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13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**

15  
16 JOE KINDER and BRANDON MOSS, on  
17 behalf of themselves and all others similarly  
18 situated and the general public,

19 Plaintiff,

20 v.

21 DJI TECHNOLOGY, INC.; SZ DJI  
22 TECHNOLOGY CO., LTD.

23  
24 Defendants.  
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26  
27  
28

Case No.

**CLASS ACTION COMPLAINT**

JURY TRIAL DEMANDED

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8 Attorneys for Plaintiff, JOE KINDER, BRANDON MOSS, and the Proposed Class

1 Plaintiffs, JOE KINDER (“KINDER”) and BRANDON MOSS (“MOSS”)  
2 (collectively referred to as “Plaintiffs”) bring this action on behalf of themselves, and all  
3 others similarly situated against DJI TECHNOLOGY, INC.; SZ DJI TECHNOLOGY  
4 CO., LTD (hereinafter collectively referred to as “Defendants” or “DJI”). Plaintiff  
5 makes the following allegations based upon information and belief, except as to the  
6 allegations specifically pertaining to themselves, which are based on personal  
7 knowledge.

### 8 9 INTRODUCTION

10 1. The drone market is a big industry and an increasingly growing market.  
11 Drones were made available to the general public in 2016. The drone industry is  
12 becoming a compelling one, with global sales reaching \$22.5 billion in 2020 and  
13 expected to grow substantially by 2025 to a whopping 42.8 billion.<sup>1</sup> "Unmanned aircraft  
14 systems" (colloquially and hereinafter referred to as "drones") are becoming increasingly  
15 ubiquitous for recreational use.”<sup>2</sup>

16 2. Drones have a variety of uses including defense, emergency response,  
17 disaster relief, conversation, disease control, healthcare, agriculture, weather forecasting,  
18 maritime, waste management, energy, search & rescue, surveillance, security, science &  
19 research, surveying & GIS, operating unmanned cargo systems, investigation, and/or  
20 photography<sup>3</sup>.

21 3. Drones were originally developed for the military and aerospace industries,  
22 but they have found their way into the mainstream because of the enhanced levels of  
23 safety and efficiency through sales to the public by private entities. Unmanned aerial  
24 vehicle (UAV) – also know as drones --operate without a pilot on board and with  
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27 <sup>1</sup> Drone Industry Insights. The Drone Market Report 2020-2025. Available online <https://drone-market-report-2020-2025>

<sup>2</sup> Reddit (July 30, 2018), reddit.com/r/drones [<https://perma.cc/M93S-C48U>] (online community devoted to recreational drone activities, including drone cinematography, first-person-view drone racing, and drone building).

28 <sup>3</sup> <https://www.businessinsider.com/drone-technology-uses-applications>; <https://www.dummies.com/consumer-electronics/drones/popular-uses-for-drones/>

1 different levels of autonomy depending on the manufacturer/make/model. A drone's  
2 autonomous level can range from remotely piloted by a human to complete autonomy  
3 relying on a system of sensors and LIDAR detectors to calculate its movement.<sup>4</sup>

4 4. "Drone technology has been used by defense organizations and tech-savvy  
5 consumers for quite some time. However, the benefits of this technology extend well  
6 beyond just these sectors. With the rising accessibility of drones, many of the most  
7 dangerous and high-paying jobs within the commercial sector are ripe for displacement  
8 by drone technology. The use cases for safe, cost-effective solutions range from data  
9 collection to delivery. And as autonomy and collision-avoidance technologies improve,  
10 so too will drones' ability to perform increasingly complex tasks."<sup>5</sup>

11 5. Piloting drones occurs in one of two ways, which is either achieved through  
12 Line of Sight (LOS) by observing the drone with your eyes or through an onboard  
13 camera. Through the onboard system, the video image from an onboard camera in the  
14 drone is transmitted by radio to a personal video display onto goggles, mobile phone or  
15 tablet screen. By all accounts, this has become the preferred method for consumers to  
16 fly drones.<sup>6</sup>

17 6. In general, there are only a few features or specifications that drive  
18 consumers' decisions to purchase drones. They are: 1) distance/video transmission, 2)  
19 flight time (battery life), 3) weight, 4) camera, and 5) recording/editing features.<sup>7</sup>

20 7. DJI manufactures, distributes, promotes, markets, advertises, sells, and/or  
21 engages in transactions with consumers for a variety of drone products and is recognized  
22 globally as a leader in this space.<sup>8</sup>

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25 <sup>4</sup> <https://builtin.com/drones>

<sup>5</sup> <https://www.cbinsights.com/research/drone-impact-society-uav/>

26 <sup>6</sup> <https://dronedj.com/2021/02/18/long-range-fpv-grows-in-popularity/>;  
27 <https://www.bhphotovideo.com/explora/video/features/what-is-an-fpv-drone>; <https://www.dronezon.com/learn-about-drones-quadcopters/what-is-fpv-flying-drone-equipment/>  
28 <https://www.prnewswire.com/news-releases/global-racing-drone-market-to-reach-valuation-of-us786-mn-by-2027-increasing-popularity-of-commercial-racing-events-to-drive-growth-finds-tmr-301007400.html>

<sup>7</sup> <https://www.mydronelab.com/blog/what-is-a-drone.html>

1 8. Consistent with DJI’s self-promotion as the industry leader in the drone  
2 industry, its own website (“Website”) set forth on <https://www.dji.com> states in  
3 prominent lettering: “Headquartered in Shenzhen, widely considered China’s Silicon  
4 Valley, DJI benefits from direct access to the suppliers, raw materials, and young,  
5 creative talent pool necessary for sustained success. Drawing on these resources, we  
6 have grown from a single small office in 2006 to a global workforce. Our offices can  
7 now be found in the United States, Germany, the Netherlands, Japan, South Korea,  
8 Beijing, Shanghai, and Hong Kong. As a privately owned and operated company, DJI  
9 focuses on our own vision, supporting creative, commercial, and nonprofit applications  
10 of our technology. Today, DJI products are redefining industries. Professionals in  
11 filmmaking, agriculture, conservation, search and rescue, energy infrastructure, and  
12 more trust DJI to bring new perspectives to their work and help them accomplish feats  
13 safer, faster, and with greater efficiency than ever before.”<sup>9</sup>

14 9. DJI touts that its products are “[e]stablished to produce DJI’s innovative  
15 products safely and responsibly, our wholly owned subsidiary Shenzhen Dajiang  
16 Baiwang Technology Co., Ltd. is a high-tech manufacturing facility specializing in  
17 unmanned aerial vehicles. In 2016, Dajiang Baiwang passed the ISO 9001:2015 Quality  
18 Management System Certification and in 2017 passed the SGS ISO 14001:2015  
19 Environmental Management System Certification.”

20 10. All drones sold by DJI, including in the United States, are contained within  
21 packaging that is uniform in nature - usually square or rectangle in shape, generally  
22 white in color, with black typed writing which set forth the specific set of representations  
23 relating to the specific features of the product.

24 11. DJI’s representations and warranties relating to the Products (herein defined  
25 below) are prominently displayed on DJI’s Website and/or on the back of the packaging  
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27 <sup>8</sup> <https://www.globalbrandsmagazine.com/top-10-drone-companies-in-the-world-2020/>;  
28 <https://www.marketwatch.com/story/how-dji-has-crushed-the-consumer-drone-industry-and-the-rivals-that-could-still-take-flight-2017-02-17>

<sup>9</sup> <https://www.dji.com/company>

1 of certain DJI Products. DJI also prominently displays the Products’ features or  
2 specifications on DJI Website, on the packaging of the Products and through alternative  
3 advertising. DJI appreciates that prospective consumers purchase DJI Products based on  
4 the specifications, which are material terms to consumers and thus prominently display  
5 them for the consumer to see.

6 12. Located on DJI’s Website,<sup>10</sup> the packaging of the Products, and other forms  
7 of advertising, DJI makes specific representations and warranties to consumers relating  
8 to the Products:

- 9 • weight
- 10 • flight time (battery life)
- 11 • distance/video transmission
- 12 • camera and/or
- 13 • recording/editing.

