered
25 in the management of this Class Action Complaint that would preclude its
26 maintenance as a class action.

CAUSES OF ACTION

Plaintiff's First Cause of Action
(Fraud, Deceit and/or Misrepresentation)
On Behalf of Plaintiff Scanlon and the Class

65. Plaintiff realleges and incorporates by reference all preceding paragraphs of this complaint as if fully set forth herein.

66. As set forth above, Defendants represented to Plaintiff Scanlon and those similarly situated that the RCA Projectors had brightness ratings between 2,000 and 3,100 lumens when their true capacity was less than 7% of that. Specifically, in the case of Plaintiff Scanlon, Defendants represented that the RCA RPJ129 and RCA RPJ136 have brightness ratings of 3,100 lumens and 2,200 lumens when their true output was 190 lumens and 38 lumens, respectively.

67. Defendants further concealed, suppressed, and omitted material facts that would have revealed that the RCA Projectors are incapable of achieving the advertised brightness ratings and their actual capacity is only a small fraction of what Defendants display on their packaging.

68. In addition, Defendants represented to all retailers of the RCA Projectors, including online and brick-and-mortar retailers (such as Amazon.com and Walmart), that the RCA Projectors are capable of achieving specific brightness ratings (such as 2,200 lumens and 3,100 lumens in the case of the projectors Mr. Scanlon purchased). Defendants made these representations by providing to such retailers specifications and packaging of the RCA Projectors which stated that the RCA Projectors are capable of the achieving the brightness ratings corresponding to their labels. Defendants further concealed, suppressed, and omitted material facts from such retailers that would have revealed that the RCA Projectors are not, in fact, capable of achieving the purported brightness ratings.

1 69. Defendants made these representations to retailers with the knowledge
2 and intent that the retailers (such as Amazon.com and Walmart) would represent
3 to Plaintiff, and others similarly situated, that the RCA Projectors are capable of
4 achieving the advertised brightness ratings.

5 70. Defendants representations—both those made directly to consumers on
6 the product, and those made indirectly to consumers through retailers—were
7 false, and Defendants knew that the representations were false when it made
8 them. Defendants are among the world’s largest manufacturers of consumer
9 electronics, and are well-versed in the importance of lumen ratings. Defendants
10 would not have distributed the RCA Projectors without testing their lumen ratings.

11 71. Defendants’ misrepresentations and omissions were material at the time
12 they were made. Defendants’ misrepresentations concerned material facts that
13 were essential to the analysis undertaken by Plaintiff and those similarly situated
14 as to whether to purchase the RCA Projectors.

15 72. Plaintiff and those similarly situated reasonably relied to their detriment
16 on Defendants’ representations—both those that Defendants made directly to
17 them, and those that Defendants made indirectly to them through retailers.
18 Specifically, Plaintiff and those similarly situated purchased RCA Projectors
19 because he believed that they were capable of achieving the advertised brightness
20 ratings. This reliance was reasonable because Plaintiff and those similarly situated
21 could not test, prior to purchasing the projectors, whether the projectors were
22 capable of achieving the advertised brightness ratings.

23 73. Had Plaintiff and those similarly situated been adequately informed and
24 not intentionally deceived by Defendants, he would have acted differently by,
25 without limitation, not purchasing (or paying less for) the RCA Projectors.

26 74. Defendants had a duty to inform members of the Class at the time of
their purchase that the RCA Projectors were incapable of achieving the advertised

1 brightness ratings. In making its representations and omissions, Defendants
2 breached its duty to class members. Defendants also gained financially from, and
3 as a result of, its breach.

4 75. By and through such fraud, deceit, misrepresentations and/or
5 omissions, Defendants intended to induce Plaintiff and those similarly situated to
6 alter their position to their detriment. Specifically, Defendants fraudulently and
7 deceptively induced Plaintiff and those similarly situated to, without limitation,
8 purchase the RCA Projectors.

9 76. As a direct and proximate result of Defendants' misrepresentations and
10 omissions, Plaintiff and those similarly situated have suffered damages. In
11 particular, Plaintiff seeks to recover on behalf of himself and those similarly
12 situated the amount of the price premium he paid (i.e., the difference between the
13 price consumers paid for the RCA Projectors and the price they would have paid
14 but for Defendants' misrepresentations), in an amount to be proven at trial using
15 econometric or statistical techniques such as hedonic regression or conjoint
16 analysis.

