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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

ANDREW PANDOLFI and MANDI
SHAWCROFT, individually and on behalf of
all others similarly situated;

Plaintiffs,

vs.

AVIAGAMES, INC.; VICKIE YANJUAN
CHEN; PING WANG; ACME, LLC;
GALAXY DIGITAL CAPITAL
MANAGEMENT, L.P.; and OTHER
UNNAMED CO-CONSPIRATORS;

Defendants.

Case No. 3:23-cv-05971-EMC

FIRST AMENDED CLASS ACTION
COMPLAINT & DEMAND FOR JURY
TRIAL

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1 Plaintiffs Andrew Pandolfi and Mandi Shawcroft (collectively, “Plaintiffs”) bring this
2 action on behalf of themselves and all others similarly situated against AviaGames, Inc. (“Avia”),
3 Vickie Yanjuan Chen, Ping Wang, ACME, LLC (“Acme”), and Galaxy Digital Capital
4 Management, L.P. (“Galaxy”) (collectively, “Defendants”),¹ upon personal knowledge of the facts
5 pertaining to themselves, upon information and belief as to all others, and upon the investigation
6 conducted by their counsel, and allege:

8 I. INTRODUCTION

9 1. Avia is a leading provider of online games where users purportedly compete in
10 games of skill against other real people for money. Avia users collectively have wagered over a
11 billion dollars to compete in these games of “skill” against what Avia says are other human users.
12 However, as it turns out, the entire premise of Avia’s platform is false: Instead of competing
13 against real people, Avia’s computers populate and/or control the games with computer “bots” that
14 can impact or control the outcome of the games. Instead of being games of skill as advertised,
15 Avia’s games are manipulated games of chance that amount to an unapproved gambling enterprise.

16 2. Avia’s internal documents confirm that it uses more than 10 different robots with
17 names like “CASH_ROBOT,” “NOOB_ROBOT,” “COMFORT_ROBOT,” and
18 “SHARK_ROBOT” to control the outcomes of games so that Avia can keep the winnings for
19 itself. *See* ¶¶ 52-53, below. In fact, Avia went so far as to adjust the win rate of its bots as its need
20 for funds fluctuated. *See* ¶ 54, below. This action seeks to hold Defendants responsible for their
21 deceptive practices and, separately, their racketeering gambling enterprise.
22

25 ¹ ACME and Galaxy are referred to collectively as “RICO Investors.” The RICO Investors, Vickie
26 Yanjuan Chen, and Ping Wang are referred to collectively as “RICO Defendants.”

1 3. Avia sells itself as a company that creates tournaments of real users who risk their
2 own money in games of skill through the company’s mobile apps or through a mobile browser.
3 Those games include traditional card games like solitaire or blackjack, bingo games, pool games,
4 Tetris/block puzzle games, or bubble popping games. Avia promises to improve the experience of
5 playing those traditional games by including specific features or “power-ups,” bonuses, or
6 “captivating” storylines.²

7
8 4. Avia claims that its Pocket7Games platform “guarantees [its] players a fair, high-
9 quality gaming experience,”³ that it employs a “complex algorithm” that purports to “assess and
10 match each player’s ability in order to create” a “fair gaming environment,”⁴ that “this
11 sophisticated algorithm is constantly monitored and updated to prevent players from cheating the
12 system,”⁵ and that “[m]aking sure that players are matched by skill level has always been a major
13 focus of [its] app development.”⁶ Avia also asserts that it “promote[s] skill-based competitions
14 that are legal in most jurisdictions. In contrast to traditional gambling, where games are based
15 purely on chance or luck, [its] cash games are designed to test and reward players’ skills and
16 abilities.”⁷ As it turns out, none of that is true.

17
18 5. Avia repeatedly told players that they were playing against other, real people in
19 games of skill. It claims that its games are not games of chance, that it is not the “house” against
20 whom players are betting, and that, instead, it merely collects a fee for running its various games.

21 ² <https://www.pocket7games.com/post/top-5-most-popular-mobile-games-of-2023> [last accessed
22 11-17-2023]

23 ³ <https://www.pocket7games.com/about-us> [last accessed 11-17-2023]

24 ⁴ *Id.*

25 ⁵ *Id.*

26 ⁶ <https://www.pocket7games.com/support-faq> [last accessed 11-17-2023]

27 ⁷ *Id.*

1 Similar assertions were repeated by Avia’s co-founders, Ms. Chen and Ms. Wang, and its
 2 investors, ACME and Galaxy (the “RICO Investors”).

3 6. Evidence admitted at a recent patent trial indicates that Avia and the RICO
 4 Defendants have perpetuated a lie on Avia’s customers and that players are actually playing against
 5 computer bots in a stacked game of chance. Avia does not disclose its bots to players. Internally,
 6 it refers to these bots as “guides” and “cucumbers”.⁸ In fact, Avia’s internal communications are
 7 littered with references to bots, confirming that “Competition challenges are matched with robot
 8 users”;⁹ “robot assists the player to quickly match with an opponent”¹⁰; and “[s]tarting from
 9 January 6 [2022,] robot kind = 8 will appear in every cash game slot.”¹¹ Alarming, there is not
 10 just one bot: “In fact, there are quite a few robots playing with people.”¹² At least one of these
 11 bots—“CASH_ROBOT”—was still in use as February 2024.¹³ And although Avia claims that
 12 “nothing is rigged,” according to a gaming industry expert called by Skillz to testify on questions
 13 related to the patent infringement, Avia can dial the win rate of the bots: “Avia...keeps the money
 14 from those matches when the bot wins,” “Avia changes the scores” of its bots, and Avia “also
 15 determines the win rates” of its bots.¹⁴

17 7. In short, Avia, its co-founders (Ms. Chen and Ms. Wang), and the RICO Investors
 18 created an enterprise that duped Plaintiffs and class members into wagering real money in games
 19

20 ⁸ Skillz Doc. 645-25 at 3-4; Doc. 645-26 at 9; Doc. 645-19 at 92-94; or Doc. 654-29 at 6.

21 ⁹ Skillz Platform Inc. v. Aviagames Inc., No. 5:21-cv-02436-BLF (N.D. Cal.) (“Skillz”) Doc. 645-
 22 25 at 5.

23 ¹⁰ Skillz Doc. 645-19 at 93

24 ¹¹ Zhang Trial Tr. 386:13-18 (discussing PTX 164)

25 ¹² Skillz Doc. 645-26 at 94

26 ¹³ Zhang Trial Tr. 385:4-5

¹⁴ Zagal Trial Tr. 726:12-727:17

II. PARTIES

9. Plaintiff Andrew Pandolfi is a citizen and resident of the State of Texas. Andrew Pandolfi played Avia's Pocket7Games and Bingo Clash on a mobile phone for real money believing that they were skill based competitions against other human opponents. Mr. Pandolfi estimates that he lost thousands of dollars playing those games. Mr. Pandolfi would often purchase \$50 or \$100 packages.

10. Mr. Pandolfi was attracted to Avia's games because he believed he was playing with real people. The ability to compete against human players based on skills was the reason why he decided to play them, and he would not have continued to spend money on Avia's platform had he known that its games were populated or controlled with bots instead of human competitors. Mr. Pandolfi was not informed about bots being involved even after he raised some concerns about the

1 nature of the games and reached out to customer support. Mr. Pandolfi incurred harm as a result
2 of Avia's misleading statements.

3 11. Plaintiff Mandi Shawcroft is a citizen and resident of State of Idaho. Ms. Shawcroft
4 played Avia's Pocket7 Games and Bingo Clash on mobile phones for real money, beginning
5 approximately in the Spring or Summer of 2022. Ms. Shawcroft has lost hundreds of dollars
6 playing those games.

7 12. Ms. Shawcroft was attracted to Avia's games because she enjoys playing Solitaire
8 and Bingo-related games, and liked the idea that there is skill involved in Avia's games. Ms.
9 Shawcroft incurred monetary harm as a result of Avia's misleading statements.

10
11 **B. Defendants**

12 13. **Defendant Avia** is a Delaware corporation with a principal place of business at
13 2586 Wyandotte Street, Unit 2B, Mountain View, California 94043. Avia markets, offers, and
14 distributes applications and services such as the Pocket7Games application and standalone game
15 applications throughout the United States, including in this District.

16 14. **Defendant Vickie Yanjuan Chen** ("Chen") is Avia's co-founder and a CEO and
17 a resident of Mountain View, California.

18 15. **Defendant Ping Wang** ("Wang") is Avia's co-founder and a VP of Strategy &
19 Business Development and a resident of Mountain View, California.

20 16. **Defendant ACME LLC** ("Acme") is a limited liability company with a business
21 address at 428 University Ave, Palo Alto, CA 94301, and a corporate office at 505 Howard St
22 #201, San Francisco, CA 94105. It, including its affiliated entities, is a venture capital investment
23 firm that "invests in breakthrough technologies that fuel platform shifts and disruptive business
24
25
26

models that capitalize on new platforms.”¹⁵ Acme partner Hany Nada sits on Avia’s Board of Directors,¹⁶ and Acme partner Alex Fayette is Avia’s “Board Observer.”¹⁷

17. **Defendant Galaxy Digital Capital Management, L.P.** (“Galaxy”) is a venture capital firm encompassing number of investment funds with a principal place of business at 300 Vesey Street, New York, New York 10282, some of the entities of which are incorporated as limited partnerships in Delaware. The firm, including its affiliated entities, “invest[s] in pioneering content, technology, and social commerce companies that enable and amplify our agency and self-expression through integration of our digital and physical lives.”¹⁸ Galaxy’s partners are Sam Englehardt, Richard Kim, Ryan You, Michael Fan, and Jeff Brown.¹⁹

18. As defined above, Defendants Acme and Galaxy are also collectively further referred to as “RICO Investors,” and Ms. Chen, Ms. Wang and RICO Investors are also collectively further referred to as “RICO Defendants.”

C. Unnamed Co-Conspirators

19. Discovery may also show that other unknown persons, firms, corporations, and/or other entities not named as Defendants in this Complaint participated as co-conspirators with Defendants and performed acts and made statements in furtherance of Defendants’ above-described fraudulent conduct. The scope of their involvement and participation in the Defendants’ fraudulent conduct is yet unknown and will be established in the discovery. Plaintiffs therefore reserve the right to amend the Complaint to name those persons as additional RICO Defendants

¹⁵ <https://www.crunchbase.com/organization/acme-capital> [last accessed 11-17-2023]

¹⁶ <https://pitchbook.com/profiles/company/435491-83> [last accessed 11-17-2023]

¹⁷ <https://www.linkedin.com/in/alexfayette> [last accessed 11-17-2023]

¹⁸ <https://interactive.galaxy.com/thesis> [last accessed 11-17-2023]

¹⁹ <https://interactive.galaxy.com/team/> [last accessed 11-17-2023]

1 should the evidence reveal their involvement. If applicable, Defendants are jointly and severally
2 liable for the acts of their co-conspirators, regardless of whether Plaintiffs formally name such co-
3 conspirators as Defendants.

4 **III. JURISDICTION AND VENUE**

5 20. This Court has subject matter jurisdiction pursuant to under 28 U.S.C. § 1332(d)(2)
6 because (a) at least one member of the class is a citizen of a state different from Defendants, (b) the
7 amount in controversy exceeds \$5,000,000, exclusive of interests and costs, and (c) none of the
8 exceptions under that subsection apply to this action.

9 21. This Court also has jurisdiction over this matter pursuant to 28 U.S.C. §1331 as
10 some of the Plaintiffs' claims arise under the laws of the United States, specifically the
11 Racketeering Influenced Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968.

12 22. In addition to jurisdiction under 28 U.S.C. §1332(d), this Court has supplemental
13 jurisdiction over Plaintiffs' pendent state law claims pursuant to 28 U.S.C. §1367.

14 23. This Court has personal jurisdiction over Avia because Avia conducts significant
15 business transactions in this District, and because the wrongful conduct occurred in and emanated
16 from this District.

17 24. Avia does continuous and systematic business in this District, including by
18 providing products and services to the residents of this District that it knew would be used within
19 this District, and by soliciting business from the residents of this District.

20 25. Avia has a principal place of business at its offices in this District, including its
21 office in Mountain View, and directly and through agents regularly does, solicits, and transacts
22 business in the Northern District of California and elsewhere in the State of California, including
23 through its website at www.pocket7games.com, as well as its Pocket7Games application and
24

standalone game applications, all of which are marketed, offered, distributed to, and utilized by users of mobile devices in this District and throughout the State of California.

26. This Court has personal jurisdiction over Ms. Chen and Ms. Wang because both Ms. Chen and Ms. Wang have domicile in this District.

27. This Court has personal jurisdiction over RICO Investors because RICO Investors are amenable to service of process, are co-conspirators, and each has minimum contacts with this District and has purposefully availed itself of the privilege of conducting business in this state. Galaxy's partner Ryan You, an observer on Avia's board of directors, is based in San Francisco, California.²⁰ Acme partners Hany Nada, a member of Avia's board of directors, and Alex Fayette, an observer on Avia's board of directors, are both based in California.²¹ RICO Investors were involved in the operations of Avia, i.e., a California-based company, through their board participation and/or observance and spread misinformation regarding the nature of its business to, *inter alia*, California consumers. The RICO Investors' conduct had effects in the State of California and California has interest in protecting its consumers. The RICO Investors were informed about Avia's fraudulent activities. They were aware of the efforts that Avia went through to conceal its use of bots. And they continued to hold Avia out as a skill-based game. The RICO Investors' contacts with the forum are connected with the operation of, or investment, in Avia. The RICO Investors' liability arises from their contacts with the forum. The RICO Investors benefit or profit from Avia's presence in the District. The RICO Investors are entitled to invoke the benefits and protections of the law of the State of California.

²⁰ <https://www.linkedin.com/in/rongchangyou/details/experience/> [last accessed 03-19-2024]

²¹ <https://www.linkedin.com/in/hanynada/> [last accessed 03-19-2024];
<https://www.linkedin.com/in/alexfayette/> [last accessed 03-19-2024].

28. In addition to specific personal jurisdiction, this Court has personal jurisdiction over Avia and the RICO Defendants under 18 U.S.C. § 1965(b) because Defendants are involved in a multidistrict conspiracy, the Court has personal jurisdiction over at least one of the participants in the alleged multidistrict conspiracy, and there is no other district in which a court will have personal jurisdiction over all of the alleged co-conspirators.

29. Venue is proper in this District under the provision of 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims occurred in this judicial District; each Defendant is subject to personal jurisdiction in this District; and Defendants transact business in this District.

IV. FACTUAL ALLEGATIONS

A. Avia advertises itself to the public as a legitimate gaming company that matches customers with real live gamers.

30. Avia describes itself as a company “dedicated to building a worldwide social game competition platform that guarantees [their] players a fair, high-quality gaming experience.”²² The company launched in 2017 to “create gaming apps that are both fun and challenging by offering users the ability to compete against other gamers of equal skill levels.”²³

31. Avia makes mobile games playable on its online platform Pocket7Games, accessible through mobile browsers, and through standalone applications. The Pocket7Games platform can be downloaded as a standalone application, or accessed online through a mobile browser.²⁴ Online games playable on mobile browsers through the Pocket7Games platform

²² <https://www.pocket7games.com/about-us> [last accessed 11-17-2023]

²³ *Id.*

²⁴ <https://www.pocket7games.com/> [last accessed 11-17-2023]

1 include Bingo Clash, Solitaire, Pool Clash, Match n Flip,²⁵ 21 Gold, and Tile Blitz.²⁶ Apple and
 2 Android phones and tablet devices can host Avia's standalone mobile games applications
 3 including 8 Ball Strike, Bubble Miracle, Bingo Flash, Match n Flip, Bubble Buzz, Blockolot,
 4 Bingo Tour, Solitaire Clash, Bingo Clash, and Zumania.²⁷ These standalone applications are
 5 available for download through Apple's App Store, Android's Google Play (Android App), and/or
 6 Samsung's Galaxy Store. Bingo Clash and Match n Flip are available both as standalone
 7 applications and as a part of the Pocket7Games platform.²⁸

9 32. Avia's offerings are among the most popular apps in Apple's App Store. For
 10 example, as of the filing of this Complaint, Bingo Tour is the #7 game in the Casino category,²⁹
 11 Solitaire Clash is the #2 game in the Casino category,³⁰ Bingo Clash is the #4 game in the Casino

12
 13
 14 ²⁵ The name of the game is inconsistent across the Avia's website and Pocket7Gaming platform—
 15 both "Match'n Flip" and "Match n Flip" are used interchangeably. This Complaint uses "Match n
 16 Flip."