14 13. DJI also offers its customers the opportunity to purchase ‘DJI Care Refresh’  
15 which “[i]s a comprehensive and reliable protection plan that offers accidental damage  
16 coverage for DJI products, allowing you to enjoy your DJI product with greater peace of  
17 mind wherever you go. DJI Care Refresh (1 - Year Plan) includes up to 2 replacements  
18 in 1 year. DJI Care Refresh (2 - Year Plan) includes up to 3 replacements in 2 years and  
19 extends the original warranty up to 2 years from the date of purchase.”<sup>11</sup> Consumers are  
20 able to purchase DJI Care Refresh at the time of purchase. Both Plaintiffs KINDER and  
21 MOSS purchased DJI Care Refresh at the time of purchasing the DJI Mavic Air 2.

22 14. The DJI Products that are the subject of this lawsuit include but are not  
23 limited to:

- 24 • Mavic
- 25 • Mavic Pro
- 26 • Phantom
- 27 • Mavic Air

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28 <sup>10</sup> Some DJI Products may have additional features.

<sup>11</sup> <https://www.dji.com/service/djicare-refresh>

- DJI Zoom
- DJI Mini
- Mavic Mini

(collectively, the “Products<sup>12</sup>”)

**A) Flight Time and Distance/Video Representations and Warranties**

15. On information and belief, DJI makes specific representations and warranties related to the DJI Products. These representations and warranties are made in the form of product specifications related to the DJI Products, which are contained on either DJI’s Website, the packaging of the Products or through other forms of advertising.

16. On DJI’s website, DJI represents and warrants that the Mavic Air 2 has the following specifications which is used to advertise/promote the Mavic Air 2 to prospective consumers in order to drive sales:

- 48MP Photo /4K/60 fps
- 34-min Max. Flight Time
- 10 km 1080p Video Transmission
- Focus Track
- 8K Hyperlapse
- HDR Photo Video Panorama

17. Each of the stated representations and warranties related to each of the Products’ is material in nature to consumers such as Plaintiff and Class Members (as defined below), who relied on the representations and warranties when purchasing DJI Products.

18. DJI touts each of the specifications for each of the Products either on the DJI’s Website and/or on the packaging of the Products or through other forms of advertising in order to induce consumers to purchase the Products.

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<sup>12</sup> Several of the DJI Products have more than one version or model.

1 19. DJI flight time and distance/video transmission representations are uniform  
2 for a particular model but vary depending upon the DJI Product model at issue.  
3 Consumers rely on DJI's flight time and distance/video transmission representations and  
4 warranties when selecting which specific model of the various DJI Products to purchase.

5 20. The flight time and distance/video transmission allows consumer to fly or  
6 operate the DJI Products for a certain amount of time (e.g. Mavic Air 2 is 34 min) at a  
7 certain distance (e.g. Mavic Air 2 is 10km) according to DJI's representations and  
8 warranties in connection with the Products. For the other DJI models, DJI makes a  
9 uniform flight time and distance/video transmission representations and warranties of the  
10 to that particular model for each of the Products.

11 21. Through its distance/video transmission representations and warranties, DJI  
12 claims the DJI Products can fly (or be operated) upwards of 2-6 miles. DJI touts the  
13 distance/video transmission representations and warranties to consumers knowing that  
14 consumers rely on these specifications when making their purchase decisions.

15 22. Consumers including Plaintiffs and Class Members purchase the DJI  
16 Products with the belief that consumers can operate DJI Products to the same  
17 specifications as those represented and warranted through DJI's Website and/or Product  
18 packaging and/or advertising.

19 23. Consumers rely on DJI's flight time and distance/video transmission  
20 representations and warranties when purchasing the Products. Consumers purchase DJI  
21 Products with the intention of piloting the DJI Products at the stated flight time and  
22 distance/video transmission specifications as represented and warranted on DJI's  
23 Website and/or the packaging of the Products and/or through other forms of advertising.

24 24. On information and belief, the DJI Products do not meet the DJI's  
25 specifications for its flight time and distance/video transmission for the corresponding  
26 model because:

- 27 a) The battery life for single charge will not support DJI's flight time  
28 representations and warranties;



1 b) The Products cannot travel for the stated distance/video transmission per the  
2 specifications; and

3 c) The images from the onboard camera being transmitted to the  
4 personal video display device are interrupted and/or fail within the range  
5 represented and warranted by DJI.

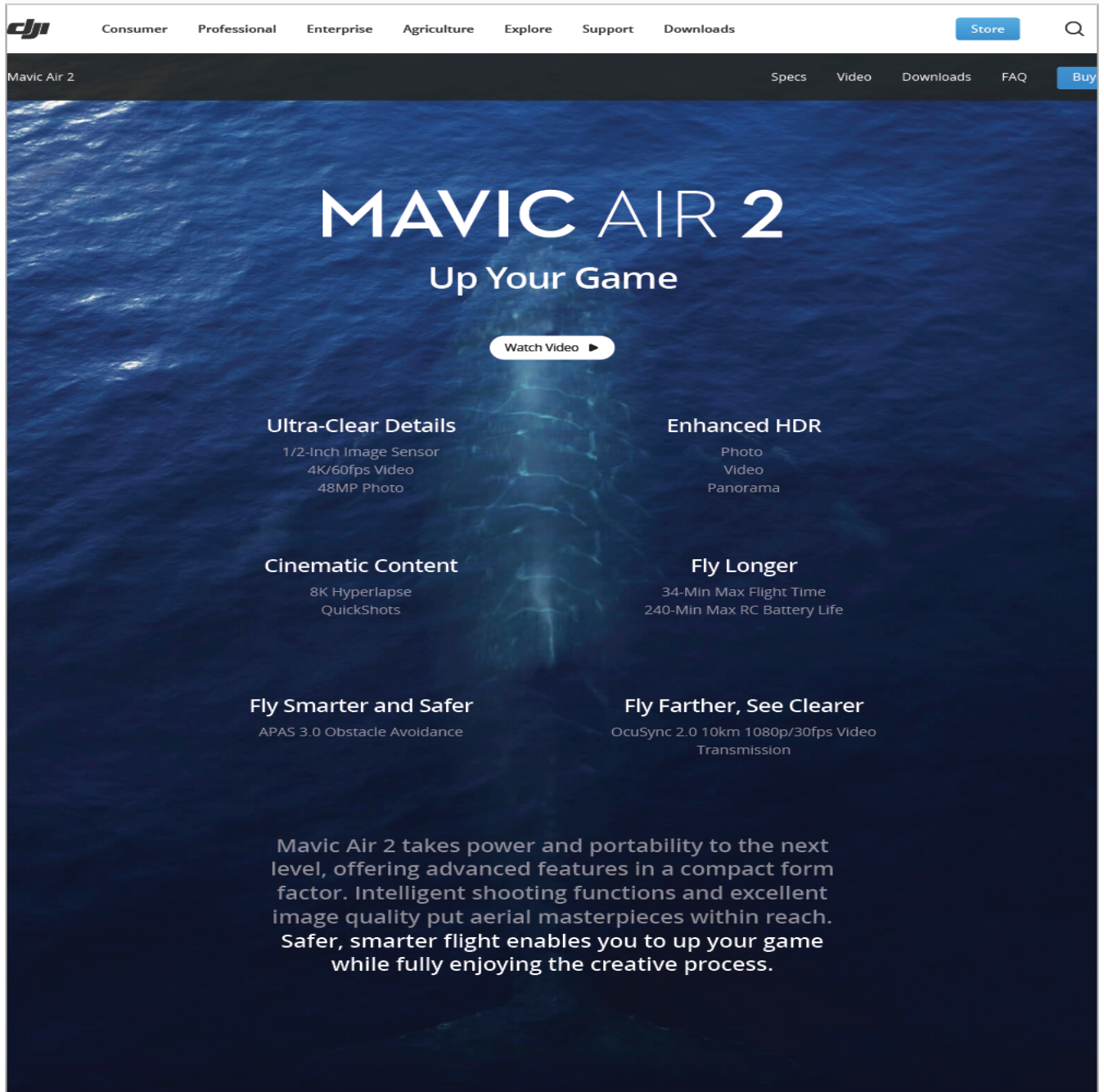
6 25. DJI's representations and warranties relating to the Products' distance/video  
7 transmission specifications are false and misleading because the Products do not meet  
8 the specifications as represented and warranted on DJI's Website and/or on the  
9 packaging of DJI's Products and/or through other forms of advertising.