17 77. Defendants' conduct as described herein was willful and malicious and
18 was designed to maximize their profits even though Defendants knew that it
19 would cause loss and harm to Plaintiff and those similarly situated.

20 **Plaintiff's Second Cause of Action**
21 **(Violation of the Consumers Legal Remedies Act,**
22 **California Civil Code § 1750, et seq.)**
23 **On Behalf of Plaintiff Scanlon and the Class**

24 78. Plaintiff realleges and incorporates by reference the paragraphs of this
25 Class Action Complaint as if set forth herein.

26 79. This cause of action is brought pursuant to the California Consumers
Legal Remedies Act, California Civil Code § 1750, et seq. ("CLRA").

1 80. Defendants' actions, representations and conduct have violated, and
2 continue to violate the CLRA, because they extend to transactions that are
3 intended to result, or which have resulted, in the sale of goods to consumers.

4 81. Plaintiff and other members of the class are "consumers" as that term is
5 defined by the CLRA in California Civil Code § 1761(d).

6 82. The products that Plaintiff and similarly situated members of the class
7 purchased from Defendants are "goods" within the meaning of California Civil
8 Code § 1761.

9 83. By engaging in the actions, representations, and conduct set forth in
10 this Class Action Complaint, Defendants have violated, and continue to violate,
11 §§ 1770(a)(2), 1770(a)(5), 1770(a)(7), and 1770(a)(9) of the CLRA. In violation
12 of California Civil Code §1770(a)(2), Defendants misrepresented the approval or
13 certification of goods. In violation of California Civil Code §1770(a)(5),
14 Defendants represented that goods had approval, characteristics, uses, benefits,
15 and qualities that they did not have. In violation of California Civil Code
16 §1770(a)(7), Defendants represented that goods are of a particular standard,
17 quality, and grade, when they were of another. In violation of California Civil
18 Code §1770(a)(9), Defendants advertised goods with intent not to sell them as
19 advertised.

20 84. Specifically, Defendants' acts and practices lead consumers, including
21 Mr. Scanlon, to believe that the RCA Projectors have a brightness rating far in
22 excess of their true rating.

23 85. In truth, the RCA Projectors are incapable of achieving the advertised
24 brightness ratings and their actual capacity is only a small fraction of what
25 Defendants display on their packaging.

26 86. Plaintiff requests that this Court enjoin Defendants from continuing to
employ the unlawful methods, acts and practices alleged herein pursuant to

1 California Civil Code § 1780(a)(2). If Defendants are not restrained from
2 engaging in these types of practices in the future, Plaintiff and other members of
3 the class will continue to suffer harm.

4 87. CLRA § 1782 NOTICE. **Irrespective of any representations to the**
5 **contrary in this Class Action Complaint, Plaintiff specifically disclaims, at**
6 **this time, any request for damages under any provision of the CLRA.**

7 Plaintiff, however, hereby provides Defendants with notice and demand that
8 within thirty (30) days from that date, Defendants correct, repair, replace or
9 otherwise rectify the unlawful, unfair, false and/or deceptive practices complained
10 of herein. Defendants failure to do so will result in Plaintiff Scanlon amending
11 this Class Action Complaint to seek, pursuant to California Civil Code §
12 1780(a)(3), on behalf of themselves and those similarly situated members of the
13 Class, compensatory damages, punitive damages and restitution of any ill-gotten
14 gains due to Defendants acts and practices.

15 88. Plaintiff also requests that this Court award him costs and reasonable
16 attorneys' fees pursuant to California Civil Code § 1780(d).

17 **Plaintiff's Third Cause of Action**
18 **(False Advertising, Business and Professions Code § 17500, et seq. ("FAL"))**
19 **On Behalf of Plaintiff Scanlon and the Class**

20 89. Plaintiff realleges and incorporates by reference the paragraphs of this
21 Class Action Complaint as if set forth herein.

22 90. Beginning at an exact date unknown to Plaintiff, but within three (3)
23 years preceding the filing of the Class Action Complaint, Defendants have made
24 untrue, false, deceptive and/or misleading statements in connection with the
25 advertising and marketing of the RCA Projectors.

26 91. Defendants have made representations and statements (by omission and
commission) that lead reasonable consumers to believe that the RCA Projectors
have a brightness rating between 2,000 and 3,100 lumens. Defendants fail to tell

1 consumers that the RCA Projectors are incapable of achieving the advertised
2 brightness ratings and their true capacity is only a small fraction of what
3 Defendants display on their packaging.