17 ²⁶ The list of online games provided at the Avia's website is: Bingo Clash, Solitaire, 21 Gold, Tile
 18 Blitz, Match n Flip, Pool Clash, Dunk Shot, Dominoes, Fruit Frenzy, Explodocube, 2048 Blitz,
 19 and Word Search. See <https://www.pocket7games.com/all-in-one-games>. The actual application
 20 features the following games: Bingo Clash, Solitaire, 21 Gold, Tile Blitz, Match n Flip, Pool Clash,
 21 Bubble Buzz, Dunk Shot, Dominoes, Fruit Frenzy, 2048 Blitz, and Explodocube. It follows that
 22 while the website does not list Bubble Buzz as a part of the Pocket7Games, the actual application
 23 does not list Word Search.

24 ²⁷<https://www.pocket7games.com/mobile-games>;
 25 <https://apps.apple.com/us/developer/aviagames-inc/id1513192817?see-all=i-phonei-pad-apps>
 26 [last accessed 11-17-2023]. The full list provided at the Avia's profile on App Store is: 8 Ball
 27 Strike, Bubble Miracle, Bingo Flash, Match n Flip, Bubble Buzz, Blockolot, Bingo Tour, Solitaire
 28 Clash, Bingo Clash, and Zumania.

²⁸ <https://apps.apple.com/us/developer/aviagames-inc/id1513192817?see-all=i-phonei-pad-apps>
 [last accessed 11-17-2023]

²⁹ <https://apps.apple.com/us/app/bingo-tour-win-real-cash/id1594170490> [last accessed 11-17-
 2023]

³⁰ <https://apps.apple.com/us/app/solitaire-clash-win-real-cash/id1589643727> [last accessed 11-17-
 2023]

category,³¹ 8 Ball Strike is ranked #45 in the Sports category,³² and Bubble Buzz is ranked #24 in Puzzle category.³³

33. Appendix A, attached hereto, contains details on various Avia's games.

34. Avia claims that its Pocket7Games platform "guarantees [their] players a fair, high-quality gaming experience."³⁴ Avia asserts that it employs a "complex algorithm" that purports to "assess and match each player's ability in order to create [this] fair gaming environment."³⁵ It adds that "this sophisticated algorithm is constantly monitored and updated to prevent players from cheating the system."³⁶ It further states that a "fair and secure matching algorithm is the technical basis for fair training" and that "[m]aking sure that players are matched by skill level has always been a major focus of [its] app development."³⁷

Pocket7Games is a social gaming platform that was developed by game app developer, AviaGames Inc., a women-owned and operated business headquartered in Mountain View, California. AviaGames is dedicated to building a worldwide social game competition platform that guarantees our players a fair, high-quality gaming experience.

AviaGames Launches

In 2017, founders Ping Wang and Vickie Chen set out to create gaming apps that are both fun and challenging by offering users the ability to compete against other gamers of equal skill levels.

AviaGames uses a complex algorithm to assess and match each player's ability in order to create this fair gaming environment. Additionally, this sophisticated algorithm is constantly monitored and updated to prevent players from cheating the system.

³¹ <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531> [last accessed 11-17-2023]

³² <https://apps.apple.com/US/app/id1637363937?mt=8> [last accessed 11-17-2023]

³³ <https://apps.apple.com/US/app/id1625671597?mt=8> [last accessed 11-17-2023]

³⁴ <https://www.pocket7games.com/about-us> [last accessed 11-17-2023]

³⁵ *Id.*

³⁶ *Id.*

³⁷ <https://www.pocket7games.com/support-faq> [last accessed 11-17-2023]

35. Avia further tells its users and prospective users that “[g]amers play against others,” and refers to its games as “skill-based.”³⁸ In its description of its games, Avia explains that players “[c]ompete in real time against other players” and that they “[c]ompete using only [their] strategy and skill.”³⁹ Avia further advertises that it lets players play “against real players” and allows a player to “[m]atch with real players of similar skill levels to compete in classic, fun, and fair skill-based cash games!”⁴⁰ These statements, and others like them, are visible to each user who downloads Avia’s games.

Play Against Real Players

-Match with real players of similar skill levels to compete in classic, fun, and fair skill-based cash games!

36. In the Frequently Asked Questions section of its website, Avia claims that its games are legal: “We promote skill-based competitions that are legal in most jurisdictions. In contrast to traditional gambling, where games are based purely on chance or luck, our cash games are designed to test and reward players’ skills and abilities.”⁴¹ Avia claims to be “committed to providing a safe, fair, and legitimate gaming environment for all of [its] users,” and to “take pride in [its] reputation as a responsible and trustworthy operator of skill-based cash games.”⁴²

³⁸ <https://www.pocket7games.com/about-us>; or <https://www.pocket7games.com/support-faq> [last accessed 11-17-2023]

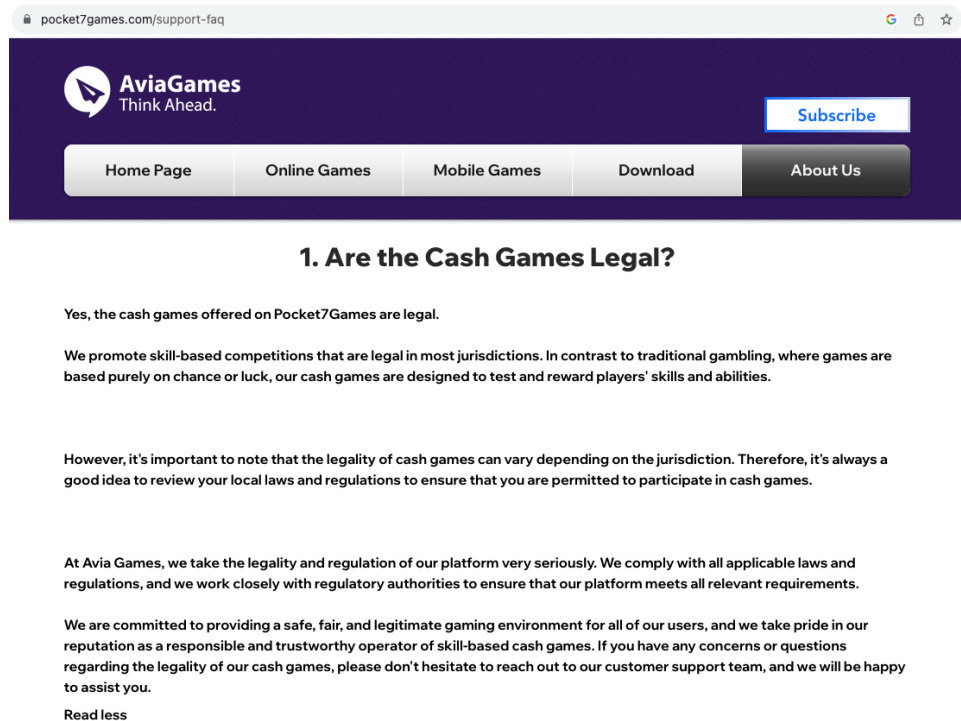
³⁹ See, e.g., <https://apps.apple.com/us/app/8-ball-strike-cash-pool/id6448969628> in relation to 8 Ball Strike [last accessed 10-05-2023]

⁴⁰ See, e.g., <https://apps.apple.com/us/app/8-ball-strike-win-real-cash/id1637363937>, or <https://apps.apple.com/us/app/pocket7games-win-cash/id1402595440> [last accessed 10-05-2023]

⁴¹ <https://www.pocket7games.com/support-faq> [last accessed 11-17-2023]

⁴² *Id.*

37. Avia further claims that it has “no financial interest in the outcome of cash games,” nor “any stake in who wins or loses.”⁴³ It explains that its “goal is to provide a safe and fun gaming environment where players can compete on the basis of their skills, without worrying about any external factors.”⁴⁴



38. The fact that the above statements are made in a “FAQs” section of Avia’s website is a reasonable basis to infer that users likely see these statements. People are asking those questions because they want to understand what those statements mean in the context of Avia’s games. They want to know because it matters to them and likely feeds into their decision whether to play the games or not.

⁴³ *Id.*

⁴⁴ *Id.*

39. In an article she wrote for Forbes, Avia’s co-founder and CEO, Ms. Chen, explains that Avia’s games are games of skill rather than games of chance.⁴⁵ According to Ms. Chen, a game of chance is defined as “an activity where the outcome is determined predominantly by chance. From playing dice to roulette to participating in a lottery game, the ‘win’ is dependent on luck driven by some element of randomization.”⁴⁶ She adds that a “game of chance can also be categorized as gambling if players wager money.”⁴⁷ According to Ms. Chen, it’s the games of skill—as Avia markets it’s games—rather than the games of chance that are the future of the gaming industry: “Across the social competition realm, a range of popular casual, social casino and sports games have been transformed into leading skill-based games over the past several years. This growing category of social competition games includes Solitaire Clash and Bingo Tour, which have been among the top three most downloaded apps under the card and casino categories for a number of months.”⁴⁸

40. RICO Investors promote Avia’s games as games of skill, too. For example, Avia’s investor Acme characterizes Avia as a “real-money mobile skill gaming app”.⁴⁹

⁴⁵ Vickie Chen, *The Skill-Based Gaming Opportunity*, Forbes, August 9, 2022, <https://www.forbes.com/sites/forbesbusinesscouncil/2022/08/09/the-skill-based-gaming-opportunity/?sh=10d1ef322340> [last accessed 11-17-2023]

⁴⁶ *Id.*

⁴⁷ *Id.*

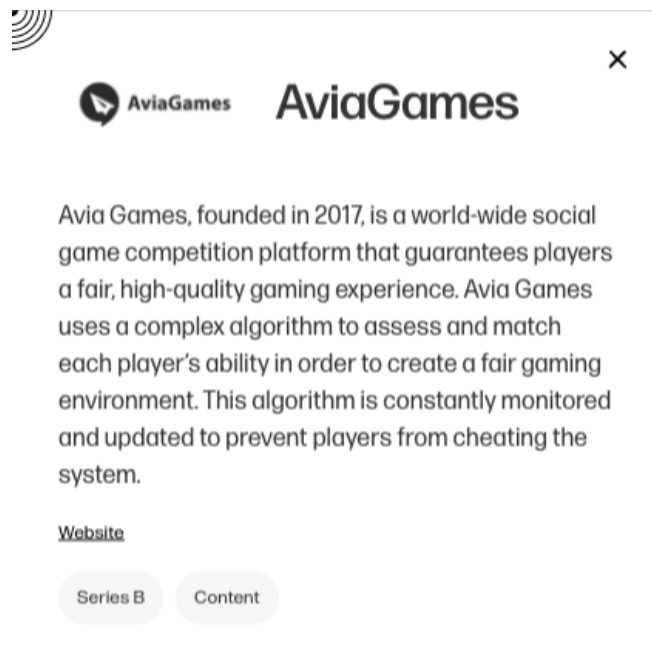
⁴⁸ *Id.*

⁴⁹ <https://www.acme.vc/our-portfolio/> [last accessed 11-17-2023]



A real-money mobile skill gaming app

41. Avia’s investor Galaxy portrays Avia as a platform that “guarantees players a fair, high-quality gaming experience” and that “uses a complex algorithm to assess and match each player’s ability in order to create a fair gaming environment.”⁵⁰



⁵⁰ <https://interactive.galaxy.com/investments> [last accessed 11-17-2023]

B. Avia purports to fill its games with other real users through a matching process in a fair gaming environment.

42. Avia represents that its games are filled with live human opponents, which guarantees a fair gaming environment. For example, Avia advertises Pocket7Games as “Skill-based” and “Fair Play” games.⁵¹ The advertisement prepares the users to participate in a “REAL PLAYER FACEOFF,”⁵² or “Skill-based Real Player Competition.”⁵³

43. At the beginning of each Avia game, the app informs the player that it is looking for their opponent for the game. After a few seconds, the player is matched with “opponents” in a number sufficient to play the game. At the end of each game, the player is directed to a scoreboard with their score ranked among the scores of other “players” that supposedly played the game along with them. Depending on the player’s position in relation to other players, the player receives “cash”, if they are playing a cash game, or “tickets” to play other game(s). The “cash” can either be withdrawn or used to play other game(s).

44. Avia advertises its games that are playable through the standalone applications in a similar way as its Pocket7Games’s games. It describes those games as games of skill, where players play tournaments against other real players of similar skill levels.⁵⁴ Players playing games

⁵¹ <https://www.pocket7games.com/onlinegame> [last accessed 11-17-2023]

⁵² See, e.g., <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531>; <https://apps.apple.com/us/app/bingo-flash-win-real-cash/id1669672366> [last accessed 10-05-2023]

⁵³ See, e.g., <https://apps.apple.com/US/app/id1637363937?mt=8> [last accessed 10-05-2023]

⁵⁴ <https://apps.apple.com/US/app/id1594170490?mt=8> or
<https://galaxystore.samsung.com/detail/co.aviagames.mtp.bingobattle.samsung>;
<https://apps.apple.com/us/app/solitaire-clash-win-real-cash/id1589643727> or
<https://galaxystore.samsung.com/detail/co.aviagames.mtp.solitaire.samsung>;
<https://apps.apple.com/US/app/id1637363937?mt=8> or
<https://galaxystore.samsung.com/detail/co.aviagames.mtp.billiards.samsung>;
<https://apps.apple.com/US/app/id6443533604?mt=8>;
<https://apps.apple.com/US/app/id1625671597?mt=8> or

through an online browser see those statements on Avia's website. Avia explicitly claims that its applications "offer[] users the ability to compete against other gamers of equal skill levels."⁵⁵ Players downloading the games see those statements as game descriptions when they access the relevant app store, such as the Apple's AppStore or Samsung's Galaxy Store.

45. At the beginning of each standalone game, players are asked to wait until the app finds them purported "opponents" for the game. At the end of the game, players are directed to a scoreboard with their score ranked among the scores of other "players" who supposedly played the game along with them.