10 26. For example, the specifications are set forth on page 1 on the Mavic Air 2  
11 webpage at DJI's Website, are prominently displayed as set forth below:

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27. DJI touts the Products’ flight time and distance/video transmission specifications to prospective consumers in order to drive sales of the Products. Consumers including Plaintiff and Class Members read, reviewed, and relied on these representations and warranties and purchased the DJI Products believing the Products will perform to DJI’s representations and warranties stated on the DJI Website, packaging, or in other forms of advertising.

1 28. DJI knows that its prominently displayed flight time and distance/video  
2 transmission specifications, representations and warranties that consumers rely upon are  
3 false and/or misleading as evidenced by DJI’s attempt to bury on the DJI website the  
4 virtually unattainable flight conditions that must be present to support the specifications  
5 for Consumers such as Plaintiff or Class Member to achieve the represented flight time  
6 and distance/video transmission that it prominently displays on its packaging in order to  
7 shield itself against its false and misleading representations and warranties.

8 29. DJI’s Website contains language – not on page 1 but page 23 -- attempting  
9 to set flight conditions (for example, See Page 23, setting conditions for the Mavic Air 2  
10 on the DJI Website). These necessary flight conditions are omitted from the prominently  
11 displayed packaging and advertising; however, DJI understands they are as necessary to  
12 achieve the flight time and distance/video transmission specifications and  
13 representations. These representations and warranties are the subject of this complaint  
14 e.g. (1) In order to achieve the flight time representations and warranties prominently  
15 displayed on packaging and advertising to the consumer for the Mavic Air 2 – the  
16 “Flight time representation requires the drone to be flown “ at an angle of 9° at a speed  
17 of 5.1 m/s, free of wind” [located at Note 5 on page 23 of the Mavic Air 2 DJI Website]  
18 and (2) For distance/video transmission representations and warranties - “Unobstructed,  
19 free of interference, and when FCC complaint” located on Note 3 at page 23 of the  
20 Mavic Air 2 DJI Website.

21 30. DJI’s attempt to shield itself from DJI’s false and misleading flight time and  
22 distance/video transmission representations and warranties fails because:

23 (a) DJI intentionally confuses their consumers by concealing and making very  
24 difficult for consumers to obtain basic information that should be readily available to  
25 them to be able to make an informed decision when making a purchase. The identified  
26 necessary 1 flight conditions which DJI attempts to support its flight time and  
27 distance/video transmission representations and warranties do not appear on page 1  
28 where the specifications and representations of the Mavic Air 2 are provided to the

1 consumer. The secreted but necessary flight conditions appear on page 23 of the Mavic  
2 Air 2 webpages rather than side by side with DJI’s specifications touted by DJI to  
3 prospective consumers for the flight time and distance/video representations that appear  
4 on page 1 of the Mavic Air 2 webpage. DJI knows the significance of the secreted flight  
5 conditions found on page 23 because at page 15-16 of the Mavic Air 2 DJI Website, DJI  
6 “notes” the flight previously undisclosed critical flight conditions found on page 23. A  
7 true and correct copy of the Mavic Air 2 webpages (1-23 pp.) for the DJI Website are  
8 attached as “Exhibit A.” DJI intentionally creates confusion by not providing the  
9 consumer with the information required from the outset in order to make an informed  
10 purchase. Instead, DJI creates a maze of confusion for the consumer. DJI provides the  
11 prospective consumer with no hyperlinks, links or other references that are highlighted  
12 for the consumer to become aware of DJI’s alleged flight conditions for piloting to meet  
13 the specifications set forth on the DJI Website or packaging of the Products; and

14 (2) DJI’s uses vague and obscure language such as “Unobstructed, free of  
15 interference, and when FCC compliant,”<sup>13</sup> which does not inform the consumer or  
16 provide her/him with an understanding of the actual flight conditions necessary to pilot  
17 the DJI Products to the same specifications as those represented and warranted by DJI.

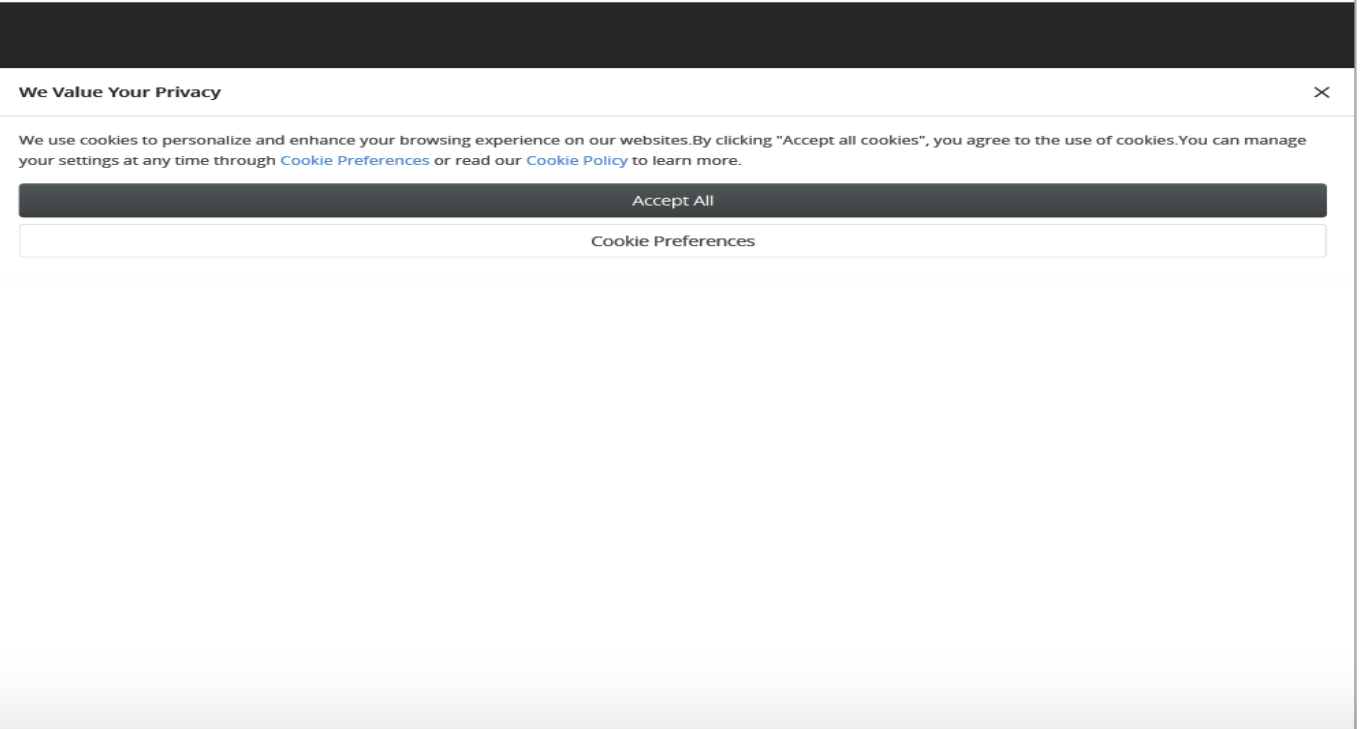
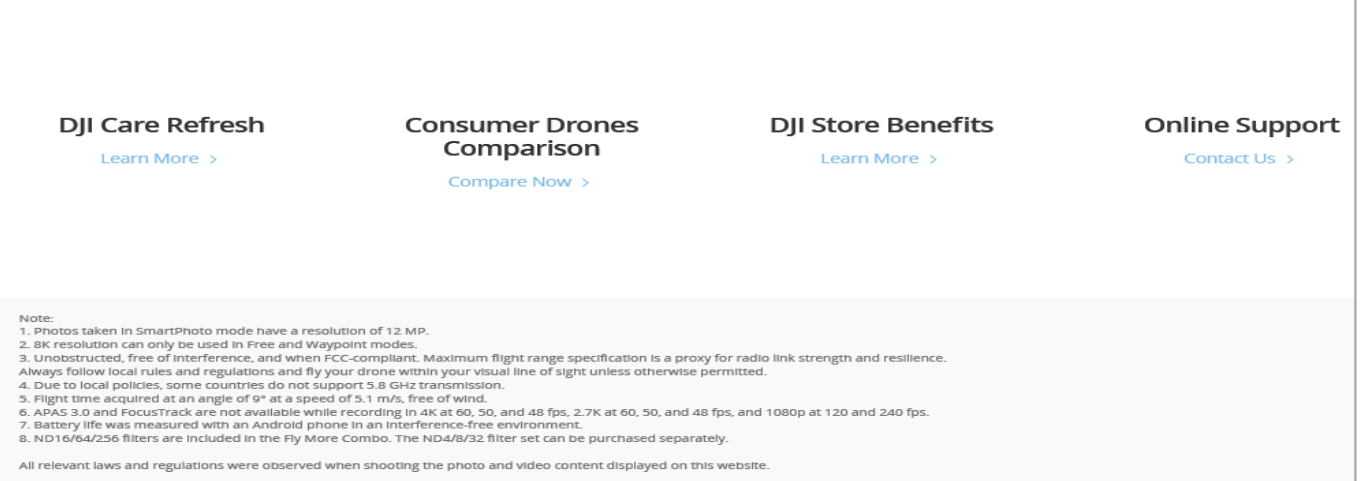
18 31. The alleged conditions governing the flight time and distance/video  
19 transmission representations and warranties are contained on webpage 23 of DJI’s  
20 Website (Mavic Air 2). The conditions are set forth in font size and style that is barely  
21 legible and readable to a prospective consumer.