4 92. Plaintiff and those similarly situated relied to their detriment on
5 Defendants false, misleading and deceptive advertising and marketing practices.
6 Had Plaintiff and those similarly situated been adequately informed and not
7 intentionally deceived by Defendants, they would have acted differently by,
8 without limitation, paying less for the RCA Projectors or purchasing a different
9 projector.

10 93. Defendants' acts and omissions are likely to deceive the general public.

11 94. Defendants engaged in these false, misleading and deceptive
12 advertising and marketing practices to increase its profits. Accordingly,
13 Defendants have engaged in false advertising, as defined and prohibited by
14 section 17500, et seq. of the California Business and Professions Code.

15 95. The aforementioned practices, which Defendants have used, and
16 continue to use, to their significant financial gain, also constitute unlawful
17 competition and provide an unlawful advantage over Defendants' competitors as
18 well as injury to the general public.

19 96. Plaintiff seeks, on behalf of those similarly situated, full restitution of
20 monies, as necessary and according to proof, to restore any and all monies
21 acquired by Defendants from Plaintiff, the general public, or those similarly
22 situated by means of the false, misleading and deceptive advertising and
23 marketing practices complained of herein, plus interest thereon.

24 97. Plaintiff seeks, on behalf of those similarly situated, an injunction to
25 prohibit Defendants from continuing to engage in the false, misleading and
26 deceptive advertising and marketing practices complained of herein. The acts

1 complained of herein occurred, at least in part, within three (3) years preceding
2 the filing of this Class Action Complaint.

3 98. Plaintiff and those similarly situated are further entitled to and do seek
4 both a declaration that the above-described practices constitute false, misleading
5 and deceptive advertising, and injunctive relief restraining Defendants from
6 engaging in any such advertising and marketing practices in the future. Such
7 misconduct by Defendants, unless and until enjoined and restrained by order of
8 this Court, will continue to cause injury in fact to the general public and the loss
9 of money and property in that Defendants will continue to violate the laws of
10 California, unless specifically ordered to comply with the same. Further, even if
11 Defendants temporarily cease the practices, in the absence of an injunction,
12 Defendants are free to resume the practice at their whim. This expectation of
13 future violations will require current and future customers to repeatedly and
14 continuously seek legal redress in order to recover monies paid to Defendants to
15 which Defendants are not entitled. Plaintiff, those similarly situated and/or other
16 consumers nationwide have no other adequate remedy at law to ensure future
17 compliance with the California Business and Professions Code alleged to have
18 been violated herein.

19 99. As a direct and proximate result of such actions, Plaintiff and the other
20 members of the Class have suffered, and continue to suffer, injury in fact and have
21 lost money and/or property as a result of such false, deceptive and misleading
22 advertising in an amount which will be proven at trial, but which is in excess of
23 the jurisdictional minimum of this Court.

24 **Plaintiff's Fourth Cause of Action**
25 **(Negligent Misrepresentation)**
26 **On Behalf of Plaintiff Scanlon and the Class**

100. Plaintiff realleges and incorporates by reference the paragraphs of this
Class Action Complaint as if set forth herein.

1 101. In selling its RCA Projectors to consumers, Defendants made false and
2 misleading statements to Plaintiff Scanlon that the RCA RPJ129 and RCA
3 RPJ136 have brightness ratings of 3,100 lumens and 2,200 lumens, respectively.
4 Defendants, however, deceptively failed to inform him that the RCA Projectors
5 are incapable of achieving the advertised brightness ratings and their actual
6 capacity is only a small fraction of what Defendants advertise on their packaging.

7 102. Defendants made substantially identical misrepresentations and
8 omissions to members of the Class regarding the RCA Projectors.

9 103. Defendants should have known its representations to be false, and had
10 no reasonable grounds for believing them to be true when they were made.

11 104. By and through such negligent misrepresentations, Defendants intended
12 to induce Plaintiff and those similarly situated to alter their position to their
13 detriment. Specifically, Defendants negligently induced Plaintiff and those
14 similarly situated, without limitation, to purchase the RCA Projectors at the price
15 they paid.

16 105. Plaintiff and those similarly situated reasonably relied on Defendants
17 representation. Specifically, Plaintiff and those similarly situated paid as much as
18 they did for the RCA Projectors, because Defendants represented that the RCA
19 Projectors were capable of achieving brightness ratings between 2,000 and 3,100
20 lumens.