46. The descriptions of the games that are playable both on the Pocket7Games platform and through standalone applications, i.e., Bingo Clash and Match n Flip, use the same language. In all of Avia's games, players are told that they are playing in real time with real people based on their skill and stand a chance of winning real cash.⁵⁶

47. In line with those representations, Avia affirmatively dispels any potential concerns expressed by the players that the games are not fair and/or are populated or controlled with bots. For example:

<https://galaxystore.samsung.com/detail/co.aviagames.mtp.bubbleshoot.samsung;>
<https://apps.apple.com/US/app/id1609403287?mt=8> or
<https://galaxystore.samsung.com/detail/co.aviagames.mtp.block.samsung;>
<https://apps.apple.com/us/app/bubble-miracle-win-real-cash/id6448908108?l=pt-BR;>
<https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531> or
<https://galaxystore.samsung.com/detail/co.aviagames.bingo.samsung;>
<https://apps.apple.com/us/app/pocket7games-win-cash/id1402595440> or
<https://galaxystore.samsung.com/detail/co.aviagames.pocket7games.samsung> [last accessed 10-05-2023]

⁵⁵ *Id.*

⁵⁶ See <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531;>
<https://www.pocket7games.com/bingo-clash;> <https://apps.apple.com/us/app/match-n-flip/id1573523155;> or <https://apps.apple.com/US/app/id1632870437?mt=8> [last accessed 10-05-2023] in relation to Bingo Clash and Match n Flip

- i. A player of the Solitaire Clash game expressed concerns whether real players are involved. The player observed that many of the accounts are “obviously faked” and that a player is “rarely fully matched when the game starts.”⁵⁷ The profile pictures of the players allegedly often “conflict[] with person’s name (e.g. “Zach” with a picture of an older woman and “Jessica” with a beard).”⁵⁸ Some players do not finish the game at all or take more time than other players; yet, they turn out as champions.⁵⁹ In a response to this comment, Avia maintained that the “app is skill-based real money gaming platform where you always compete against real people of similar skills.”⁶⁰
- ii. A player of Bingo Clash complained that the game is “full of bots to take your money.”⁶¹ Avia responded that it “would like to assure you that all of your opponents are real players, not bots.”⁶²
- iii. A player of Blockolot complained that the game “is a scam” and the “[n]ame of the people are not real.”⁶³ In relation to the Blockolot’s player’s complaint,

⁵⁷ Complaint by ‘Casino Rat 954’ of August 7, 2022, <https://apps.apple.com/us/app/solitaire-clash-win-real-cash/id1589643727?see-all=reviews> [last accessed 11-17-2023]

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Complaint by ‘Casino Rat 954’ of August 7, 2022, <https://apps.apple.com/us/app/solitaire-clash-win-real-cash/id1589643727?see-all=reviews> [last accessed 11-17-2023]

⁶¹ Complaint by ‘canceling Robinhood’ of 21 June, 2022, <https://apps.apple.com/us/app/bingo-clash-battle/id1559173195?see-all=reviews> [last accessed 11-17-2023]

⁶² Complaint by ‘canceling Robinhood’ of 21 June, 2022, <https://apps.apple.com/us/app/bingo-clash-battle/id1559173195?see-all=reviews> [last accessed 11-17-2023]

⁶³ Complaint by ‘HossTV’ of 23 June, 2023, <https://apps.apple.com/us/app/blockolot-win-real-cash/id1609403287?see-all=reviews> [last accessed 11-17-2023]

Avia replied that the “game is a skill-based real money gaming platform where you always compete with real people around your skill level.”⁶⁴

48. Avia consistently affirmed that the players compete against other real players, as consistently advertised on its website, on AppStore, on Galaxy Store, or by Avia’s representatives, and replicated on Galaxy’s and Acme’s portfolio websites.

C. Avia fills its games with computer robots for its own advantage and profits, in contravention of how it markets its games.

49. The representations described above are false. Instead of competing with real humans, Avia’s game applications are filled with—or controlled by—non-human computer robots (“bots”).

50. Since Plaintiffs filed this case, the lawsuit against Avia in the Skillz case has gone to trial, and a jury awarded Skillz \$43 million in damages for willfully infringing Skillz’s patents.⁶⁵ The exhibits admitted during the lawsuit have proven that Avia uses bots, conceals them from its users, and keeps the money when a player loses to a bot.

51. Avia’s documents are littered with references to bots. In one exhibit, an Avia employee says, “Competition challenges are matched with robot users.” *Skillz* Doc. 645-25 at 5. Another employee said, the “robot assists the player to quickly match with an opponent.” *Skillz* Doc. 645-19 at 93. In another document, an Avia employee said, “Starting from January 6 [2022,] robot kind = 8 will appear in every cash game slot.” *See* Zhang Trial Tr. 386:13-18 (discussing PTX 164). According to a gaming industry expert, the source code to Avia’s apps references bots in its code with the letters “A.I.,” meaning artificial intelligence. Zagal Trial Tr. 610:5-15. For

⁶⁴ Complaint by ‘HossTV’ of 23 June, 2023, <https://apps.apple.com/us/app/blockolot-win-real-cash/id1609403287?see-all=reviews> [last accessed 11-17-2023]

⁶⁵ <https://venturebeat.com/games/jury-awards-skillz-42-9m-in-patent-infringement-trial/>

1 example, one Avia employee messaged another that the bot, “is implemented through ai at the
2 customer end.” *Skillz* Doc. 645-26 at 10.

3 52. And there is not just one bot. One Avia employee noted, “In fact, there are quite a
4 few robots playing with people.” *Skillz* Doc.645-19 at 94. The Pocket7Games platform uses
5 multiple algorithms named “ROBOT.” These algorithms include “CASH_ROBOT,”
6 “NOOB_ROBOT,” “COMFORT_ROBOT,” “SUBSTITUTE_ROBOT,” “SHARK_ROBOT,”
7 “INDUCTION_ROBOT,” “CASH_COMFORT_ROBOT,” “COINS_SUBSTITUTE_ROBOT,”
8 AB_SUBSTITUTE_ROBOT,” “CHALLENGE_ROBOT,” and SYNC_GAME_ROBOT.” *Skillz*
9 Doc. 645-24 at 5-6..

10 53. When Pocket7Games relies upon a “ROBOT” to place a user into a cash match,
11 that user is not matched with another user playing at or around the same time who also paid an
12 entry fee to compete for the cash prize. Instead, users are paired with a “ROBOT” which competes
13 against them in the match, what Avia now calls a “historical playthrough,” which can include a
14 video recording of a match previously played by another user. Zhang Trial Tr. 412:3-9; Zagal Trial
15 Tr. 624:1-4. Avia does not award the user whose play generated the historical playthrough if his
16 or her historical playthrough wins the match. If a “historical playthrough” wins a match, Avia
17 keeps all entry fees paid by live human users but does not pay out a cash prize. Trial Tr. A-1.2
18 (1/25/24 Chen Depo. Tr.) 161:14-22; Zagal Trial Tr. 727:3-5. At least one of these bots—
19 “CASH_ROBOT”—was still in use as of the *Skillz* trial in February 2024. Zhang Trial Tr. 385:4-
20 5. Internally, Avia refers to these bots as “guides” and “cucumbers”. *Skillz* Doc. 645-25 at 3-4
21 (“Cucumber means robot.”); Doc. 645-26 at 9 (“Do we need to match the cucumber”); Doc. 645-
22 19 at 92-94 (“The guide is a robot...”); Doc. 654-29 at 6.

54. Avia can dial the win rate of its bots. Avia can choose to either match a bot with a similar skill level to a given user, or it can use one that has a higher skill rating or a higher score than the user does to optimize the win rates of its bots. *See* Zagal Trial Tr. 726:12-727:17 (a gaming industry expert testimony that “Avia...keeps the money from those matches when the bot wins,” “Avia changes the scores” of its bots, and Avia “also determines the win rates” of its bots, which involves taking into account that the “win rates were too low and they need to recoup the costs”); *Skillz* Doc. 645-22 at 3 (“the win rate of the guide has been adjusted, and this part of the cost must be recovered first”); *Skillz* Doc. 645-20 at 13 (“It uses a set of logic. \n Methods to alleviate online guides’ excess theoretical points. On the basis of the current situation, the score of the guide being higher than that of the player can be reduced.”).

55. Avia does not disclose its bots to players. Rather, Avia pairs an Avia-generated new avatar and new user name, not the profile of the human whose video the bot is using. *Skillz* Doc. 645-39 at 3.

56. It was not until December 2023, after this suit was filed, that Avia disclosed that it both controlled the outcomes of games and sat on the other side of the table by pitting users against “historical playthroughs.” Buried in Section 13 of its updated Terms of Service, Avia first disclosed the use of “historical playthroughs.” Decl. of Jianing Qu in Support of Defendant’s Opposition to Plaintiffs’ Motion for a TRO, Dkt. 44-1 at 18–38 (“Exh. A”) (“2023 TOS”). A Historical Playthrough is “a record of [a user’s] playthrough of any game or contest and resulting scores and statistics.” 2023 TOS § 13. For the first time, Avia disclosed that it pits users not against live opponents but against other users’ Historical Playthroughs—and keeps the winnings for itself. *Id.* (explaining that when Historical Playthroughs win, “Aviagames will keep the prize(s) won by

1 those score(s)"). With this recent addition to the TOS, Avia has admitted key facts underlying the
2 complaint.

3 57. And during the *Skillz* case, Avia's employees repeatedly disclaimed Avia's bot use
4 despite the evidence to the contrary. When Skillz raised Avia's bot use in its motion to re-open
5 discovery, Avia's Chief Technology Officer, Peng Zhang, filed a false declaration stating under
6 penalty of perjury that "AviaGames only uses non-human bots when AviaGames gives a new
7 player a tutorial on how to play." *Skillz* Doc. 664 ¶FF14 (discussing *Skillz* Doc. 216-6 ¶ 5). After
8 the Court found that Avia had defrauded its customers by telling them that they were also playing
9 against a "real person," Mr. Zhang doubled down on his prior declaration by falsely insisting that
10 when he said "bots" he meant AI-powered bots. *Skillz* Doc. 522 ¶ 5. None of these statements are
11 true. As Avia's Interrogatory responses—responses that Mr. Zhang verified—make clear, the
12 createRobotPlayer function is called any time one of Avia's robots is invoked. *Skillz* Doc. 416-7
13 at 17:17-20.

14 58. At trial, Mr. Zhang testified that he did not know what happened to a user's money
15 when they lost a match to a bot. But during Avia's corporate deposition, Mr. Zhang informed
16 Avia's corporate representative that Avia keeps the money. *Skillz* Doc. 664 ¶FF15 (discussing
17 *Skillz* Doc. 640-5, 10/25/23 Li Depo. Tr. 50:7-51:5; Zhang Trial Tr. 438:17-440:12).

18 59. Avia's Co-Founder and Vice President, Ping Wang, repeatedly testified (falsely)
19 that Avia does not use bots, despite numerous internal documents variously describing Avia's
20 robots as both "bots" and "AI." Wang Trial Tr. at 235:5-20, 238:6-9; *see also, e.g., Skillz* Doc.
21 645-21 at 16 ("skillz ... does not dare to use robots"); *Skillz* Doc. 645-49 at 1 (describing GAAP
22 revenue for "AI" matches).

60. Avia's Co-Founder and CEO, Vickie Chen, also made repeated false statements about Avia's bots. At her first deposition, Ms. Chen insisted 1) that Avia has never used bots and 2) that when a player is matched against an opponent, that player sees the avatar and user name of their human opponent. *Skillz* Doc. 664 ¶¶FF17 (discussing *Skillz* Doc. 640-2, 05/20/23 Chen Depo. Tr. 177:10-180:13). Neither of these statements are true. As described above, Avia's internal documents and source code are littered with references to "bots" and "robots."

61. Given the "secretive" nature of Avia's fraudulent enterprise, filings in the referred case also suggests that Avia might have defrauded financial advisors: "evidence adduced in discovery suggests Avia was providing false information to its Ernst & Young audit team when the auditors discovered bot accounts."⁶⁶ Alarminglly, *Skillz* also suggests that "Avia executive Fuhai Zhong attempted to extort significant sums from founders Vickie Chen and Ping Wang in exchange to forebear from exposing Avia's fraudulent conduct."⁶⁷

62. As these allegations have significant criminal law implications, the U.S. Department of Justice became interested in the case. *Skillz* "received a criminal jury subpoena (the "Subpoena") from the United States Department of Justice which [redacted] relating to Avia's use of bots, [redacted]."⁶⁸ Because "[c]ertain filings, orders, and hearing transcripts received in this case are responsive to the Subpoena and in *Skillz*'s possession, custody, or control" and because "some of these documents are under seal by order of this Court (the "Sealed Materials")," *Skillz* requested the court in that case to "authorize *Skillz* to produce the Sealed Materials in unredacted

⁶⁶ *Skillz* Doc. 466 at 5-6.

⁶⁷ *Skillz* Doc. 466 at 6.

⁶⁸ *Skillz* Doc. 475 at 1; Doc. 474-4.

1 form to comply with the Subpoena and not run afoul of the Court's expectations with respect to
2 such orders."⁶⁹

3 63. Using bots helps Avia maintain player liquidity. Avia needs players for the real
4 players to play against. If there are not enough real players and the players need to wait to get the
5 results of their match, they are less likely to keep playing. The incentives to secure such player
6 liquidity are thus very strong. Avia asserts that its players are matched and compete in real time,
7 and in case an opponent is not found within 24 hours, the match will be canceled:
8

9 Players are matched with an opponent of a similar skill level using
10 AviaGames' matchmaking technology. Sometimes it takes time to
11 find other players that are the appropriate match based on the criteria
12 applied and the community of players within a given time period.

13 In 1v1 games, opponent searching may take up to 24 hours if an
14 opponent of similar skill is not immediately available. If a suitable
15 opponent cannot be found within 24 hours, the match will be
16 canceled and the Entry Fee will be automatically refunded to the
17 player's balance.

18 In tournaments, if suitable opponents are unable to be matched
19 within 24 hours, the player will earn the rank currently held at the
20 end of the matchmaking period and the corresponding prizes will be
21 automatically sent to the player. In addition, a player may start a new
22 match while the platform searches for an opponent.⁷⁰

23 64. Avia's executive team understood that the company's bot use would boost its
24 revenue and market share by making its app more appealing to players like Plaintiffs. For instance,
25 in a chat involving both Ms. Wang and Ms. Chen discussing compliance issues around Avia's use
26 of bots, Jamie Leung asked: "Is the fairness issue less important given the co-existence of both
27 huge market space...and rapid growth? Pinduodu...had all sorts of fraudulent fake goods, but it
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⁶⁹ *Skillz* Doc. 475 at 1.

⁷⁰ <https://www.linkedin.com/pulse/aviagames-faq-series-addressing-common-community-questions-chen> [last accessed 11-17-2023]

1 still did not prevent [it] from becoming a hot spot in the capital market.” Doc. 645-29 at 6. Mr.
2 Leung characterized Avia’s goal as “to go public or be acquired as soon as possible, maintaining
3 growth is the key and the only way,” and concluded that the “optimal solution [to achieve such
4 growth] is to expand the team[] relying on robots,” even though he acknowledged that “this mode
5 can’t go public[.]” *Id.* When asked about this conversation, Ms. Chen confirmed that Avia did in
6 fact proceed to expand its team through the use of “historic playthroughs and guides.” Trial Tr. A-
7 1.2 (1/25/24 Chen Depo Tr.) 203:16-205:02. And at trial, Ms. Wang touted the importance of
8 Avia’s “invention” of “historical playthroughs” as solving a matchmaking problem common to the
9 industry as one of the reasons for Avia’s success. Wang Trial Tr. 233:10-24, 234:24-235:4.

11 65. Avia proclaims to target especially female players, a majority of which don’t have
12 PC or console gaming experience. According to reports, the “company believes it has found a
13 niche in providing competitive gaming to people for a few minutes a day.”⁷¹ The smaller the player
14 base, the lower the chance that a player will find an equally skilled opponent instantaneously.
15 Thus, greater player liquidity problems.