22 32. There is no hyperlink, link, or any information directing the consumer to  
23 scroll from page 1 setting forth the flight time and distance/video transmission  
24 representations and warranties to page 15 (which also contains flight time specifications  
25 with specific flight conditions set forth in Note 5 located on page 23) OR page 16 (which  
26 containing distance/video transmission specifications which also references specific  
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28 <sup>13</sup> DJI uses the identical or substantially similar language to reference alleged flight conditions implemented by DJI to obtain the specifications set forth in the representations and warranties in connection with the DJI Products.

1 flight conditions set forth in Note 3 located on page 23) to page 23 on Mavic Air 2  
2 webpages of the DJI's Website. Below is a screen shot of Page 23 of DJI's Website for  
3 the Mavic Air 2 setting forth the alleged flight conditions to achieve the specifications at  
4 issue is set forth below:



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25 33. Irrespective of DJI's (concealed) flight conditions which are allegedly  
26 necessary to achieve DJI's stated representations and warranties set forth on page 23 for  
27 the Mavic Air 2 (for example), the DJI Products fail to meet the flight time and  
28 distance/video transmission specifications as set forth on DJI's Website, packaging, and

1 other advertising. The flight conditions do not and will not allow the pilot or the DJI  
2 Products to meet reach the capabilities as represented and warranted by DJI in its flight  
3 time and distance/video transmission specifications. DJI inflates its flight time and  
4 distance/video transmission specifications to its consumers in order to drive sales of the  
5 Products. If the consumer is able to meet one of the specifications, one of the other  
6 specifications does not meet DJI’s stated representations and warranties. For example, if  
7 a pilot flies the DJI Products at a certain distance, the pilot will encounter video  
8 transmission related issues. On information and belief, DJI has knowledge that DJI  
9 Products do not meet the flight time and distance/video transmission specifications as  
10 represented and warranted by DJI. DJI sold the Products to consumers such as Plaintiffs  
11 and Class Members knowing that the Products do not meet the flight time and  
12 distance/video transmission representations and warranties.

13  
14 **B) Federal Law – Visual Line of Sight**

15 34. On June 21, 2016, the final rule 14 CFR Part 107 was adopted by the  
16 Department of Transportation (DOT) and Federal Aviation Administration (FAA) that  
17 issued a press release to Finalize Rules for Small Unmanned Aircraft Systems. The  
18 press release was granted immediate release and was captured in the FAA News  
19 “Summary of Small Unmanned Aircraft Rule (Part 107).” A true and correct copy of the  
20 FAA press release is attached to this complaint as “Exhibit B.”

21 35. On June 28, 2016, the FAA amended its regulations to allow for the  
22 operation of small unmanned aircraft systems (UAS) in the National Airspace System, to  
23 address changes to the operation of UAS and the certification of remote pilots.

24 36. 14 CFR 107.31<sup>14</sup>, Visual Line of Sight Aircraft Operation, states as follows:

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<sup>14</sup> [https://www.ecfr.gov/cgi-bin/text-idx?node=pt14.2.107&rgn=div5#se14.2.107\\_131](https://www.ecfr.gov/cgi-bin/text-idx?node=pt14.2.107&rgn=div5#se14.2.107_131) (Government Publishing Office)

1  
2 **§107.31 Visual line of sight aircraft operation.**

3 (a) With vision that is unaided by any device other than corrective lenses, the remote pilot in command, the visual observer (if one is used), and the person manipulating the flight control of the small unmanned aircraft system must be able to see the unmanned aircraft throughout the entire flight in order to:

- 4 (1) Know the unmanned aircraft's location;  
5 (2) Determine the unmanned aircraft's attitude, altitude, and direction of flight;  
6 (3) Observe the airspace for other air traffic or hazards; and  
7 (4) Determine that the unmanned aircraft does not endanger the life or property of another.

8 (b) Throughout the entire flight of the small unmanned aircraft, the ability described in paragraph (a) of this section must be exercised by either:

- 9 (1) The remote pilot in command and the person manipulating the flight controls of the small unmanned aircraft system; or  
10 (2) A visual observer.

11 37. On October 6, 2020, the FAA issued a press release entitled “Fact Sheet -  
12 Small Unmanned Aircraft Systems (UAS) Regulations (Part 107).” Under operational  
13 requirements, the third bullet point states: “Keep your drone within sight. If you use First  
14 Person View or similar technology, you must have a visual observer always keep your  
15 drone within unaided sight (for example, no binoculars).” A true and correct copy of the  
16 FAA press release is attached to this complaint as “Exhibit C.”

17 38. These VLOS requirements are particularly important to consumers because  
18 it limits the pilot or remote pilot, visual observer, and/or person managing the flight  
19 control to “vision unaided by any device.” Instead of providing the consumer with the  
20 federal VLOS requirements in a manner that is easily visible, readable, and/or accessible  
21 (e.g. hyperlink) so the consumer can decide whether or not the specifications set forth on  
22 DJI’s Website, packaging, or other advertising will not be maximized, DJI buries, hides,  
23 or conceal these limitation imposed by federal law which negatively impacts DJI’s  
24 specifications.

25 39. The DJI Products, per the Products’ specifications as set forth on DJI’s  
26 Website, the Products’ packaging, and other advertising, entice and prompt the  
27 consumer to purchase the Products based on the Product specifications. Consumers rely  
28 on the specifications and to be able to pilot the Products at the maximum capacity of the  
specifications. Pilots cannot attain maximum specifications of the Products for flight  
time and distance/video transmission without violating federal law.

1           40. DJI’s distance/video transmission representations and warranties for the  
2 Products, which drives consumers such as Plaintiff and Class Members to purchase the  
3 Products violates federal law. In fact, the pilots operating the Products well within the  
4 DJI’s distance/video transmission representations and warranties violate the federal law.  
5 DJI intentionally conceals the federal law VLOS requirements from its consumers who  
6 are viewing the flight time and distance/video transmission representations and  
7 warranties such as Plaintiff and Class Members during the purchasing process. For  
8 example, for the Mavic Air 2, the distance/video transmission that represented and  
9 warranted is 10km at 1080p/30fsp, which is located on page 1 of the Mavic Air 2  
10 webpage located on the DJI Website. There are no hyperlinks, links or other references  
11 that are highlighted for the consumer to become aware of the federal law VLOS  
12 requirements that tremendously impacts the consumer such as Plaintiff and Class  
13 Members ability to fly the Products as represented and warranted. On page 15 of the  
14 Mavic Air 2 webpage on DJI’s Website there is a footnote 3, which directs the  
15 prospective consumer to the Note 3 on page 23, which reads: “[A]lways follow local  
16 rules and regulations and fly your drone within your visual line of sight unless otherwise  
17 permitted.”