21 106. Because they reasonably relied on Defendants' false representations,
22 Plaintiff and those similarly situated were harmed in the amount of the price
23 premium they paid (i.e., the difference between the price consumers paid for the
24 RCA Projectors and the price they would have paid but for Defendants'
25 misrepresentations), in an amount to be proven at trial using econometric or
26 statistical techniques such as hedonic regression or conjoint analysis.

Plaintiff's Fifth Cause of Action
(Unjust Enrichment)
On Behalf of Plaintiff Scanlon and the Class

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107. Plaintiff realleges and incorporates by reference the paragraphs of this Class Action Complaint as if set forth herein.

108. By means of Defendants' wrongful conduct alleged herein, Defendants knowingly sold RCA Projectors to Plaintiff and members of the Class in a manner that was unfair, unconscionable, and oppressive.

109. Specifically, they advertised and sold RCA Projectors with inaccurate lumens ratings that were in some cases as low as 1.6% of their actual capacity.

110. Defendants knowingly received and retained wrongful benefits and funds from Plaintiff and members of the Class. In so doing, Defendants acted with conscious disregard for the rights of Plaintiff and members of the Class.

111. As a result of Defendants' wrongful conduct as alleged herein, Defendants have been unjustly enriched at the expense of, and to the detriment of, Plaintiff and members of the Classes.

112. Defendants' unjust enrichment is traceable to, and resulted directly and proximately from, the conduct alleged herein.

113. Under the common law doctrine of unjust enrichment, it is inequitable for Defendants to be permitted to retain the benefits it received, without justification, from selling RCA Projectors to Plaintiff and members of the Class in an unfair, unconscionable, and oppressive manner. Defendants' retention of such funds under such circumstances when it is inequitable to do so constitutes unjust enrichment.

114. The financial benefits derived by Defendants rightfully belong to Plaintiff and members of the Classes. Defendants should be compelled to return in a common fund for the benefit of Plaintiff and members of the Classes all wrongful or inequitable proceeds received by them.

1 115. Plaintiff and members of the Class have no adequate remedy at law.

2 **Plaintiff's Sixth Cause of Action**
3 **(Unfair, Unlawful and/or Deceptive Trade Practices,**
4 **Business and Professions Code § 17200, et seq.)**
5 **On Behalf of Themselves and the Class**

6 116. Plaintiff realleges and incorporates by reference the paragraphs of this
7 Class Action Complaint as if set forth herein.

8 117. Within four (4) years preceding the filing of this Class Action
9 Complaint, and at all times mentioned herein, Defendants have engaged, and
10 continues to engage, in unfair, unlawful and deceptive trade practices in
11 California by carrying out the unfair, deceptive and unlawful business practices
12 outlined in this Class Action Complaint. In particular, Defendants have engaged,
13 and continues to engage, in unfair, unlawful and deceptive trade practices by,
14 without limitation, the following:

- 15 a. falsely and deceptively representing to Plaintiff, and those similarly
16 situated, that the RCA Projectors are capable of achieving the advertised
17 brightness ratings of between 2,000 and 3,100 lumens;
- 18 b. failing to inform Plaintiff, and those similarly situated consumers that the
19 RCA Projectors are incapable of achieving the advertised brightness ratings
20 and their true capacity is only a small fraction of what Defendants display on
21 their packaging.
- 22 c. engaging in misrepresentation as described herein;
- 23 d. violating the CLRA as described herein; and
- 24 e. violating the FAL as described herein.

25 118. Plaintiff and those similarly situated relied to their detriment on
26 Defendants' unfair, deceptive and unlawful business practices. Had Plaintiff and
those similarly situated been adequately informed and not deceived by

1 Defendants, they would have acted differently by, without limitation, paying less
2 for the RCA Projectors or purchasing a different projector.

3 119. Defendants' acts and omissions are likely to deceive the general public.

4 120. Defendants' engaged in these unfair practices to increase its profits.
5 Accordingly, Defendants have engaged in unlawful trade practices, as defined and
6 prohibited by section 17200, *et seq.* of the California Business and Professions
7 Code.

8 121. The aforementioned practices, which Defendants have used to their
9 significant financial gain, also constitute unlawful competition and provides an
10 unlawful advantage over Defendants' competitors as well as injury to the general
11 public.