16 66. The fact that Avia’s games are populated and/or controlled with bots also
17 challenges assertions that the games are fair and skill-based. If the players compete against robots,
18 the game cannot be called fair and skill-based. When the game is not based on the skills of the
19 player, and the result is simply determined by random events, or otherwise controlled by Avia, the
20 game is no longer skill-based. Rather, it is a game of chance because player’s skill level does not
21 impact the game’s outcome. That is in stark contrast to how Avia markets its games.
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25
26 ⁷¹ *Id.*

D. Avia’s apps allow users to compete for real money.

67. Avia promises its users “the chance to win real money.”⁷² Similar statements promising financial gains are made in relation to specific games. The Pocket7Games platform informs users that they can “Play Fun Games” and “Win REAL CASH.” Avia explains that the “[g]amers play against others to earn either tickets or real cash.”⁷³ Tickets can be redeemed for various prizes, including bonus cash. To win money, Avia instructs users to “participate in matches with cash prize pools.”⁷⁴ “Victors can cash out their winnings by using the easy withdrawal system located within the menu bar of the game.”⁷⁵ Uncashed money or tickets can be used as an “entry fee” to play more games.⁷⁶

68. Players are often given wagering money for free to start—just for playing the game. Thus, a player can spend time earning “real money” without making a deposit. Alternatively, players can deposit their own money to wager. In all events, the player is putting money in its account at risk.

69. Avia represents that the money that is at stake in the tournaments comes from the cash prize pool. Allegedly, Avia has “no financial interest in the outcome of cash games” and has no “stake in who wins or loses.”⁷⁷

70. Standalone applications are advertised in a similar way. Match n Flip challenges the players to “[t]est [their] skills and win REAL MONEY.” Bingo Flash promises the users to

⁷² <https://www.pocket7games.com/support-faq> [last accessed 11-17-2023]

⁷³ <https://www.pocket7games.com/about-us> [last accessed 11-17-2023]

⁷⁴ <https://www.pocket7games.com/support-faq> [last accessed 11-17-2023]

⁷⁵ <https://www.pocket7games.com/about-us> [last accessed 11-17-2023]

⁷⁶ <https://www.pocket7games.com/support-faq> [last accessed 11-17-2023]

⁷⁷ *Id.*

1 “participate in cash games to win real money.”⁷⁸ The players are told that they are playing with
 2 real people based on their skill and stand a chance of winning real cash.⁷⁹ Some of the games even
 3 invite players to “Use [their] skills to pay the bills!”⁸⁰

4 71. Because Avia uses bots that participate in its tournaments for in-game cash or
 5 otherwise control the outcome, Avia misrepresents that it does not have any financial interest in
 6 the game. When there are not real players, Avia has a financial interest in the outcome of the game
 7 because Avia collects all prize money “won” by the Avia’s bots.⁸¹ Avia’s actions position it as an
 8 operator of a gambling scheme. Players are not competing against other players, but against Avia
 9 as the “house.” By skillfully matching “players” both real time or ex post, or otherwise controlling
 10 the results, Avia can decide how much money each player—and it—wins.

12 72. Ms. Chen is aware that gambling “requires the presence of three elements: 1) the
 13 wager (the amount of money bet), 2) the outcome determined by chance and 3) a reward or
 14 prize.”⁸² Outcomes being dependent on skill is the key feature that differentiates skill-based games
 15 from gambling, in which outcomes are determined by chance.

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 19 ⁷⁸ <https://apps.apple.com/us/app/bingo-flash-win-real-cash/id1669672366> [last accessed 11-17-2023]

20 ⁷⁹ See, e.g., <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531>,
 21 <https://apps.apple.com/us/app/bubble-buzz-win-real-cash/id1625671597>, or
 22 <https://apps.apple.com/us/app/blockolot-win-real-cash/id1609403287?mt=8> [last accessed 11-17-2023]

23 ⁸⁰ See, e.g., Bubble Buzz, Blockolot, or 8 Ball Strike.

24 ⁸¹ See also *Skillz* Doc. 463 at 1-2, cited above: “Avia’s counsel admitted that when Avia’s bots play and win games, Avia keeps the prize money.”

25 ⁸² Vickie Chen, *The Skill-Based Gaming Opportunity*, *Forbes*, August 9, 2022,
 26 <https://www.forbes.com/sites/forbesbusinesscouncil/2022/08/09/the-skill-based-gaming-opportunity/?sh=10d1ef322340> [last accessed 11-17-2023]

73. Ms. Chen notes that three tests are usually used to evaluate whether a game is a game of skill or a game of chance. “The Dominant Factor Test determines whether skill heavily influences the game. For example, in games with random number generators that determine the outcome, skill should have no impact on the winner. The Material Element Test focuses on whether chance plays a significant role in the outcome of the game. The Any Chance Test determines if there is an element of luck that affects the outcome, such as the card flips in the game of blackjack, pushing many relatively ‘skillful’ games into the illegal gambling category.”⁸³

74. Ms. Chen’s definition does not prevent Avia from advertising its blackjack game called 21 Gold as a game of skill: “21 Gold: A lightning-fast version of classic casino Blackjack. If you’re a fan of math games, show off your skill in this timeless skill-based card game!”⁸⁴

75. Advertising Avia’s games as games of skill also stands in stark contrast with the nature of the “mini-games” that are offered within the respective games. To earn additional money, Avia offers players a chance to “participate in mini-games and events such as Lucky Card, Bonus Wheel, Fortuity Wheel, Scratcher, and Lucky Box to win Bonus Cash Prizes.”⁸⁵ Avia’s advertising promises Pocket7Games’s users to “Win Extra Cash with Minigames”, i.e., “[c]laim fabulous extra rewards and even real money by playing classic minigames like Lucky Box, Dice Tour, Fortuity Wheel, and a plethora of other fun features!”⁸⁶ Those “mini-games” are pure games of chance and Avia does not even claim otherwise. There’s no skill whatsoever involved in scratching a scratch-off ticket or turning a fortune wheel. Those games are a pure lottery. Their presence in Avia’s

⁸³ *Id.*

⁸⁴ <https://apps.apple.com/US/app/id1402595440?mt=8> [last accessed 11-17-2023]

⁸⁵ *Id.*

⁸⁶ <https://apps.apple.com/us/app/pocket7games-win-cash/id1402595440> [last accessed 11-17-2023]

1 gaming environment also challenges Avia’s assertions that Avia does not have financial interest
2 in the games. The fact that the players can win cash in the “mini-games” means that in case of the
3 player’s success, Avia must be giving the prize “from its own pocket.” That is because in those
4 “mini-games”, a player is not competing against any other player, but only against the “odds”. In
5 the absence of any opponent who would contribute to build the prize pool, the prize cannot be
6 covered but by Avia itself.

7
8 76. In sum, Avia promises users skill-based games against real people and delivered
9 chance-based games populated and/or controlled by its bots.

10 **E. Avia’s illegal enterprise is fueled by investors in the gambling scheme.**

11 77. Avia’s investors fuel Avia’s fraudulent gaming scheme. As illustrated above, the
12 RICO Investors disseminated fraudulent statements regarding the skill-based character of Avia’s
13 games presented by Avia and its co-founders. The RICO Investors are interested in attracting more
14 players to Avia’s games because a larger player base boosts the value of their equity. More players
15 means more deposits and better player liquidity. Yet, instead of achieving the growth of Avia’s
16 games by improving the quality of user experience, the RICO Investors have chosen to join co-
17 founders Ms. Chen and Ms. Wang in tricking consumers to believe they are playing different, more
18 attractive games that they in reality are. Each player tricked by those fraudulent statements
19 translates into larger financial windfall for RICO Investors. The fact that the deployment of bots
20 makes Avia’s games chance-based rather than skill-based also implies that RICO Investors have
21 knowingly and intentionally supported illegal gambling scheme. To offer games of chance, Avia
22 would need to comply with California anti-gambling statutes.

23
24 78. Meanwhile, RICO Investors hold themselves out as having expertise in the gaming
25 industry. Galaxy is allegedly “one of the largest venture capital funds dedicated to the video game
26

and interactive sector.”⁸⁷ Out of Galaxy’s 126 portfolio companies, 26 operate in the gaming sector.⁸⁸ Galaxy’s partner Ryan You, who serves as an observer on Avia’s Board of Directors, is a co-head of gaming at Galaxy.⁸⁹ Mr. You has admirable experience with investing in and doing business in the gaming industry—on his LinkedIn profile, he describes himself as “Investor/advisor focusing on the Interactive Entertainment / Video Game industry. Engineer by training. Technology and video game enthusiast.”⁹⁰ He is a member of board of directors of other gaming companies such as WolfEye Studios, Sword & Wand Inc, Playable Worlds, Nekcom Games.⁹¹ He is an investor at AccelByte, a provider of backend support for game studios, and founded the US franchise of Aream & Co. and led the interactive entertainment / video game M&A advisory coverage for North America and Asia.⁹² He also worked at LionTree LLC in Interactive Entertainment Investment Banking, and was a principal at Griffin Gaming Partners.⁹³ Similarly, Hany Nada, Acme’s co-founder, built his investment experience in internet software and infrastructure.⁹⁴ Four of thirty-one portfolio companies listed on Acme’s website are in the gaming industry.⁹⁵

⁸⁷ See <https://www.businesswire.com/news/home/20220721005312/en/NEKCOM-Announces-8-Million-Series-A-Round-from-Galaxy-Interactive-to-Accelerate-International-Growth-and-Game-Development> [last accessed 03-19-2024]

⁸⁸ <https://interactive.galaxy.com/investments> [last accessed 03-19-2024]

⁸⁹ <https://www.businesswire.com/news/home/20220721005312/en/NEKCOM-Announces-8-Million-Series-A-Round-from-Galaxy-Interactive-to-Accelerate-International-Growth-and-Game-Development> [last accessed 03-19-2024]

⁹⁰ <https://www.linkedin.com/in/rongchangyou/details/experience/> [last accessed 03-29-2024]

⁹¹ <https://www.linkedin.com/in/rongchangyou/details/experience/> [last accessed 03-29-2024]

⁹² <https://www.linkedin.com/in/rongchangyou/details/experience/> [last accessed 03-29-2024]

⁹³ <https://www.linkedin.com/in/rongchangyou/details/experience/> [last accessed 03-29-2024]

⁹⁴ See <https://www.acme.vc/people/hany-nada/> [last accessed 03-18-2024]

⁹⁵ See <https://www.acme.vc/our-portfolio/#full-portfolio> [last accessed 03-20-2024]

79. Given such expertise, RICO Investors must have been aware that games of chance are strictly regulated. The willingness to circumvent such regulation by fraudulently misrepresenting the nature of Avia's games illustrates RICO Investors' determination to engage in and support the purpose of the fraudulent racketeering enterprise hidden behind Avia. The fact that Acme's Hany Nada and Alex Fayette and Galaxy's Ryan You are on Avia's Board of Directors further supports the view that the RICO Investors were aware of Avia's fraudulent activities.

80. Moreover, the involvement of the RICO Investors in the business is apparent from their presence at—and participation in—the trial against Skillz. Indeed, Mr. Nada was disclosed by Avia as a witness who would testify about the “history” of Avia. *See Skillz*, Doc. 616-4. While he did not ultimately testify, he attended the trial in person and monitored the proceedings. Close connection between Avia and Acme, or Mr. Nada, respectively, can be inferred also from the fact that Ms. Chen was asked, in her deposition, about her personal discussions with Mr. Nada regarding the use and concealment of bots in Avia's games.⁹⁶ In reply, Ms. Chen asserted her Fifth Amendment right not to testify.⁹⁷

V. FRAUDULENT CONCEALMENT AND TOLLING

81. Plaintiffs and the other members of the Class had neither actual nor constructive knowledge of the facts constituting their claim for relief. They did not discover, nor could have discovered through the exercise of reasonable diligence, the existence of Avia's illegal actions until shortly before filing this Complaint.

82. Avia failed to reveal facts sufficient to put Plaintiffs and the other Class members on inquiry notice. Avia does not inform players that they are matched with computer robots or

⁹⁶ *Skillz* Doc. 642-12 at 22: 10-12.

⁹⁷ *Id.* at 17.

otherwise impact the outcome of games. Rather, it gives players the false and misleading impression that they are playing against other users by claiming that users “compete against other gamers of equal skill levels.”⁹⁸ It adds that “[m]aking sure that players are matched by skill level has always been a major focus of [its] app development,”⁹⁹ and informs users that it has decided to “allow players to be matched across Avia apps” to allegedly “give players more matching options while maintaining fairness.”¹⁰⁰

83. Avia affirmatively misrepresented to players, through omissions, half-truths, and misrepresentations, how it connects the players. It intentionally hid from Plaintiffs and the other Class members that it utilizes computer robots for its own advantage and profits. Indeed, Avia explicitly denies that bots are involved, and affirmatively misleads the users as to the rules of the game and nature of other players.

84. Avia made concerted efforts to hide its bot use through the use of the code names “cucumbers and guides.”¹⁰¹ It allegedly also strived to hide its bot use from its accountants, and even purchased scores of fake positive reviews for its Pocket7Games platform to reinforce user expectations that Avia hosted fair, peer-to-peer competitions and to bury negative reviews related to its bot use.¹⁰²

85. Whenever a player had concerns about the nature of the game, Avia responded to dispel those concerns by affirming that only real people compete. This information corresponded to the statements communicated by Avia through all other channels, including Avia’s own website,

⁹⁸ <https://www.pocket7games.com/about-us> [last accessed 11-17-2023]

⁹⁹ <https://www.pocket7games.com/support-faq> [last accessed 11-17-2023]

¹⁰⁰ *Id.*

¹⁰¹ *Skillz* Doc. 645-25; Doc. 645-26.

¹⁰² *Skillz* Doc. 645-29.

1 advertisements on various app marketplaces, Ms. Chen's public comments, or and descriptions of
2 Avia on the websites of RICO Investors. Given such consistency, the players had no reason to
3 question those affirmations and continued to play in the belief that they compete with real people.

4 86. Through Avia's and RICO Defendants' knowing and active concealment of Avia's
5 misconduct and fraudulent behavior from the users, Plaintiffs and the other Class members did not
6 receive information that should have put them, or any reasonable consumer standing in their shoes,
7 on sufficient notice that the games are not as advertised.

8 87. An ordinary person acting reasonably diligently would not have had the time,
9 resources, or specialized training to uncover the misconduct that plaintiff in that case, through
10 experienced counsel, have alleged in that case.

11 88. Plaintiffs exercised reasonable diligence. As illustrated above, some of the players
12 even voiced their concerns with Avia, which vehemently dispelled them by affirming that no bots
13 are used. Plaintiffs and the other members of the Class could not have discovered Avia's alleged
14 misconduct at an earlier date by the exercise of reasonable diligence because of the deceptive and
15 secretive conduct taken by Avia and the RICO Defendants to conceal Avia's misconduct. In
16 addition, Plaintiffs and other members of the Class reasonably considered the online gaming
17 industry to be a regulated industry where the games of chance need to comply with the local anti-
18 gambling statutes. Only through the disclosure of confidential documents in another Court
19 proceeding could Plaintiffs learn of the misconduct. Accordingly, a reasonable person under the
20 circumstances would not have been alerted to begin to investigate the legitimacy of Avia's
21 business before filing this Complaint.

22 89. Due to Avia's and the RICO Defendants' fraudulent concealment of their wrongful
23 conduct, the running of the statute of limitations has been tolled and suspended with respect to the
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claims and rights of action of Plaintiffs and the other Class members as a result of the illegal conduct, including all parts of the class earlier in time than the four years immediately preceding the date of this Complaint.