18           41. Each time an individual decides to fly (or operate) one of the DJI Products  
19 outside of an individual’s VLOS, you are required by law to obtain a waiver from the  
20 FAA. “ A waiver is an official document issued by the FAA which approves certain  
21 operations of aircraft outside the limitations of a regulation. You may request to fly  
22 specific drone operations not allowed under part 107 by requesting an operational  
23 waiver. These waivers allow drone pilots to deviate from certain rules under part 107 by  
24 demonstrating they can still fly safely using alternative methods.”<sup>15</sup> A true and correct  
25 copy of the FAA Part 107 Waiver Section Specific Evaluation Information. “Exhibit D.”

26           42. Many pilots have requested waivers from the FAA. However, “[o]btaining  
27 one is extremely difficult – to say the least. As of Q1 2018, out of 1392 requested  
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<sup>15</sup> [https://www.faa.gov/uas/commercial\\_operators/part\\_107\\_waivers/](https://www.faa.gov/uas/commercial_operators/part_107_waivers/)



1 BVLOS waivers, only 14 were approved – an approval rate of barely 1%.<sup>16</sup> The  
 2 process for the FAA to review and make a decision by to grant or deny the waiver will  
 3 take approximately 90 days (FAA states that it is commitment to do their best to meet  
 4 the 90 day mark) from the time of submission to the FAA.<sup>17</sup> With the emerging drone  
 5 market, the number of applications to the FAA for waivers has increased from 2018-  
 6 2021. “The FAA has issued 4,893 waivers as of the end of 2020.”<sup>18</sup> The total number of  
 7 VLOS waivers granted in 2020 was 88, which is consistent with the percentage of  
 8 VLOS waivers granted by the FAA in prior years for VLOS. *Id.* The FAA has provided  
 9 the public with a list of the waivers that have been granted by the FAA<sup>19</sup> Even though  
 10 the total number of waivers the FAA granted has increased from 2018-2021, the  
 11 percentage of actual waivers remains in the low single digit percentages in relation to the  
 12 number of applications.

13 43. In fact, there are specific requirements which must be met in order to be  
 14 granted a waiver BVLOS (beyond the visual line of sight) by the FAA and requesting a  
 15 waiver to merely fly BVLOS is not a reason to be granted a waiver by the FAA.

16 44. DJI is aware of the low single digit (percentage) application for waivers  
 17 granted by the FAA. DJI has knowledge that a large percentage of DJI’s customers  
 18 would not legally be permitted to fly (or operate) the Products beyond the VLOS and  
 19 therefore never legally be able to meet the specifications touted by DJI to Plaintiffs and  
 20 Class Members. DJI should inform their consumers (without concealing the information)  
 21 such as Plaintiff and Class Members that the specifications touted DJI on its Website,  
 22 packaging or other forms of advertising cannot be met by the consumer without violating  
 23 federal law. DJI consumer fails to provide the consumer with any information such as a  
 24 hyperlink or other link to reference the limitations imposed by federal law – instead DJI  
 25

26 <sup>16</sup> <https://www.thedroneu.com/blog/little-known-facts-about-part-107s-visual-line-of-sight-rule-that-you-might-not-be-of/>

27 <sup>17</sup> [https://www.faa.gov/uas/commercial\\_operators/part\\_107\\_waivers/](https://www.faa.gov/uas/commercial_operators/part_107_waivers/)

28 <sup>18</sup> <https://www.thedronegirl.com/2021/01/19/certified-drone-pilots/>

<sup>19</sup> [https://www.faa.gov/uas/commercial\\_operators/part\\_107\\_waivers/waivers\\_issued/](https://www.faa.gov/uas/commercial_operators/part_107_waivers/waivers_issued/)

1 creates a maze of information and conceals the information from the consumer in tiny  
2 font size (unreadable) on the last page of the Website.

3 45. DJI's market share is reported to represent upward of 70% of the drone  
4 consumer market worldwide and more than 50% of the consumer drone market in the  
5 United States.<sup>20</sup>

6 46. With the number of drones sold by DJI in the United States in relation to  
7 the single low digit percentage of waivers granted by the FAA, most of DJI's purchasers  
8 would not be granted waivers by the FAA. DJI consumers such as Plaintiff and Class  
9 Members will never legally be allowed to fly the drones for a greater distance than the  
10 VLOS which forces the consumer to only fly the drone within short distances despite  
11 DJI representations and warranties that the Products can be flown for several miles while  
12 using video transmission.

13 47. Consumers such as Plaintiff and Class Members should be put on clear  
14 notice prior to their purchase of the Products of the limitations imposed by federal law  
15 that will materially impact the representations and warranties made by DJI.

16 48. Consumers reading, reviewing, and purchasing the Products based on the  
17 Product's specifications are not informed that consumers cannot (federal law mandates  
18 pilots fly within the VLOS) operate DJI Products to meet the corresponding flight time  
19 and distance/video DJI Product specifications set forth on DJI's Website or packaging of  
20 the Products. Consumers cannot legally operate (federal law mandates pilots fly within  
21 the VLOS) the DJI Products in a manner consistent with DJI's representations and  
22 warranties.

23 49. For a consumer to pilot or operate a DJI drone to meet the represented and  
24 warranted specifications set forth on DJI's Website, packaging, and other advertising  
25 would cause a consumer to violate federal law. DJI fails to notify the consumer clearly  
26 and conspicuously at the time of purchase that the consumer will not be able to pilot or  
27

28 \_\_\_\_\_  
<sup>20</sup> <https://dronedj.com/2021/09/14/droneanalyst-dji-market-share-2021/>

1 operating the DJI Product at DJI's stated specifications without violating the federal  
2 VLOS law set forth in 14 C.F.R Part 107. DJI intentionally does not flag or clearly  
3 notify consumers such as Plaintiff and Class Members during the time of purchase of the  
4 VLOS requirements or VLOS Waiver set forth in Part 107.

5 50. It is only until after the consumer purchases the DJI drone that s/he is made  
6 aware for the first-time that the drone must be flown within the VLOS and/or the  
7 specifications set forth on the packaging or DJI's website are unobtainable. DJI does not  
8 inform consumers at the time of purchase that operating the drone in manner consistent  
9 with DJI's representations and warranties, would be engaging in conduct that is not  
10 legally permissible and that will result in a violation of federal law or that the consumer  
11 would not be able to pilot the drone to the specifications set forth on the packaging or  
12 DJI's website.

13 51. Despite intentionally concealing the federal law limitations, DJI Product  
14 still fail to meet the specifications as represented and warrantied. DJI's Products do not  
15 conform to the flight time and distance/video transmission representations and  
16 warranties because DJI's Product do not meet the lower end capabilities as represented  
17 and warrantied. While in flight at the lower end capabilities for distance, the video  
18 transmission is lost or interrupted or otherwise negatively impacted to prevent Plaintiff  
19 and Class Members from viewing the Products while in flight. The flight conditions DJI  
20 claims consumers must conform to in order to support the DJI flight time and  
21 distance/video transmission representations and warranties will not cause the Products to  
22 perform to DJI's stated specifications.

23 52. Plaintiffs purchased the Products at a substantial price premium based on  
24 DJI's representations and warranties relating to the Products flight time and  
25 distance/video transmission specifications. Plaintiffs would not have bought the Products  
26 had they known that DJI's representations and warranties were false, misleading,  
27 deceptive, and unfair.