12 122. As a direct and proximate result of such actions, Plaintiff and the other
13 members of the Class have suffered and continue to suffer injury in fact and have
14 lost money and/or property as a result of such deceptive, unfair and/or unlawful
15 trade practices and unfair competition in an amount which will be proven at trial,
16 but which is in excess of the jurisdictional minimum of this Court. Among other
17 things, Plaintiff and the class lost the amount of the price premium they paid (i.e.,
18 the difference between the price consumers paid for the RCA Projectors and the
19 price they would have paid but for Defendants' misrepresentations), in an amount
20 to be proven at trial using econometric or statistical techniques such as hedonic
21 regression or conjoint analysis.

22 123. Plaintiff seeks, on behalf of those similarly situated, a declaration that
23 the above-described trade practices are fraudulent and unlawful.

24 124. Plaintiff seeks, on behalf of those similarly situated, an injunction to
25 prohibit Defendants from offering the RCA Projectors within a reasonable time
26 after entry of judgment, unless Defendants modify all packaging, specifications,
and marketing materials to remove the misrepresentations and to disclose the

1 omitted facts. Such misconduct by Defendants, unless and until enjoined and
2 restrained by order of this Court, will continue to cause injury in fact to the
3 general public and the loss of money and property in that Defendants will
4 continue to violate the laws of California, unless specifically ordered to comply
5 with the same. Further, even if Defendants temporarily cease the practices, in the
6 absence of an injunction, Defendants are free to resume the practice at their whim.
7 This expectation of future violations will require current and future consumers to
8 repeatedly and continuously seek legal redress in order to recover monies paid to
9 Defendants to which Defendants were not entitled. Plaintiff, those similarly
10 situated and/or other consumers have no other adequate remedy at law to ensure
11 future compliance with the California Business and Professions Code alleged to
12 have been violated herein.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff pray for judgment as follows:

15 A. On Cause of Action Number 1 against Defendants and in favor of
16 Plaintiff Scanlon and the other members of the Class:

- 17 1. An award of compensatory damages in the amount of the price
18 premium paid (i.e., the difference between the price consumers paid
19 for the RCA Projectors and the price they would have paid but for
20 Defendants' misrepresentations), in an amount to be proven at trial
21 using econometric or statistical techniques such as hedonic
22 regression or conjoint analysis; and
- 23 2. An award of punitive damages, the amount of which is to be
24 determined at trial.

25 B. On Cause of Action Number 2 against Defendants and in favor of
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Plaintiff Scanlon and the other members of the Class:

1. For restitution of the price premium paid (i.e., the difference between the price consumers paid for the RCA Projectors and the price they would have paid but for Defendants' misrepresentations), in an amount to be proven at trial using econometric or statistical techniques such as hedonic regression or conjoint analysis;
2. for injunctive relief pursuant to California Civil Code section 1780;
3. [Reserved]; and
4. [Reserved].

C. On Cause of Action Number 3 against Defendants and in favor of Plaintiff Scanlon and the other members of the Class:

1. For restitution of the price premium paid (i.e., the difference between the price consumers paid for the RCA Projectors and the price they would have paid but for Defendants' misrepresentations), in an amount to be proven at trial using econometric or statistical techniques such as hedonic regression or conjoint analysis, pursuant to, without limitation, the California Business & Professions Code §§ 17200, et seq. and 17500, et seq.; and
2. for declaratory and injunctive relief pursuant to, without limitation, the California Business & Professions Code §§ 17200, et seq. and 17500, et seq; and

D. On Causes of Action Number 4 and 5 against Defendants and in favor of Plaintiff Scanlon and the other members of the Class:

1. For the greater of actual or compensatory damages according to proof;

E. On Cause of Action Number 6 against Defendants and in favor of

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Plaintiff Scanlon and the other members of the Class:

1. For restitution of the price premium paid (i.e., the difference between the price consumers paid for the RCA Projectors and the price they would have paid but for Defendants' misrepresentations), in an amount to be proven at trial using econometric or statistical techniques such as hedonic regression or conjoint analysis, pursuant to, without limitation, the California Business & Professions Code §§ 17200, et seq.; and
2. for declaratory and injunctive relief pursuant to, without limitation, the California Business & Professions Code §§ 17200, et seq.

JURY TRIAL DEMANDED

Plaintiffs demand a trial by jury.

Respectfully submitted,

Dated: May 3, 2019

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