VI. CLASS ACTION ALLEGATIONS

90. Plaintiffs bring this action on behalf of themselves and the following class (“Class”) of all others similarly situated under Federal Rules of Civil Procedure 23(a) and 23(b)(3):

All persons who have lost money playing any Avia game from at least 2017 until Defendants’ unlawful conduct and its harmful effects stop. Excluded from the class are federal and state governmental entities and judicial officers presiding over this case.

91. The Class is so numerous that a joinder of all members in this action is impracticable. There are hundreds of thousands, if not millions, of geographically dispersed Class members.

92. The Class members, moreover, can be readily identified and notified in an administratively feasible manner using, among other information, Defendants’ own electronic transactional records.

93. Plaintiffs’ claims are typical of those of the Class. Plaintiffs and all members of the Class claim that Defendants’ alleged misconduct violates Cal. Bus. & Prof Code § 17200, *et seq.*, Cal. Civ. Code § 1750, *et seq.*, and the Racketeer Influenced and Corrupt Organizations Act 18 U.S.C. § 1961, *et seq.* Plaintiffs and all Class members also allege and will show that they were injured by the same conduct that misled Plaintiffs and the Class into spending money to enter tournaments and games that Avia had filled and/or controlled with bots rather than real, human players.

94. Plaintiffs will protect and represent the interests of Class members fairly and adequately. The interests of Plaintiffs and Plaintiffs’ counsel are fully aligned with, and not

antagonistic to, the interests of the Class members. Plaintiffs are willing and able to dispatch the duties incumbent upon a class representative to protect the interests of all Class members. In addition, Plaintiffs' counsel has significant experience successfully prosecuting complex class actions and possesses the necessary resources to vigorously litigate the case to the greatest extent necessary for the Class.

95. There are multiple questions of law and fact that are common to the Class and that the Class can prove with evidence common to all Class members, including the following ones:

- a. Whether Avia matches human players against bots or otherwise uses bots to impact outcomes;
- b. Whether Avia's use of bots constitutes illegal gambling;
- c. Whether Avia's and the RICO Defendants' misrepresentations and omissions are false, misleading, deceptive, or likely to deceive reasonable consumers;
- d. Whether Avia's and the RICO Defendants' failure to disclose that it matches human players against robots in tournaments is likely to deceive;
- e. Whether Avia's operations, as described in this Complaint, violate California law;
- f. Whether Plaintiffs and the Class members were damaged by Avia's conduct;
- g. Whether Avia's actions or inactions violated the consumer protection statutes invoked herein;
- h. Whether Avia and the RICO Defendants involved in the Robot Player Enterprise as defined below engaged in a pattern of racketeering;
- i. Whether the Robot Player Enterprise, in whole or in part, has substantially affected interstate and intrastate commerce; and
- j. Whether Plaintiffs are entitled to a preliminary and permanent injunction enjoining Defendants' conduct.

1 96. Questions of law and fact common to the members of the Class will predominate
2 over any individualized questions of law or fact. Defendants have acted and refused to act on
3 grounds generally applicable to the Class.

4 97. Class treatment is the superior method for the fair and efficient adjudication of this
5 controversy. It will allow for the scores of Class members to prosecute their common claims, and
6 for Defendants to defend themselves against these claims, in front of a single court simultaneously
7 and efficiently before ultimately reaching resolution without unnecessary duplication of effort and
8 expense that separate actions would present. The benefits of proceeding with this procedural
9 mechanism, including providing injured persons with a method of obtaining redress for claims that
10 might not be practicable for them to pursue individually, substantially outweigh any difficulties
11 that may arise in the management of this case as a class action.
12

13 **VII. RICO-SPECIFIC ALLEGATIONS**

14 98. Instead of revolutionizing the gaming industry by legitimate means, Avia
15 ultimately provided games of chance for money without complying with the applicable laws.
16 Driven by the purpose of increasing the attractiveness of the games, recruiting more paying users,
17 and making them spend significant financial resources in belief that they are competing against
18 other real, human players, Avia and the RICO Defendants have been fraudulently misleading and
19 deceiving consumers as to the true nature of Avia's games. As opposed to fair skill-based games,
20 the games have been nothing more than illegal games of chance provided in contravention of
21 California illegal gambling statutes (the "Robot Player Enterprise"). And, the Robot Player
22 Enterprise has been facilitated by the use of mail/wires.
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99. From at least 2017, when Avia was founded, to the present, the affiliation between and among Avia and the RICO Defendants has constituted an association-in-fact enterprise, whose activities have affected interstate commerce.

100. As a direct and proximate result of their fraudulent and illegal scheme and common course of conduct, Avia and the RICO Defendants illegally extracted money from Plaintiffs and the Class. Avia is the vehicle through which the RICO Defendants acted.

A. The Robot Player Enterprise

101. At all relevant times, Avia and the RICO Defendants operated as an association-in-fact enterprise formed for the purpose of tricking consumers into believing that they are playing against real players to increase the attractiveness of Avia's games, broaden the user base, and hence, extract more money, to ultimately "go public or be acquired as soon as possible."¹⁰³

102. The Robot Player Enterprise was effectively established in 2017 at the latest, when Ms. Chen and Ms. Wang co-founded Avia. To Plaintiffs' knowledge, the investment came primarily from ACME and Galaxy, i.e., the RICO Investors as defined above. Galaxy claims to have invested in Avia in 2020.¹⁰⁴ Acme claims to have first invested in Avia in July 2021.¹⁰⁵ Yet, discovery may show that other unnamed co-conspirators contributed to the enterprise.

103. Since its founding, Avia has presented itself as a legitimate online gaming company providing games of skill where players compete against real players in real time. As described

¹⁰³ In an internal Avia's communication, Mr. Leung of Avia characterized Avia's goal as "to go public or be acquired as soon as possible, maintaining growth is the key and the only way," and concluded that the "optimal solution [to achieve such growth] is to expand the team[] relying on robots," even though he acknowledged that "this mode can't go public[.]" *Skillz* Doc. 645-29 at 6.

¹⁰⁴ <https://www.pocket7games.com/about-us> [last accessed 11-17-2023]

¹⁰⁵ Dkt. 86 at 3.

1 above, Avia’s website and its advertisements on mobile app marketplaces such as App Store are
 2 overflowing with statements extolling the fairness and legality of Avia’s games. Similarly, Ms.
 3 Chen and the RICO Investors replicate those affirmations in their public statements or
 4 proclamations.¹⁰⁶

5 104. As illustrated at length above, such statements are blatantly false. Avia’s games are
 6 populated and/or controlled with bots and the results of the game do not depend on players’ skills,
 7 but the mere whims of Avia and the RICO Defendants. The real purpose of the enterprise is not to
 8 revolutionize the gaming industry, but to steal money from innocent consumers. The RICO
 9 Defendants, through their operation of Avia, strived to attract as many players as possible, incite
 10 them to deposit money and wager to participate in cash games, and then, by skillfully rigging the
 11 games, siphon money from the players regardless of the players’ skills or their performance in a
 12 particular match. The shared ultimate goal was to “go public or be acquired as soon as possible.”¹⁰⁷

13 105. On top of that, due to the deployment of bots the Avia’s games were games of
 14 chance rather than games of skill, Avia and the RICO Defendants effectively established an illegal
 15 gambling platform.
 16

17 106. Provision of games by Avia amounts to running an illegal gambling business.
 18 Gambling is unlawful unless expressly permitted by statute. Section 1955 prohibiting illegal
 19 gambling business states:
 20

21 Whoever conducts, finances, manages, supervises, directs, or owns
 22 all or part of an illegal gambling business shall be fined under this

23 ¹⁰⁶ See, e.g., Vickie Chen, *The Skill-Based Gaming Opportunity*, Forbes, August 9, 2022,
 24 [https://www.forbes.com/sites/forbesbusinesscouncil/2022/08/09/the-skill-based-gaming-](https://www.forbes.com/sites/forbesbusinesscouncil/2022/08/09/the-skill-based-gaming-opportunity/?sh=10d1ef322340)
 25 [opportunity/?sh=10d1ef322340](https://www.acme.vc/our-portfolio/)]; <https://www.acme.vc/our-portfolio/>;
 26 <https://interactive.galaxy.com/investments> [last accessed 11-17-2023]

¹⁰⁷ *Skillz* Doc. 645-29 at 6.

1 title or imprisoned not more than five years, or both. 18 U.S.C. §
2 1955(a) (West).

3 107. Illegal gambling business is defined as:

4 a gambling business which — (i) is a violation of the law of a State
5 or political subdivision in which it is conducted; (ii) involves five or
6 more persons who conduct, finance, manage, supervise, direct, or
7 own all or part of such business; and (iii) has been or remains in
substantially continuous operation for a period in excess of thirty
days or has a gross revenue of \$2,000 in any single day.” 18 U.S.C.
§ 1955(b)(1) (West).

8 108. According to the statute, gambling:

9 includes but is not limited to pool-selling, bookmaking, maintaining
10 slot machines, roulette wheels or dice tables, and conducting
11 lotteries, policy, bolita or numbers games, or selling chances
therein.” 18 U.S.C. § 1955(b)(4) (West).

12 109. Certain organizations are exempt from the statute:

13 This section shall not apply to— (1) any bingo game, lottery, or
14 similar game of chance conducted by an organization exempt from
15 tax under paragraph (3) of subsection (c) of section 501 of the
16 Internal Revenue Code of 1986, as amended, if no part of the gross
17 receipts derived from such activity inures to the benefit of any
18 private shareholder, member, or employee of such organization
except as compensation for actual expenses incurred by him in the
conduct of such activity; or (2) any savings promotion raffle.” 18
U.S.C. § 1955(e) (West).

19 110. No such permissive statute allows gambling in the manner engaged in by Avia.

20 Games offered by Avia are games of chance rather than games of skills. Avia’s games satisfy the
21 three-prong test used in case law to evaluate whether a game is a game of chance rather than a
22 game of skill, i.e., consideration, chance and prize. Avia’s games involve the element of
23 consideration because players must pay for the participation in the games, either through real
24 money or in-game “tickets.” Although it is possible to play Avia’s games using the “free” tickets
25 without having to deposit real money, the investment of those “free” tickets into the game still
26

1 constitutes consideration because the “free” tickets have a value translatable into real money. In
2 any case, Plaintiffs and the Class wagered real money to play Avia’s games, hence traded value
3 for the chance to win real money.

4 111. Avia’s games also involve the element of chance. Avia’s deployment of bots means
5 that the tournaments are not based on skills but determined by chance. The assignment of bots, at
6 best, renders the result of the game random. By having its own bots play in the matches, Avia is
7 financially interested in those matches and is able to determine their results at its whim.

8 112. Finally, Avia’s games involve the element of prize because the players of are
9 entitled to receive real money or tickets depending on their success in the match. Real money can
10 be withdrawn from the application or used as an entry fee to play other games. Tickets can be used
11 as an entry fee to play other games.

12 113. The players of Avia’s games have not been competing against real people based on
13 skill as advertised, but against Avia’s bots. Avia has thus operated as an illegal online casino,
14 where the players play against Avia as the “house.” Avia has its own stake in the games and is free
15 to determine the results of the matches regardless of the skills of the players.

16 114. Avia’s games constitute illegal gambling also under California law. California
17 Penal Code, section 330 states:

18
19
20 Every person who deals, plays, or carries on, opens, or causes to be
21 opened, or who conducts, either as owner or employee, whether for
22 hire or not, any game of faro, monte, roulette, lansquenet, rouge et
23 noire, rondo, tan, fan-tan, seven-and-a-half, twenty-one, hokey-
24 pokey, or any banking or percentage game played with cards, dice,
25 or any device, for money, checks, credit, or other representative of
26 value, and every person who plays or bets at or against any of those
prohibited games, is guilty of a misdemeanor, and shall be
punishable by a fine not less than one hundred dollars (\$100) nor
more than one thousand dollars (\$1,000), or by imprisonment in the
county jail not exceeding six months, or by both the fine and
imprisonment.” Cal. Penal Code § 330 (West).

1
2 115. That Avia’s games constitute illegal gambling under California law is confirmed
3 by the case law. For example, the game of blackjack, which is provided by Avia under the name
4 “21 Gold”, is clearly prohibited by California law. “The operation of a “blackjack” game is clearly
5 prohibited by West’s Ann.Cal.Pen. Code, section 330 and, thus, is violative of this section's
6 prohibition against illegal gambling businesses.” *United States v. Graham*, 534 F.2d 1357 (9th Cir.
7 1976).

8 116. At all relevant times, the Robot Player Enterprise: (a) had an existence separate and
9 distinct from Avia and each RICO Defendant; (b) was separate and distinct from the pattern of
10 racketeering in which Avia and the RICO Defendants engaged; and (c) was an ongoing and
11 continuing organization consisting of natural persons and legal entities, including Avia, Ms. Chen,
12 Ms. Wang, and the RICO Investors.

13
14 117. At all relevant times, Avia and the RICO Defendants have been “persons” under 18
15 U.S.C. § 1961(3) because they are capable of holding, and do hold, “a legal or beneficial interest
16 in property.” While the RICO Defendants participated in, or are members of, the Robot Player
17 Enterprise, they have a separate existence from that enterprise, including distinct legal statuses and
18 individual personhood.

19 118. Each participant in the Robot Player Enterprise had a systemic linkage to each other
20 through corporate ties, contractual relationships, factual relationships, and continuing coordination
21 of activities. These links provide evidence that the Robot Player Enterprise is something more than
22 a group of entities who agreed to commit a pattern of racketeering activity. It has a specific
23 structure through which Avia and the RICO Defendants pursued the common purpose. Through
24 the Robot Player Enterprise, Avia and the RICO Defendants functioned as a continuing unit with
25 the purpose of furthering the illegal scheme and their common purpose of increasing Avia’s
26

1 revenues and profits. The Court in the Skillz case has already found that Avia’s representations to
2 users with respect to its bot use were fraudulent.¹⁰⁸

3 119. Each member of the Robot Player Enterprise shared in the financial windfall
4 generated by the enterprise, and Avia and each RICO Defendant shared in the common purpose of
5 tricking customers into believing that they are playing against real players to increase the
6 attractiveness of the games. The increased attractiveness was reflected in a larger user base. Avia
7 had more customers who deposited their money into the games believing they are playing with
8 real players in real time. Little did they know that they are playing with the bots. A higher deposit
9 pool and a broader player base translated into higher sales and profits for Avia and the RICO
10 Defendants. Instead of competing on the merits by, e.g., improving the quality or user experience
11 of the games, Avia and the RICO Defendants chose to engage in fraudulent illegal activity. They
12 did not care about the reputation of the company, or the damage its addictive games would do to
13 its players, but were only focused on extracting more money.¹⁰⁹

14
15 120. Each member of the Robot Player Enterprise was contributing to that shared goal.
16 Rather than acting purely in their own business interests, RICO Investors promoted Avia’s
17 fraudulent practices. Acme’s co-founder and member of Avia’s board of directors, Hany Nada,
18 publicly praised Avia in an article for Business Wire for its contribution to the gaming industry:
19 “Vickie and Ping have incredible gaming experience, are in tune with what consumers want and
20 are creating compelling, interactive games that get people from a wide range of demographics
21 engaged and coming back for more. They’re making gaming what it should be: fun, competitive
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23

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25 ¹⁰⁸ Skillz Doc. 435; Doc. 509.

26 ¹⁰⁹ Skillz Doc. 645-29 at 6 (“we should not be overly entangled in the sacrifice of fairness and
transparency on the impact of individual users”).