28 //

**JURISDICTION AND VENUE**

1  
2 53. This Court has personal jurisdiction over Defendants. Defendant DJI  
3 TECHNOLOGY, INC. is a California corporation with its principal place of business  
4 located in California and SZ DJI TECHNOLOGY CO., LTD is a foreign corporation  
5 with its principal place of business located at Shenzhen, China, which purposefully  
6 avails themselves of the United States consumer market, and distributes the Products to  
7 locations within this District and thousands of retail locations throughout across the  
8 United States, including, in San Francisco California, where the Products are purchased  
9 by consumers on a weekly basis.

10 54. This Court has original subject-matter jurisdiction over this proposed class  
11 action pursuant to 28 U.S.C. § 1332(d), which, under the provisions of the Class Action  
12 Fairness Act (“CAFA”), explicitly provides for original jurisdiction of the federal courts  
13 in any class action in which at least 100 members are in the proposed Plaintiff class, any  
14 member of the Plaintiff class is a citizen of a State different from any defendant, and the  
15 matter in controversy exceeds the sum of \$5,000,000.00, exclusive of interest and costs.  
16 Plaintiff alleges that the total claims of individual members of the proposed Class (as  
17 defined herein) are well in excess of \$5,000,000.00 in the aggregate, exclusive of  
18 interest and costs.

19 55. Venue is proper in this District under 28 U.S.C. § 1391(a). The Parties  
20 agreed to submit to this venue and substantial acts in furtherance of the alleged improper  
21 conduct occurred within this District.

22 **PARTIES**

23 56. Plaintiff JOE KINDER (“KINDER”) is a citizen of California and was a  
24 resident of San Diego, including when he purchased the Products within the last three  
25 years. On May 1, 2020, Plaintiff Kinder purchased a DJI Mavic Air 2 from the DJI  
26 Website for \$799.00. Plaintiff BRANDON MOSS (“MOSS”) is a citizen of California  
27 and was a resident of Sacramento, including when he purchased the Products within the  
28 last four years. On July 6, 2018, Plaintiff MOSS purchased a DJI Mavic Air 2 Bundle

1 from SSE Photo & Video through www.amazon.com for \$1,089.00. Prior to purchasing  
2 the DJI Products, Plaintiffs saw and read the first page of the Mavic Air 2 Website,  
3 which set forth the specifications for flight time and distance/video transmission  
4 specifications and relied on the representations and warranties relating to the  
5 specifications, descriptions, statements, details, and features of the Products set forth on  
6 the DJI Website.

7 57. Plaintiffs KINDER and MOSS purchased DJI Care Refresh at the time of  
8 purchasing the DJI Products. DJI Care Refresh provides additional repair/replacement  
9 services offered by DJI for the drones purchased by its customers.

10 58. Defendant DJI TECHNOLOGY, INC. is a California corporation that has  
11 its principal place of business located at Burbank, California.

12 59. Defendant SZ DJI TECHNOLOGY CO., LTD is a foreign corporation that  
13 has its principal place of business located at Shenzhen, China.

14 60. The true names and capacities, whether individual, corporate, associate or  
15 otherwise of each of the Defendant designated herein as a DOE are unknown to Plaintiff  
16 at this time, who therefore, sue said Defendant by fictitious names, and will ask leave of  
17 this Court for permission to amend this Complaint to show their names and capacities  
18 when the same have been ascertained. Plaintiff is informed and believes and thereon  
19 alleges that each of the Defendants designated as a DOE is legally responsible in some  
20 manner for the events and happenings herein referred to, and caused injuries and  
21 damages thereby to Plaintiff as alleged herein.

22 61. Defendants manufacture, produce, market, distribute, sell, broker, and  
23 engage in and transact business in connection with the Products either on its own  
24 Website or throughout retail stores across the United States. Defendants knew that the  
25 representations and warranties relating to the Products' flight time and distance/video  
26 transmission representations and warranties is false and misleading to a reasonable  
27 consumer, because DJI's representations do not conform or is inconsistent with the  
28 Products' representations and warranties.

**FACTS COMMON TO ALL CAUSES OF ACTION**

1  
2 62. Even sophisticated consumers should be able to trust the representations  
3 and warranties relating to the Products. Those transacting business with consumers are  
4 required to tell the truth, not conceal, and inform consumers of the true nature of the  
5 Products and their abilities for consumers to make an informed decision.

6 63. DJI's Website, product packaging, and other forms of advertising contain  
7 specific flight time and distance/video transmission representations and warranties. DJI  
8 makes specific representations regarding flight time and distance/video transmission  
9 while concealing vital federal law information i.e. VLOS from consumers such as  
10 Plaintiff and Class Members which impact the consumers ability to fly the Products  
11 according to DJI's specifications. Each of DJI's Products fail to meet the time and  
12 distance/video transmission representations and warranties as stated on DJI's Website,  
13 the Products' packaging, and other forms of advertising; thus the representations and  
14 warranties are false and misleading. A reasonable consumer understands Defendant's  
15 claims to mean that the Products will perform to meet and attain DJI's representations  
16 and warranties relating to the flight time and distance/video transmission specifications.  
17 Consumers such as Plaintiffs and Class Members have no reason to believe at the time  
18 of purchase that said flight time and distance/video transmission representation and  
19 warranties are false and misleading. DJI knows that their representations and warranties  
20 found on the DJI's Website, DJI's Products' packaging, and other forms of advertising.

21 64. Defendant's representations that the Products have a certain flight time and  
22 distance/video transmission is false and misleading, which induced consumers, including  
23 Plaintiff and Class Members, to pay a premium to purchase the Products. Plaintiff and  
24 Class Members relied on Defendant's false and misleading misrepresentations in  
25 purchasing the Products at a premium price above comparable alternatives. If not for  
26 Defendant's misrepresentations, Plaintiff and Class Members would not have been  
27 willing to purchase the Products at a premium price. Accordingly, they have suffered an  
28 injury as a result of Defendants' misrepresentations.



1           70. Excluded from the Class are Defendant, its affiliates, employees, officers  
2 and directors, persons or entities that purchased the Products for resale, and the Judge(s)  
3 assigned to this case.

4           71. There is a well-defined community of interest in this litigation and the Class  
5 is easily ascertainable:

- 6           a. Numerosity: The Class Members are so numerous that joinder of all  
7 members would be unfeasible and impractical. The membership of  
8 the Class is unknown to Plaintiff at this time. However, the Class is  
9 estimated to be greater than fifty (50) individuals and the identity of  
10 such membership is readily ascertainable by inspection of Defendants'  
11 employment records.
- 12           b. Typicality: Plaintiffs is qualified to and will fairly and adequately  
13 protect the interests of each Class Member with whom they has a  
14 well-defined community of interest, and Plaintiffs' claims (or  
15 defenses, if any), are typical of all Class Members as demonstrated  
16 herein.
- 17           c. Adequacy: Plaintiffs are qualified to and will fairly and adequately  
18 protect the interests of each Class Member with whom they have a  
19 well-defined community of interest and typicality of claims, as alleged  
20 herein. Plaintiff acknowledges that he has an obligation to the Court  
21 to make known any relationship, conflict, or differences with any  
22 Class Member. Plaintiffs' attorneys and proposed Class counsel are  
23 well versed in the rules governing class action discovery, certification,  
24 and settlement. Plaintiffs have incurred, and, throughout the duration  
25 of this action, will continue to incur costs and attorneys' fees that have  
26 been, are, and will be necessarily expended for the prosecution of this  
27 action for the substantial benefit of each Class Member.
- 28



1 d. Superiority: The nature of this action makes the use of class action  
2 adjudication superior to other methods. Class action will achieve  
3 economies of time, effort, and expense as compared with separate  
4 lawsuits, and will avoid inconsistent outcomes because the same  
5 issues can be adjudicated in the same manner and at the same time for  
6 the entire class.

7 72. There is a well-defined community of interest in the questions of law and  
8 fact involved in this case. Questions of law and fact common to the members of the  
9 putative classes that predominate over questions that may affect individual class  
10 members (the members of the National and California Class will hereinafter be referred  
11 to as “Class Members” or the “Class”) include, but are not limited to the following:

- 12 a. whether DJI misrepresented material facts to the Class  
13 concerning the representations and warranties contained on the  
14 Products;
- 15 b. whether DJI concealed or failed to disclose material  
16 information from the Class regarding the Products;
- 17 c. whether DJI’s conduct is/was unfair and/or deceptive;
- 18 d. whether DJI has been unjustly enriched as a result of the  
19 unlawful, fraudulent, and unfair conduct alleged in this  
20 complaint such that it would be inequitable for DJI to retain the  
21 benefits conferred upon them by Plaintiff and the classes;
- 22 e. whether DJI breached express warranties to Plaintiff and the  
23 classes;
- 24 f. whether DJI failed to disclose Products;
- 25 g. whether DJI flight time and distance/video transmission  
26 representations and warranties re: Products are false or  
27 misleading;
- 28

- 1           h.     whether DJI violated California Legal Remedies Act, California
- 2                 Business and Professions Code, and California False
- 3                 Advertising Law,
- 4           i.     whether the representations and warranties violated any express
- 5                 or implied warranties;
- 6           j.     whether Plaintiff and the Class Members have sustained
- 7                 damages with respect to the common-law claims asserted, and
- 8                 if so, the proper measure of their damages.
- 9           k.     whether the Class is entitled to restitution, rescission, damages,
- 10                and attorneys' fees and costs.

11           73.    Plaintiffs seek to certify the National Class and California Class pursuant to  
12 FRCP 23(b)(2) and FRCP 23(b)(3).

13           74.    Plaintiffs' claims are typical of Class Members because Plaintiffs, like all  
14 Class Members, purchased Defendant's Products bearing the representations and  
15 warranties and Plaintiffs sustained damages from Defendants' wrongful conduct.

16           75.    Plaintiffs will fairly and adequately protect the interests of the classes and  
17 have retained counsel that is experienced in litigating complex class actions. Plaintiffs  
18 have no interest which conflict with those of the classes.

19           76.    A class action is superior to other available methods for the fair and  
20 efficient adjudication of this controversy.

21           77.    The prerequisites to maintaining a class action for equitable relief are met  
22 as Defendants have acted or refused to act on grounds generally applicable to the Class,  
23 thereby making appropriate equitable relief with respect to the Class as a whole.

24           78.    The prosecution of separate actions by Class Members would create a risk  
25 of establishing inconsistent rulings and/or incompatible standards of conduct for DJI.  
26 For example, one court might enjoin Defendant from performing the challenged acts,  
27 whereas another might not. Additionally, individual actions could be dispositive of the  
28

1 interests of the Class even where certain Class members are not parties to such actions.

2  
3 **FIRST CAUSE OF ACTION**

4 **Violation Of California’s Consumers Legal Remedies Act (“CLRA”),**  
5 **California Civil Code §§ 1750, et seq.**  
6 **(On Behalf of Plaintiff KINDER and All California Class Members against**  
7 **Defendants)**

8 *(Damages and Injunctive Relief Only)*

9 79. Plaintiff KINDER brings this claim individually and on behalf of the  
10 members of the proposed California Class against DJI.

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

13 81. Plaintiff KINDER and each California Class Member are "consumers"  
14 within the meaning of Civil Code §1761(d).

15 82. DJI’s sales of Products to Plaintiff KINDER and the Class Members are  
16 deemed "transactions" within the meaning of Civil Code § 1761(e). The Products  
17 purchased by Plaintiff and the Class Members are "goods" within the meaning of Civil  
18 Code § 1761(a). DJI has engaged in unfair methods of competition and unfair and/or  
19 deceptive acts or practices against Plaintiff KINDER and Class Members, in violation of  
20 the CLRA by (a)(2) Misrepresenting the source, sponsorship, approval, or certification  
21 of goods or services; (5) Representing that goods or services have sponsorship, approval,  
22 characteristics, ingredients, uses, benefits, or quantities that they do not have or that a  
23 person has a sponsorship, approval, status, affiliation, or connection that the person does  
24 not have; (7) Representing that goods or services are of a particular standard, quality, or  
25 grade, or that goods are of a particular style or model, if they are of another; and (9)  
26 advertising goods or services with intent not to sell them as advertised.

27 83. As a result of these acts and practices, Plaintiff KINDER and the Class  
28 Members were damaged in that DJI’s unlawful and misleading acts and practices alleged  
herein played a substantial and material role in Plaintiff KINDER and the Class

1 Members' decision to purchase the Products. Absent these acts and practices, Plaintiff  
2 KINDER and the Class Members would not have purchased the DJI Products that they  
3 did from DJI.

4 84. Pursuant to California Civil Code § 1780(a)(2), Plaintiff KINDER and Class  
5 Members request that this Court enjoin DJI from continuing to engage in the unlawful  
6 and deceptive methods, acts and practices alleged above. Unless DJI is permanently  
7 enjoined from continuing to engage in such violations of the CLRA, future consumers  
8 will be damaged by its acts and practices in the same way as Plaintiff KINDER and  
9 Class Members. Plaintiff KINDER also requests that this Court order a backward-  
10 reaching injunction in order to remedy the past effects of the unfair conduct alleged  
11 herein.

12 85. Pursuant to Section 1782(a) of the CLRA, on October 8, 2021 and October  
13 14, 2021, and January 28, 2022, Mr. Kinder served Defendants by United States  
14 certified mail, return receipt requested, with notice of Defendants violations of the  
15 CLRA.

16 86. Plaintiff KINDER seeks damages, injunctive relief, attorneys' fees and  
17 costs, and any other relief the Court deems proper.

18  
19 **SECOND CAUSE OF ACTION**

20 **Violation Of California's Unfair Competition Law ("UCL"),**  
21 **California Business & Professions Code §§ 17200, *et seq.***  
22 **(On Behalf of Plaintiffs KINDER and MOSS and All California Class Members**  
23 **against Defendants)**

24 87. Plaintiffs KINDER AND MOSS repeat and re-allege each and every  
25 allegation contained in the foregoing paragraphs as if fully set forth herein.

26 88. Plaintiffs KINDER AND MOSS bring this claim individually and on behalf  
27 of the members of the proposed California Class against DJI.

28 89. DJI is subject to California's Unfair Competition Law, Cal. Bus. & Prof.  
Code §§ 17200, *et seq.* The UCL provides, in pertinent part: "Unfair competition shall

1 mean and include unlawful, unfair or fraudulent business practices and unfair, deceptive,  
2 untrue or misleading advertising ....”

3 90. DJI violated the “unlawful” prong of the UCL by violating the CLRA and  
4 the FAL, as alleged herein.

5 91. DJI’s misrepresentations and other conduct, described herein, violated the  
6 “unfair” prong of the UCL in that their conduct is substantially injurious to consumers,  
7 offends public policy, and is immoral, unethical, oppressive, and unscrupulous, as the  
8 gravity of the conduct outweighs any alleged benefits.

9 92. DJI violated the “fraudulent” prong of the UCL by misrepresenting the  
10 consumer’s ability to operate the DJI Products at the stated flight time and  
11 distance/video transmission and DJI falsely representing the Products’ flight time and  
12 distance/video transmission.

13 93. Plaintiffs and the California Class lost money or property as a result of  
14 DJI’s UCL violations because: (a) they would not have purchased the DJI Products on  
15 the same terms if they knew that the Products did not conform to DJI’s stated  
16 representations and warranties (b) they paid a substantial price premium compared to  
17 other products due to Defendant’s misrepresentations; and (c) the Products do not have  
18 the characteristics, uses, or benefits as promised.

19  
20 **THIRD CAUSE OF ACTION**  
21 **Violation Of California’s False Advertising Law (“FAL”),**  
22 **California Business & Professions Code §§ 17500, *et seq.***  
23 **(On Behalf of Plaintiff KINDER and All California Class Members against**  
24 **Defendants)**

25 94. Plaintiff KINDER repeats and re-alleges each and every allegation  
26 contained in the foregoing paragraphs as if fully set forth herein.

27 95. Plaintiff KINDER brings this claim individually and on behalf of the  
28 members of the proposed California Class against Defendants.