1 and engaging.”¹¹⁰ Mr. Nada added that “[Vickie and Ping] have created an inclusive gaming
 2 environment with a focus on long term player engagement.”¹¹¹ Mr. Nada’s background strongly
 3 suggests that he knew those statements were false or misleading at best. Galaxy used its website
 4 to help disseminate misleading information about Avia’s games.¹¹²

5 121. Without RICO Investors’ money, Avia and its employees would not be able to
 6 develop the bots. Discovery is likely to reveal that RICO Investors used their expertise in gaming
 7 industry to assist Avia, Ms. Chen, and Ms. Wang in disseminating misinformation about Avia’s
 8 business.

9 122. Documents from the Skillz case show that Avia’s board members were likely
 10 informed of the company’s use of bots and therefore likely knew of, directed, and/or supervised
 11 Avia’s alleged bot use. In her deposition of October 20, 2023 in the Skillz case, Ms. Chen was
 12 asked: “The board of directors of AviaGames is aware of AviaGames’ use and concealment of
 13 robots in its cash games, correct?”¹¹³ When confronted with this question, Ms. Chen asserted her
 14 Fifth Amendment right not to testify.

15 123. Acme’s Hany Nada and Alex Fayette, as well as Galaxy’s Ryan You,¹¹⁴ all
 16 participated in meetings of Avia’s Board of Directors. Given that Avia touted its processes for
 17 matching “players” as a competitive advantage, those directors were likely aware of the technical
 18 details of how Avia’s algorithm matches users to their opponents, including the use of bots—
 19
 20

21
 22 ¹¹⁰ <https://www.businesswire.com/news/home/20210811005038/en/AviaGames-Raises-40-Million-to-Diversify-Gaming> [last accessed 03-18-2024]

23 ¹¹¹ <https://www.businesswire.com/news/home/20210811005038/en/AviaGames-Raises-40-Million-to-Diversify-Gaming> [last accessed 03-18-2024]

24 ¹¹² <https://interactive.galaxy.com/investments> [last accessed 03-21-2024]

25 ¹¹³ Skillz Doc. 642-12 at 22: 2-4.

26 ¹¹⁴ <https://www.linkedin.com/in/rongchangyou/details/experience/> [last accessed 03-21-2024]

1 especially given the Investor Defendants and directors self-described expertise in software and
2 gaming.

3 124. Acme's Hany Nada also likely took an active role in concealing the use of bots. In
4 her deposition, Ms. Chen was asked: "Have you personally discussed with Hany Nada the use and
5 concealment of bots in AviaGames?"¹¹⁵ When confronted with this question, Ms. Chen again
6 asserted her Fifth Amendment right not to testify.¹¹⁶ Close connection between Avia and Acme,
7 or Mr. Nada, respectively, is evidenced also by the fact that Mr. Nada was listed by Avia as a
8 witness to testify in the Skillz case about Avia's history.¹¹⁷ Although the Skillz case is a patent
9 infringement case, the matching algorithm and use of bots was relevant to the infringement,
10 damages and willfulness.¹¹⁸ If Mr. Nada was listed by Avia as a witness, it is reasonable to infer
11 that he has some relevant knowledge on those topics.
12

13 125. The above also evidences active involvement of Avia's founders Ms. Chen and Ms.
14 Wang. Numerous documents from the Skillz case show that both Ms. Chen and Ms. Wang had
15 actively advanced the Robot Player Enterprise's shared purpose.¹¹⁹ These documents evidence that
16 there was a common communication network by which Avia and the RICO Defendants shared
17 information on a regular basis.
18

19 126. Avia and RICO Defendants' conduct plausibly had only a deceitful purpose, and
20 no other legitimate business purpose. Those practices could not have been developed by accident
21

22 ¹¹⁵ *Skillz* Doc. 642-12 at 22: 10-12.

23 ¹¹⁶ *Id.* at 17.

24 ¹¹⁷ *Skillz* Doc. 616-4.

25 ¹¹⁸ *Skillz* Doc. 547 at 110:23-111:3.

26 ¹¹⁹ *Skillz* Doc. 645-29, including a chat involving both Ms. Wang and Ms. Chen discussing
compliance issues around Avia's use of bots.

1 or as a part of routine business dealings. Avia deployed bots to play against Avia games' players
2 in order to win over them and steal money from them. There is no proper purpose for use of bots
3 in a game of skill. Avia and the RICO Defendants were not simply pursuing routine business
4 dealings, but engaged in a fraudulent illegal enterprise. Avia and the RICO Defendants were not
5 associated in a manner directly related to their own primary business activities.

6
7 127. Statements of Avia's employees confirm that: "relying on robots [...] this mode
8 can't go public or be acquired."¹²⁰ Similarly, although Acme's and Galaxy's provision of capital
9 or financial support is arguably part of their routine business activity, knowingly participating in a
10 deceptive scheme is not. Whether or not the Investors knew of Avia's bots at the time of
11 investment, Avia's bot use was so egregious and pervasive that failure of the RICO Defendants to
12 distance themselves from that conduct is itself evidence of their complicit agreement with and
13 ratification of the scheme.

14 128. Given RICO Investors' experience with investment in gaming industry, an
15 alternative explanation that the RICO Investors themselves were duped by Avia into investing in
16 Avia is less plausible. Acme's partner and Avia's board member Hany Nada allegedly built his
17 experience in internet software and infrastructure.¹²¹ Four of 31 portfolio companies listed on
18 Acme's website are in the gaming industry.¹²²

19
20 129. Out of Galaxy's 126 portfolio companies, 26 operate in the gaming sector.¹²³
21 Indeed, Galaxy is said to be "one of the largest venture capital funds dedicated to the video game
22

23
24 ¹²⁰ *Skillz* Doc. 645-29 at 6.

25 ¹²¹ <https://www.acme.vc/people/hany-nada/> [last accessed 03-18-2024]

26 ¹²² <https://www.acme.vc/our-portfolio/#full-portfolio> [last accessed 03-20-2024]

¹²³ <https://interactive.galaxy.com/investments> [last accessed 03-19-2024]

and interactive sector.”¹²⁴ Galaxy’s partner Ryan You, who serves as an observer on Avia’s Board of Directors, is a co-head of gaming at Galaxy.¹²⁵ Mr. You has admirable experience with investing in and doing business in the gaming industry—on his LinkedIn profile, he describes himself as “Investor/advisor focusing on the Interactive Entertainment / Video Game industry. Engineer by training. Technology and video game enthusiast.”¹²⁶ He is a member of board of directors of other gaming companies such as WolfEye Studios, Sword & Wand Inc, Playable Worlds, Nekcom Games.¹²⁷ He is an investor at AccelByte, a provider of backend support for game studios, and founded the US franchise of Aream & Co. and led the interactive entertainment / video game M&A advisory coverage for North America and Asia.¹²⁸ He also worked at LionTree LLC in Interactive Entertainment Investment Banking, and was a principal at Griffin Gaming Partners.¹²⁹

130. Given RICO Investors’ expertise in the sector, they are expected to use higher level of sophistication in evaluating statements by Avia than a regular consumer and more likely to have been aware of Avia’s activities than supposedly duped by them.

131. The Robot Player Enterprise engaged in, and its activities affected interstate and foreign commerce, because it involved commercial activities across state boundaries, such as the marketing, promotion, advertisement and sale of Avia’s games throughout the country, as well as

¹²⁴ <https://www.businesswire.com/news/home/20220721005312/en/NEKCOM-Announces-8-Million-Series-A-Round-from-Galaxy-Interactive-to-Accelerate-International-Growth-and-Game-Development> [last accessed 03-19-2024]

¹²⁵ <https://www.businesswire.com/news/home/20220721005312/en/NEKCOM-Announces-8-Million-Series-A-Round-from-Galaxy-Interactive-to-Accelerate-International-Growth-and-Game-Development> [last accessed 03-19-2024]

¹²⁶ <https://www.linkedin.com/in/rongchangyou/details/experience/> [last accessed 03-29-2024]

¹²⁷ <https://www.linkedin.com/in/rongchangyou/details/experience/> [last accessed 03-29-2024]

¹²⁸ <https://www.linkedin.com/in/rongchangyou/details/experience/> [last accessed 03-29-2024]

¹²⁹ <https://www.linkedin.com/in/rongchangyou/details/experience/> [last accessed 03-29-2024]

1 the receipt of monies from the sale of the same. The Robot Player Enterprise is a nationwide,
2 multidistrict conspiracy.

3 **B. The Pattern of Racketeering: Illegal Gambling and Wire Fraud**

4 132. Avia's and RICO Defendants' predicate acts of racketeering (18 U.S.C. § 1961(1))
5 include, but are not limited to:

6 a. Illegal Gambling: Avia and the RICO Defendants violated 18 U.S.C. § 1955
7 by being involved in an enterprise which provides games of chance without
8 complying with the relevant statutory regulation, in violation of California
9 anti-gambling laws.

10 b. Wire Fraud: Avia and the RICO Defendants violated 18 U.S.C. § 1343
11 being engaged in an unlawful scheme to defraud involving false pretenses,
12 misrepresentations, promises, and omissions. In furtherance of this scheme,
13 Avia and the RICO Defendants relied on the interstate wires.

14 133. Avia's use of the wires include, but is not limited to: (a) the transmission of
15 marketing and other materials through the internet media indicating that Avia's games are games
16 of skill where players compete in time against real human players; (b) the accessibility of the game
17 applications through the Internet and the transmission of the games through such online
18 applications; and (c) the receipt of the deposits from the players by means of the online transfers
19 and related payment services. For example, throughout the class period, Avia has advertised on its
20 website that Avia's games are skill-based. It has been providing access to its games on AppStore.
21 It has been accepting payments from players. All these activities have relied on wires.

22 134. The RICO Defendants' use of the wires include, but is not limited to: (a) the
23 transmission of marketing and other materials through the internet media indicating that Avia's
24

games are games of skill where players compete in time against real human players; and (b) the transfers of funds to Avia and from Avia through online wires. For example, Ms. Chen and Ms. Wang was using her LinkedIn account to share Ms. Chen's Forbes article describing difference between skill-based games and gaming.¹³⁰ On December 16, 2022, Ms. Chen published an article on her LinkedIn profile where she comprehensively describes how are Avia's games skill-based.¹³¹ Acme's Hany Nada was cited in an online article which highlighted Avia's contribution to the gaming industry.¹³² Galaxy describes Avia as a company that "uses a complex algorithm to assess and match each player's ability in order to create a fair gaming environment."¹³³ All these activities relied on wires.

135. Avia and the RICO Defendants participated in the scheme to defraud by using the Internet and wires to transmit information in interstate and foreign commerce. In devising and executing the illegal scheme, Avia and the RICO Defendants devised and knowingly carried out a material scheme and/or artifice to defraud Plaintiffs and the Class or to obtain money from Plaintiffs or the Class by means of materially false or fraudulent pretenses, representation, promises, or omissions of material facts. A separate predicate act of racketeering was perpetuated each time a wire was used to help execute the fraudulent scheme. The above-described racketeering activities amounted to a common course of conduct intended to deceive and harm Plaintiffs and the Class.

¹³⁰ <https://www.linkedin.com/in/ping2022/recent-activity/all/> [last accessed 03-21-2024]

¹³¹ <https://www.linkedin.com/pulse/aviagames-faq-series-lets-talk-skill-based-gaming-vickie-yanjuan-chen/?trackingId=REblS6OjYfLUMPGPsPAIlg%3D%3D> [last accessed 03-21-2024]

¹³² <https://www.businesswire.com/news/home/20210811005038/en/AviaGames-Raises-40-Million-to-Diversify-Gaming> [last accessed 03-18-2024]

¹³³ <https://interactive.galaxy.com/investments> [last accessed 03-21-2024]

1 136. For the purposes of executing the illegal scheme, Avia and the RICO Defendants
 2 committed these racketeering acts intentionally and knowingly with specific intent to advance the
 3 illegal scheme. A knowing participant in a scheme to defraud is vicariously liable for substantive
 4 violations of mail or wire fraud by its co-schemers. Since Avia and RICO Defendants knew about
 5 the scheme, all of them are liable for other RICO Defendants' use of wires. Galaxy's and Acme's
 6 investment formed a part of the fraudulent scheme. Galaxy's and Acme's webpage mislead
 7 consumers as to the nature of Avia's games. Galaxy and Acme must have known that those
 8 statements are not true, because their partners were on Avia's Board of Directors, either as voting
 9 members, or non-voting observers. Although Galaxy and Acme were not involved in directly
 10 transmitting Avia games through the Internet or receiving online payment from players, they relied
 11 on wires when they promoted Avia's business online.
 12

13 137. Each instance of racketeering was related, had a common purpose, was carried out
 14 with similar participants and methods, and impacted Plaintiffs and the Class in the same manner.
 15 Wire fraud and illegal gambling constitute separate, yet related predicate acts.
 16

17 138. The Robot Player Enterprise has remained in existence for several years, enabling
 18 its members to pursue the enterprise's purpose. The racketeering activities constitute a continuing
 19 threat to Plaintiffs and the Class.
 20

21 **VIII. CAUSES OF ACTION**

22 **FIRST COUNT**

23 Violation of California Unfair Competition Law
 24 Cal. Bus. & Prof Code § 17200 *et seq.*
 25 (Against Defendant Avia)
 26

27 139. Each of the preceding paragraphs is incorporated by reference as though fully set
 28 forth herein.

1 140. Plaintiffs bring this cause of action on behalf of themselves and on behalf of the
2 other Class members, against Avia for its unlawful, unfair, and/or deceptive business acts and
3 practices pursuant to California’s Unfair Competition Law (UCL), Business & Professions Code
4 § 17200 *et seq.*, which prohibits unlawful, unfair and/or fraudulent business acts and/or practices.

5 141. This claim is predicated on the duty to refrain from unlawful, unfair, and deceptive
6 business practices. Plaintiffs and the Class members hereby seek to enforce a general proscription
7 of unfair business practices and the requirement to refrain from deceptive conduct.

8 142. The UCL prohibits acts of “unfair competition.” As used in this section, “unfair
9 competition” encompasses three distinct types of misconduct: (a) “unlawful...business acts or
10 practices”; (b) “unfair fraudulent business acts or practices”; (c) “unfair, deceptive or misleading
11 advertising,” and (d) “any act prohibited by Chapter 1 (commencing with Section 17500) of Part
12 3 of Division 7 of the Business and Professions Code.”

13 143. Avia committed unlawful business acts or practices in violation of the UCL.

14 144. Avia also committed unfair business acts or practices in violation of the UCL.

15 145. Avia operates unfair contests in violation of Cal. Civ. Code § 17539.1. Section
16 17539.1(a) prohibits certain “unfair acts or practices undertaken by, or omissions of, any person
17 in the operation of any contest or sweepstakes,” including “(1) [f]ailing to clearly and
18 conspicuously disclose, at the time of the initial contest solicitation, at the time of each precontest
19 promotional solicitation and each time the payment of money is required to become or to remain
20 a contestant, the total number of contestants anticipated based on prior experience and the
21 percentages of contestants correctly solving each puzzle used in the three most recently completed
22 contests conducted by the person,” and “(4) [m]isrepresenting in any manner, the rules, terms, or
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24
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26

conditions of participation in a contest.” Avia violates these provisions because it fails to disclose that it has filled or controlled its games with bots.

146. The games in Avia’s applications are “contests” within the meaning of Cal. Civ. Code § 17539.1 because they are “any game, contest, puzzle, scheme, or plan that holds out or offers to prospective participants the opportunity to receive or compete for gifts, prizes, or gratuities as determined by skill or any combination of chance and skill and that is, or in whole or in part may be, conditioned upon the payment of consideration.” Cal. Civ. Code § 17539.3.