1 96. California’s False Advertising Law, Cal. Bus. & Prof. Code §§ 17500, *et*  
2 *seq.*, makes it “unlawful for any person to make or disseminate or cause to be made or  
3 disseminated before the public in this state, ... in any advertising device ... or in any  
4 other manner or means whatever, including over the Internet, any statement, concerning  
5 ... personal property or services, professional or otherwise, or performance or disposition  
6 thereof, which is untrue or misleading and which is known, or which by the exercise of  
7 reasonable care should be known, to be untrue or misleading.”

8 97. DJI’s committed acts of false advertising, as defined by §§17500, *et seq.*,  
9 by misrepresenting the stated flight time and distance/video transmission representations  
10 and warranties.

11 98. DJI knew or should have known through the exercise of reasonable care  
12 that their representations about the Products were untrue and misleading. DJI’s actions  
13 in violation of §§ 17500, *et seq.* were false and misleading such that the general public is  
14 and was likely to be deceived. Plaintiff and the California Class lost money or property  
15 as a result of DJI’s FAL violations because: (a) they would not have purchased the  
16 Products on the same terms if they had known the Products did not conform to DJI’s  
17 stated representations and warranties; (b) they paid a substantial price premium  
18 compared to other similar products due to DJI’s misrepresentations; and (c) the Products  
19 do not have the characteristics, uses, or benefits as promised.

20  
21 **FOURTH CAUSE OF ACTION**  
22 **For Breach of Express Warranty**  
23 **Violations of Cal. Com. Code § 2313(1)**  
24 **(On Behalf of Plaintiff KINDER and All California Class Members against**  
25 **Defendants)**

26 99. Plaintiff KINDER repeats and re-alleges each and every allegation  
27 contained in the foregoing paragraphs as if fully set forth herein.

28 //

1 100. DJI as the designer, manufacturer, marketer, distributor, and/or seller,  
2 expressly warranted that DJI Products have certain specifications that can be met by  
3 consumers.

4 101. DJI's express warranties, and its affirmations of fact and promises made to  
5 Plaintiff and the Class regarding the price of the Products, became part of the basis of the  
6 bargain between DJI and Plaintiff and Class Members, thereby creating an express  
7 warranty that the price of the Products would conform to those affirmations of fact,  
8 representations, promises, and descriptions.

9 102. The specifications of the Products do not conform to the express warranty  
10 because DJI charged Plaintiff KINDER and similarly situated Class Members for  
11 features or specifications that cannot be met or that DJI does not meet.

12 103. As a direct and proximate cause of DJI's breach of express warranty,  
13 Plaintiff and Class Members have been injured and harmed because: (a) they would not  
14 have purchased the Products on the same terms if they had known the truth; (b) they paid  
15 a substantial price premium based on Defendants' express warranties; and (c) the price  
16 of the Products do not have the characteristics, uses, or benefits as promised.

17 104. On October 8, 2021, October 14, 2021, and January 28, 2022, Plaintiff  
18 KINDER mailed letters to Defendants consistent with Cal. Com. Code § 2607(3)(a) and  
19 U.C.C. 2-607(3)(A). The letters were sent on behalf of Plaintiff and all other persons  
20 similarly situated.

21  
22 **FIFTH CAUSE OF ACTION**

23 **For Fraud**

24 **(On Behalf of Plaintiff KINDER and All National Class Members against  
Defendants)**

25 105. Plaintiff KINDER repeats and re-alleges each and every allegation  
26 contained in the foregoing paragraphs as if fully set forth herein.

27 106. As discussed above, DJI provided Plaintiff KINDER and Class Members  
28 with false or misleading material information in connection with the representations and

1 warranties re: specifications or features of the Products and/or DJI concealed and/or  
2 failed to disclose material facts to Plaintiff KINDER which impacted their ability to fly  
3 the DJI Products to the specifications as represented and warranted in DJI’s advertising.

4 107. DJI misrepresented the nature and content of the Products by making the  
5 false claims and/or concealing and/or failing to disclose material information.

6 108. The DJI’s misrepresentations, concealment, omissions were made with  
7 knowledge of the falsehood thereof or in conscious disregard of the likelihood of their  
8 falsehood or that they should disclose information to allow consumers to make an  
9 informed decision.

10 109. The misrepresentations and/or omissions made by DJI, upon which Plaintiff  
11 KINDER and Class Members reasonably and justifiably relied on Defendants were  
12 intended to induce and actually induced Plaintiff KINDER and Class Members to  
13 purchase the Products.

14 110. The fraudulent actions of DJI caused damage to Plaintiff KINDER and  
15 Class Members, who are entitled to damages, punitive damages, and other legal and  
16 equitable relief as a result.

17  
18 **SIXTH CAUSE OF ACTION**

19 **Negligent Misrepresentation**

20 **(On Behalf of Plaintiff KINDER and All National Class Members against**  
21 **Defendants)**

22 111. Plaintiff KINDER hereby incorporates by reference the allegations  
23 contained in all preceding paragraphs of this complaint.

24 112. DJI misrepresented the flight time and distance/video transmission  
25 specifications of the Products as stated on DJI’s Website and/or the back of the  
26 packaging of DJI’s products and/or through other forms of advertising. DJI had a duty  
27 to disclose this information.



1 113. At the time DJI made the false claims and representations, DJI knew or  
2 should have known that these representations were false or made them without  
3 knowledge of their truth or veracity.

4 114. DJI negligently misrepresented and omitted material facts about the  
5 Products that would impact consumers' decisions. Plaintiff KINDER and Class  
6 Members relied upon the negligent statements or omissions and were deceived and  
7 induced into purchasing the Product.

8 115. The negligent misrepresentations and/or omissions made by Defendants,  
9 upon which Plaintiff KINDER and Class Members reasonably and justifiably relied,  
10 were intended to induce and actually induced Plaintiff KINDER and Class Members to  
11 purchase the Products.

12 116. Plaintiff and Class Members would not have purchased the Products and/or  
13 would not have paid a price premium therefore, if the true facts had been known to them  
14 regarding the falsity of the Claims.

15 117. The negligent actions of DJI caused damage to Plaintiff and Class  
16 Members, who are entitled to damages and other legal and equitable relief as a result.

17 **SEVENTH CAUSE OF ACTION**

18 **Unjust Enrichment**

19  
20 118. Plaintiff KINDER repeats and re-alleges each and every allegation  
21 contained in the foregoing paragraphs as if fully set forth herein.

22 119. DJI have been unjustly enriched in retaining the revenues derived from  
23 Plaintiff's and Class Members' purchases of the Products. Retention of those monies  
24 under these circumstances is unjust and inequitable because of Defendants'  
25 misrepresentations and concealment about the consumer's ability to use the Products per  
26 DJI's representations and warranties, which also does not conform to its advertising,  
27 which caused injuries to Plaintiff and Class Members because they would not have  
28 purchased the Products on the same terms if the true facts had been known.

1 120. Because DJI's retention of the non-gratuitous benefits conferred on it by  
2 Plaintiff and Class Members is unjust and inequitable, Defendants must pay restitution to  
3 Plaintiff and Class Members for their unjust enrichment, as ordered by the Court.

4  
5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff demands judgment on behalf of himself and members of  
7 the National Class and California Class as follows:

- 8  
9 A. For an order certifying the National Class and California Class; naming  
10 Plaintiffs as Class representatives; and naming Plaintiffs' attorneys as Class  
11 Counsel representing the Classes;
- 12 B. For an order finding in favor of Plaintiffs and the National and California,  
13 Classes, on all counts asserted herein;
- 14 C. For an order awarding statutory, compensatory, treble, and punitive damages  
15 in amounts to be determined by the Court and/or jury;
- 16 D. For injunctive relief enjoining the illegal acts detailed herein;
- 17 E. For prejudgment interest on all amounts awarded;
- 18 F. For an order of restitution and all other forms of equitable monetary relief;
- 19 G. For an order awarding Plaintiff his reasonable attorneys' fees and expenses  
20 and costs of suit.

21 //

22 //

**JURY TRIAL DEMANDED**

Plaintiff demands a trial by jury on all claims so triable.

Dated: January 28, 2022

Respectfully submitted,  
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