147. As a result of engaging in the conduct alleged in this Complaint, Avia has also violated the UCL’s proscription against engaging in “unlawful” conduct by virtue of its violations of the following laws:

- a. California Penal Code § 337j(a)(1): By “operat[ing], carry[ing] on, conduct[ing], maintain[ing], or expos[ing] for play” unlicensed gambling in the state, Avia violates section 337j(a)(1).
- b. California Penal Code § 337j(a)(2): By “receiv[ing], directly or indirectly, any compensation or reward or any percentage or share of the revenue, for keeping, running, or carrying on any controlled game,” Avia violates section 337j(a)(2).
- c. California Penal Code § 330a: Section 330a states that “[e]very person, who has in his or her possession or under his or her control . . . or who permits to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or her, or under his or her management or control, any slot or card machine, contrivance, appliance or mechanical device, upon the result of action of which money or other valuable thing is

1 staked or hazarded, and which is operated, or played, by placing or
2 depositing therein any coins, checks, slugs, balls, or other articles or device,
3 or in any other manner and by mean whereof, or as a result of the operation
4 of which any merchandise, money, representative or articles of value,
5 checks, or tokens, redeemable in or exchangeable for money or any other
6 thing of value, is won or lost, or taken from or obtained from the machine,
7 when the result of action or operation of the machine, contrivance,
8 appliance, or mechanical device is dependent upon hazard or chance . . . is
9 guilty of a misdemeanor.” Avia violates the UIGEA because it operates
10 illegal gambling applications over the Internet for money and in-game cash.
11

12 d. The Illegal Gambling Business Act of 1970 (18 U.S.C. § 1955) (the
13 “IGBA”): The IGBA makes it a crime to “conduct, finance, manage,
14 supervise, direct, or own all or part” of an illegal gambling business. Avia
15 violates the IGBA because its respective business involves five or more
16 persons, has been in continuous operation for more than thirty days, and
17 violates California’s gambling laws as alleged herein.
18

19 e. The Unlawful Internet Gambling Enforcement Act of 2006 (31 U.S.C. §§
20 5361-5367) (the “UIGEA”): The UIGEA makes it illegal for a “person
21 engaged in the business of betting or wagering” to knowingly accept
22 payments “in connection with the participation of another person in
23 unlawful Internet gambling.” 31 U.S.C. § 5633. “Unlawful Internet
24 Gambling” is placing, receiving, or transmitting a bet or wager through, at
25 least in part, the Internet where such bet or wager “is unlawful under any
26

1 applicable Federal or State law in the State or Tribal lands in which the bet
 2 or wager is initiated, received, or otherwise made.” 15 U.S.C. § 5362(10)(a).
 3 Avia violates the UIGEA because it operates illegal gambling applications
 4 over the Internet for money and in-game cash.

5 148. As a result of Avia’s violation of the UCL, Plaintiffs and the Class have suffered
 6 injury-in-fact and lost money or property in the amounts paid to Avia.
 7

8 149. Plaintiffs, on behalf of themselves and all others similarly situated, demands
 9 judgment against Avia and demands declaratory, equitable, and/or injunctive relief, including
 10 rescission and restitution, as well as requiring Avia to stop its unlawful conduct.

11 SECOND COUNT

12 Violation of the Consumer Legal Remedies Act
 13 Cal. Civ. Code §§ 1750, *et seq.*
 (Against Defendant Avia)

14 150. Plaintiffs incorporate by reference all of the above allegations as if fully set forth
 15 herein.

16 151. The Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.* (“CLRA”),
 17 was designed and enacted to protect consumers from unfair and deceptive business practices. To
 18 this end, the CLRA sets forth a list of unfair and deceptive acts and practices in Civil Code § 1770.

19 152. Plaintiffs and each member of the Class are “consumers” within the meaning of
 20 Cal. Civ. Code § 1761(d).

21 153. Plaintiffs and the Class members engaged in “transactions” with Avia within the
 22 meaning of Cal. Civ. Code § 1761(e) when they paid money for in-game cash to enter games.

23 154. Plaintiffs have standing to pursue these claims because they have suffered injury in
 24 fact and a loss of money and/or property as a result of the wrongful conduct alleged herein.
 25

1 155. Avia violated and continues to violate California Civil Code §§ 1770(a)(5) and
2 (a)(9) by misleading consumers about participating in games of skill against real, live players.

3 156. Avia continues to violate the CLRA and continues to injure the public by
4 misleading consumers about participating in games of skill against real, live players. Accordingly,
5 Plaintiffs seek injunctive relief to prevent Avia from continuing to engage in these deceptive and
6 illegal practices. Otherwise, Plaintiffs and the Class members may be irreparably harmed and/or
7 denied effective and complete remedy if such an order is not granted.
8

9 157. Avia had a duty not to mislead consumers about participating in games of skill
10 against real, live players. The ability to play against real people is material in that a reasonable
11 person would have considered it important in deciding whether to enter Defendant's tournaments.
12 Afterall, Avia explains that players win against real people and stand a chance to win real money
13 in a "FAQs" section of its website. Being featured among the frequently asked questions means
14 that people want to know who they are playing against and how that influences their chances of
15 winning real money. Players want to know because it matters to them.

16 158. Avia's concealment, omissions, misrepresentations, and deceptive practices, in
17 violation of the CLRA, were designed to induce and did induce Plaintiffs and Class members to
18 pay money to enter tournaments.
19

20 159. On information and belief, Avia intentionally, willfully, and consciously acted to
21 misrepresent and omit material information regarding its tournaments to Plaintiffs and the Class,
22 in order to deceive and illicit payment from them to enter its tournaments.

23 160. Avia's acts, practices, representations, omissions, and courses of conduct with
24 respect to the class that users could enter tournaments to play games of skill against real, live
25 players violated the CLRA in that, among other things: it violated § 1770(a)(5) because it filled or
26

1 controlled these contests with bots; and violated § 1770(a)(9) by advertising its tournaments as
2 games of skill played against real, human players, when in reality it filled or controlled its games
3 with bots.

4 161. Avia's acts, practices, representations, omissions, and courses of conduct with
5 respect to the participants in its tournaments violate the CLRA in that, among other things: it
6 violated and continues to violate § 1770(a)(5) because Avia knowingly failed to disclose and
7 continues to fail to disclose that it fills its tournaments with bots, which is information that is solely
8 in Avia's possession and which is material to consumers purchasing decisions; violated and
9 continues to violate § 1770(a)(9) because Avia knowingly advertised and advertises that its
10 tournaments are games of skill played against real, human players when Avia fills its tournaments
11 with bots, which is information that is solely in Avia's possession and which is material to
12 consumers purchasing decisions.
13

14 162. Avia's acts and practices, undertaken in transactions intended to result and which
15 did result in consumers entering tournaments violate Civil Code § 1770 and caused harm to
16 Plaintiffs and Class members.

17 163. In accordance with Cal. Civ. Code § 1780(a), Plaintiffs and the Class members seek
18 injunctive and equitable relief for violations of the CLRA, including restitution and disgorgement.
19

20 164. This suit was originally filed on November 17, 2023, and put Defendants on notice
21 of these claims. Further, on February 20, 2024, Plaintiffs served on Avia's counsel via electronic
22 and certified mail a notice of their intent to file a CLRA claim for damages. *See* Appendix B. By
23 March 20, 2024, Avia has not corrected the violation of law as demanded in the letter. Plaintiffs
24 therefore satisfied the 30-day notice under Cal. Civil Code § 1782, and demand, on the top of
25
26

injunctive relief, damages, including actual damages, but in no case less than \$1,000 per person, and punitive damages as provided under Cal. Civil Code, §§ 1780 and 1782.

THIRD COUNT

Violation of the federal Racketeer Influenced and Corrupt Organizations Act
18 U.S.C. § 1962(c) and (d)
(Against the RICO Defendants)

165. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every allegation set forth in the preceding paragraphs of this Complaint.

166. Section 1962(c) makes it “unlawful for any person employed or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise’s affairs through a pattern of racketeering activity.” 18 U.S.C. § 1962(c).

167. Section 1962(d) makes it unlawful for “any person to conspire to violate” Section 1962(c), among other provisions. 18 U.S.C. § 1962(d).

168. To carry out or attempt to carry out the scheme to provide games of chance for money without complying with the applicable statutory regulation, RICO Defendants knowingly conducted or participated, directly or indirectly, in the affairs of a RICO enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5) and 1962(c).

169. As explained below, RICO Defendants’ years-long misconduct violated RICO Sections §§ 1962(c) and (d).

170. Each of RICO Defendants participated in, operated, or managed the affairs of the Robot Player Enterprise, through a pattern of racketeering activity in violation of 18 U.S.C. § 1962(c).

171. To carry out, or attempt to carry out the scheme to defraud, the RICO Defendants knowingly participated, directly or indirectly, in the conduct of the affairs of the Robot Player

Enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5) and 1962(c), which constituted illegal gambling in terms of 18 U.S.C. § 1955 and which employed the use of the wire facilities, in violation of 18 U.S.C. § 1343 (wire fraud).

172. Ms. Chen has been associated with the Robot Player Enterprise as the Avia's co-founder and CEO. Ms. Wang has been associated with the Robot Player Enterprise as the Avia's co-founder and VP of Strategy & Business Development. Given these executive functions, both Ms. Chen and Ms. Wang must have been involved in the day-to-day operation and management of Avia.

173. The RICO Investors have been associated with the Robot Player Enterprise as entities providing the necessary capital and promotion of Avia. If it weren't for RICO Investors' investment and managerial participation in Avia, Avia would not have the capital to operate its games and administer the investment. Acme and Galaxy also advertised Avia on their websites. Acme's Hany Nada publicly promoted Avia by highlighting its contribution to the gaming industry.¹³⁴ Galaxy described Avia as a "fair game" company on a portfolio section of its website.¹³⁵

174. Acme and Galaxy's personnel were involved in the management of Avia through their membership or observatory status in Avia's board of directors. Acme's membership in the board of directors comes with voting power, hence the ability to influence board's decisions. The RICO Investors have directed and controlled the ongoing organization necessary to implement the

¹³⁴ <https://www.businesswire.com/news/home/20210811005038/en/AviaGames-Raises-40-Million-to-Diversify-Gaming> [last accessed 03-18-2024]

¹³⁵ <https://interactive.galaxy.com/investments> [last accessed 03-21-2024]

1 scheme at meetings and through communications of which Plaintiffs cannot fully know at present,
2 because such information lies in Avia's and the RICO Defendants' exclusive control.

3 175. In carrying out their scheme to defraud, RICO Defendants violated 18 U.S.C.
4 § 1955 by operating an enterprise which provides games of chance without complying with the
5 relevant statutory regulation, in violation of California anti-gambling laws. In addition, the RICO
6 Defendants violated 18 U.S.C. § 1343 by engaging in an unlawful scheme to defraud involving
7 false pretenses, misrepresentations, promises, and omissions. In furtherance of this scheme, the
8 RICO Defendants used the interstate wires, as alleged above.

9 176. The RICO Defendants have not undertaken the practices described here in isolation,
10 but as part of a common scheme and conspiracy. In violation of 18 U.S.C. § 1962(d), the RICO
11 Defendants conspired to violate 18 U.S.C. § 1962(c), as described herein. The RICO Defendants
12 agreed to conduct or participate in the affairs of the Robot Player Enterprise and agreed to commit
13 the RICO predicate acts, i.e., illegal gambling in violation of 18 U.S.C. § 1955 and wire fraud in
14 violation of 18 U.S.C. § 1343. They agreed that they would undertake certain measures to ensure
15 that Avia's games gain popularity and attract more paying players, so that they can extract the
16 money from operating the illegal gambling scheme.

17 177. By reason of, and as a result of, the conduct of RICO Defendants, and the pattern
18 of racketeering activity, Plaintiffs and the Class have been injured in their property. Plaintiffs
19 incurred harm in the form of concrete financial loss as a result of Avia's and RICO Defendants'
20 fraudulent actions. Avia's and RICO Defendants' misleading statements were the reason why
21 Plaintiffs decided to play Avia's games in the first place. If it weren't for those statements,
22 Plaintiffs would not have decided to play the games at all.

178. RICO Defendants' violations of 18 U.S.C. § 1962(c) and (d) have directly and proximately caused injuries and damages to Plaintiffs and the Class. Plaintiffs and the Class are entitled to bring this action for three times their actual damages, as well as injunctive/equitable relief, costs, and reasonable attorneys' fees pursuant to 18 U.S.C. § 1964(c).

IX. REQUEST FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and the Class of all others similarly situated, respectfully request judgment against Defendants as follows:

- A. The Court determine that this action may be maintained as a class action under Rule 23(a) and (b)(3) of the Federal Rules of Civil Procedure, appoint Plaintiffs as a Class Representative and Plaintiffs' counsel of record as Class Counsel, and direct that notice of this action, as provided by Rule 23(c)(2) of the Federal Rules of Civil Procedure, be given to the Class once certified;
- B. The unlawful conduct alleged herein be adjudged and decreed to violate California Civil Code §§ 1750, *et seq.*; Cal. Bus. & Prof Code § 17200, *et seq.* and the federal Racketeer Influenced and Corrupt Organizations Act 18 U.S.C. § 1961, *et seq.*, respectively;
- C. Plaintiffs and the Class recover damages, including statutory damages, to the maximum extent allowed under the applicable laws, and that a joint and several judgment in favor of Plaintiffs and the members of the Class be entered against Defendants in an amount to be trebled under applicable law;
- D. Defendants, their affiliates, successors, transferees, assignees, officers, directors, partners, agents and employees thereof, and all other persons acting or claiming to act on their behalf or in concert with them, be permanently enjoined and restrained

from continuing, maintaining or renewing the conduct alleged herein, and from adopting or following any practice, plan, program, or device having a similar purpose or effect;

E. Plaintiffs and the members of the Class be awarded pre- and post-judgment interest in the maximum amount and to the maximum extent permitted by law;

F. Plaintiffs and the members of the Class recover their costs of suit and reasonable attorneys' fees to the maximum extent allowed by law; and

G. Plaintiffs and the members of the Class be awarded any other relief as the case may require and the Court may deem just and proper.

X. JURY TRIAL DEMAND

179. Plaintiffs demand a jury trial under Federal Rule of Civil Procedure 38(b) on all triable issues.

Dated: April 1, 2024

Respectfully submitted,

/s/ Matthew S. Tripolitsiotis

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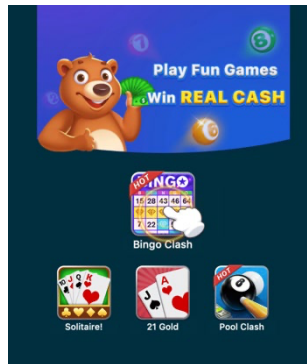
Appendix A: Description of Avia's games

A. Pocket7Games

1. Pocket7Games is an application platform that allows users to play other games made by Avia, including Bingo Clash, Solitaire, Pool Clash, Match'n Flip, 21 Gold and Tile Blitz.¹³⁶ Bingo Clash and Match n Flip are available also as standalone games.

2. When users first start up the Pocket7Games application, the app directs them to set up a profile. To set up a profile, users choose a username or the app can generate a random username for them. After selecting their username, users can play games on the platform by selecting the "Play Now" or "Log in" options. No deposit is required.

3. The Pocket7Games platform informs users that they can "Play Fun Games" and "Win REAL CASH." Then, users can select other games made by Avia to play, including Bingo Clash, Solitaire!, 21 Gold, Pool Clash.



(1) Solitaire!

4. Solitaire! is a variation on the traditional game of Solitaire. The goal of the game is to sort a deck of 52 cards to create long sequences of cards in ascending order by clearing columns and revealing hidden cards for potential moves.¹³⁷ Players receive points for the number of cards

¹³⁶ <https://www.pocket7games.com/all-in-one-games> [last accessed 11-17-2023]

¹³⁷ <https://www.pocket7games.com/onlineSolitaire> [last accessed 11-17-2023]

they can put in order and the speed with which they can put the cards in order.¹³⁸ The player with the highest score wins.



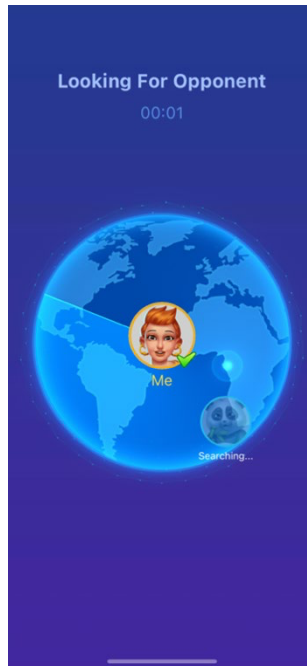
5. On the App Store, Avia describes Solitaire! as “[a] fun new take on a classic card game.”¹³⁹ It invites the players to “[t]est [their] Solitaire skill against opponents and make money at the same time!”¹⁴⁰ In the “Explore Fun Features” section of the game’s description on the App Store, it is noted that players should expect to “[m]atch with real players of similar skill levels to compete in classic, fun, and fair skill-based cash games!”¹⁴¹ At the beginning of the game, a player is told that the app is “[l]ooking for [their] Opponent” for the game.

¹³⁸ *Id.*

¹³⁹ <https://apps.apple.com/US/app/id1402595440?mt=8> [last accessed 10-05-2023]

¹⁴⁰ *Id.*

¹⁴¹ *Id.*



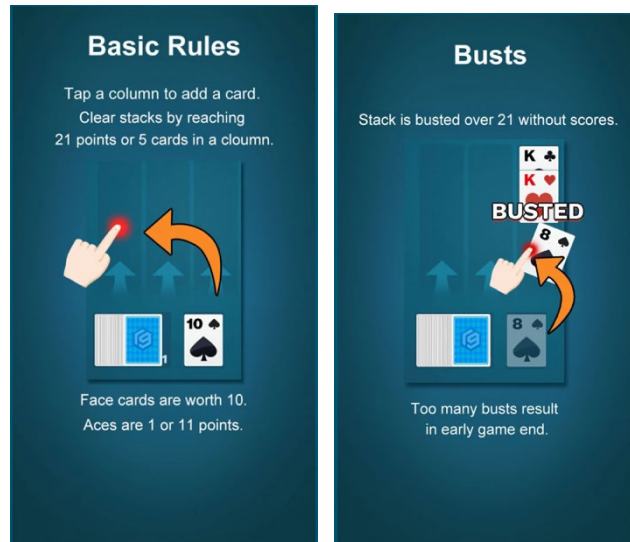
6. At the end of the game, a player is directed to a scoreboard with their score ranked among scores of other “players” that supposedly played the game with the player.

(2) 21 Gold

7. 21 Gold is similar to an online blackjack. A player is presented with four empty lanes with a total at the top.¹⁴² There are 21 card games and the aim is to place cards from the deck into the four columns in an attempt to reach a total value of 21 in each column. Each card is assigned specific values based on their numerical worth. The player who scores the most points within the limited time frame wins.¹⁴³

¹⁴² <https://www.pocket7games.com/21-gold> [last accessed 11-17-2023]

¹⁴³ *Id.*



8. On the App Store, Avia describes 21 Gold as “[a] lightning-fast version of classic casino Blackjack.”¹⁴⁴ It goes on to promote the game by stating: “If you’re a fan of match games, show off your skill in this timeless skill-based card game!”¹⁴⁵ Ability to play with real players and compete based on skill is highlighted in other parts of the App Store’s game’s description: “Play Against Real Players – Match with real players of similar skill levels to compete in classic, fun, and fair skill-based cash games!”¹⁴⁶ At the beginning of the game, players are told that the app is “[l]ooking for [their] Opponent” for the game.

9. At the end of the game, a player is directed to a scoreboard with their score ranked among scores of other “players” that supposedly played the game with the player.

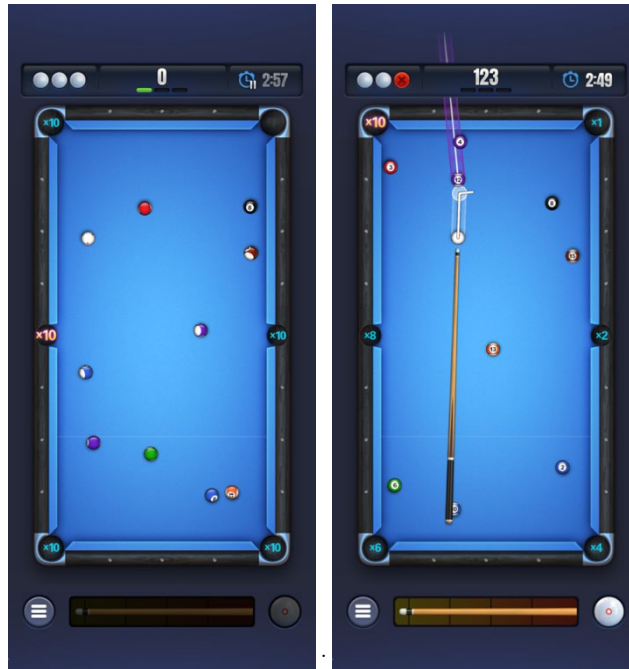
(3) Pool Clash

¹⁴⁴ <https://apps.apple.com/US/app/id1402595440?mt=8> [last accessed 10-05-2023]

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

10. Pool Clash mimics a traditional game of pool. The goal is to pocket the balls in the sockets of the pool table.¹⁴⁷ When a ball goes into a pocket, the ball number is multiplied by the pocket multiplier, and the total is the base score. A player who reaches the highest score within the given time limit wins.¹⁴⁸



11. On the App Store, Avia advertises Pool Clash as a “fast-paced version of the classic billiards game.”¹⁴⁹ It invites players to “[g]o head-to-head against opponents and strategize to defeat them!”¹⁵⁰ Under the “Play Against Real Players” caption, the App Store’s description promises future players that they will be “[m]atch[ed] with real players of similar skill levels” so

¹⁴⁷ <https://www.pocket7games.com/pool-clash> [last accessed 11-17-2023]

¹⁴⁸ *Id.*

¹⁴⁹ <https://apps.apple.com/US/app/id1402595440?mt=8> [last accessed 10-05-2023]

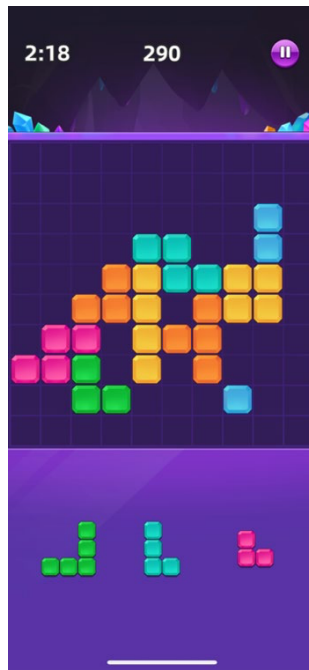
¹⁵⁰ *Id.*

that they can “compete in classic, fun, and fair skill-based cash games!”¹⁵¹ At the beginning of the game, players are told that the app is “[l]ooking for [their] Opponent” for the game.

12. At the end of the game, a player is directed to a scoreboard with their score ranked among scores of other “players” that supposedly played the game with the player.

(4) Tile Blitz

13. Tile Blitz is similar to the classic game Tetris. The goal of the game is to fit in the different tile shapes to complete rows and columns on the game board.¹⁵² A player is given three sets of different tile shapes and their task is to place them on the game board in the most suitable manner. The player who completes more rows and/or columns within the given time limit wins.¹⁵³



¹⁵¹ *Id.*

¹⁵² <https://www.pocket7games.com/tile-blitz> [last accessed 11-17-2023]

¹⁵³ *Id.*

14. The App Store’s advertisement describes Tile Blitz as follows: “Tetris fans will love this block game. This brain game gives you the chance to improve your spatial reasoning and earn money along the way.”¹⁵⁴

15. Avia states that players face off real players and compete based on skill: “Play Against Real Players – Match with real players of similar skill levels to compete in classic, fun, and fair skill-based cash games!”¹⁵⁵ At the beginning of the game, players are told that the app is “[l]ooking for [their] Opponent” for the game.

16. At the end of the game, players are directed to a scoreboard with their score ranked among scores of other “players” that supposedly played the game with the player.

(5) Dunk Shot

17. Dunk Shot is an online basketball game. A player scores points by shooting the ball into the hoop. The game ends when a player finishes three minutes of playing or runs out of balls. The player with the most points scored wins.¹⁵⁶



¹⁵⁴ <https://apps.apple.com/US/app/id1402595440?mt=8> [last accessed 10-05-2023]

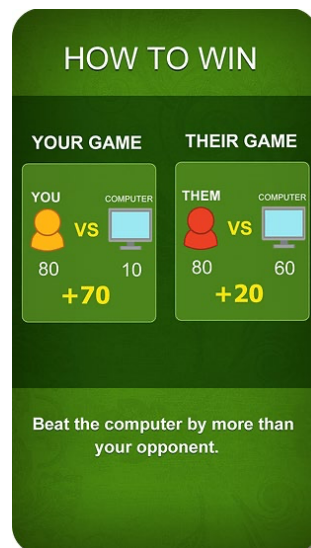
¹⁵⁵ *Id.*

¹⁵⁶ <https://www.pocket7games.com/dunk-shot> [last accessed 10-05-2023]

18. Avia states that the players face off players in real time: “In this ball shooter game, you score points by shooting the ball into the hoop and compete against other players in real time.”¹⁵⁷

(6) Dominoes

19. Dominoes is a classic dominoes game. The goal is to place the dominoes tiles to match the number of dots to the connecting end of other tiles. There are 28 dominoes tiles in total. Each of the two players receives 7 tiles and competes against a computer. The player who beats the computer by more points than the opponent wins.¹⁵⁸



20. Avia promises the players that they “can win big cash prizes by playing this dominoes game online.”¹⁵⁹

(7) Fruit Frenzy

¹⁵⁷ *Id.*

¹⁵⁸ <https://www.pocket7games.com/dominoes> [last accessed 10-05-2023]

¹⁵⁹ *Id.*

21. Fruit Frenzy is a fruit matching game. The goal is to match fruits by swiping and connecting identical fruits to create explosive combinations and thereby earn points. The more fruits a player matches within the two minutes time limit, the higher score they get.¹⁶⁰



22. Avia promises the players the chance to compete with real players and win real cash: “Unlike other matching games online, Fruit Frenzy is free to play. For those that want a chance to win big, you can join the cash pool to compete against opponents to earn real money.”¹⁶¹ It adds that “Pocket7Games ensures fair matchups by pairing players with similar skill sets, ensuring a fun and balanced gameplay experience.”¹⁶²

(8) Explodocube

23. Explodocube is a color cube matching game. At the start of each round, a player is given a goal as to the number of cubes to color match. The completion of the goal brings the player

¹⁶⁰ <https://www.pocket7games.com/fruit-frenzy> [last accessed 10-05-2023]

¹⁶¹ *Id.*

¹⁶² *Id.*

points and allows them to proceed to next rounds. The player who scores most points within the three-minute time limit wins.



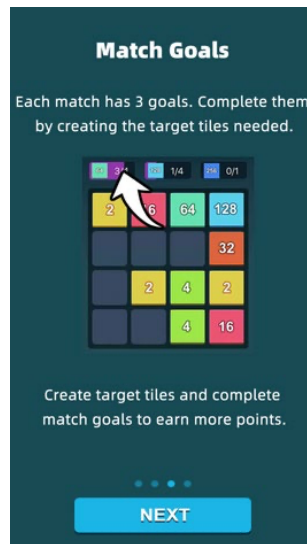
24. Avia claims that this game differentiates from other cube games in that it involves cash rewards. On its website, it shows a picture of two players competing against each other.¹⁶³



¹⁶³ <https://www.pocket7games.com/explodocube> [last accessed 11-17-2023]

(9) 2048 Blitz

25. The 2048 Blitz is a version of the classic 2048 game. The players swipe and merge tiles with identical numbers to create higher values and reach the desired 2048 tile as quickly as possible. Each match has 3 goals, which are completed by achieving the tiles needed. The player who scores most points within the time limit wins.¹⁶⁴



26. Avia promises competition against real opponents with the same level and skill set: “As you play, you’ll go up against other real players in the 2048 game online and you have three minutes to get a higher score. Beat your opponent’s point tally to win the game and win real money! To keep everything fair and even, you’ll be matched against other players with the same level and skill set. What are you waiting for?”¹⁶⁵

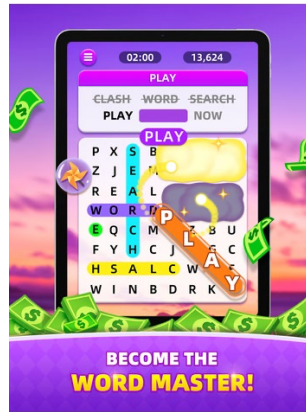
(10) Word Search

27. Word Search is a variant of a classic word search puzzle game. The player is presented with a grid with seemingly random letters. The goal of the game is to uncover hidden

¹⁶⁴ <https://www.pocket7games.com/2048> [last accessed 10-05-2023]

¹⁶⁵ *Id.*

words from the word list provided by the app. The player who finds most words within a two-minutes time limit wins.



28. Avia promises that “Word Search is a social game that you will match [sic!] with other players.” It recommends to “[g]et ready to put [player’s] skills to the test!”¹⁶⁶ The app describes the game as a “REAL PLAYER COMPETITION!” with a “HUGE PRIZE POOL”.



B. Games available both on Pocket7Games platform and as standalone applications

29. Bingo Clash and Flip n Match are available both on the Pocket7Games platform and as standalone applications.

(1) Bingo Clash

¹⁶⁶ <https://www.pocket7games.com/wordsearch> [last accessed 10-05-2023]

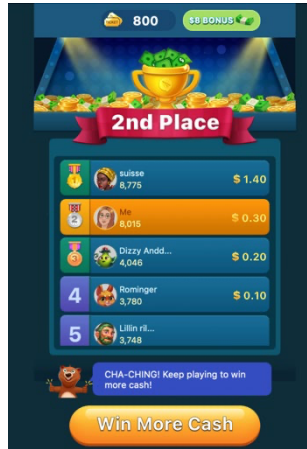
30. Avia describes Bingo Clash as the “classic Bingo game with a twist.”¹⁶⁷ Each player begins with a bingo board, an announcer reads a bingo number, and then players tap or click the number (“daub”) on their bingo board.¹⁶⁸ Daubing five numbers in a row is a bingo. Players receive points for the speed they daub the called numbers and the number of bingos they complete. Each game lasts for three minutes.



31. At the end of the game, players are directed to a scoreboard with their score ranked among scores of other “players” that supposedly played the game with them.

¹⁶⁷ <https://www.pocket7games.com/bingo-clash> [last accessed 11-17-2023]

¹⁶⁸ It is not possible to conclusively evaluate whether each player has the same bingo board. A player only sees their own board and they are not able to access the board(s) that other “players” play with.



32. Avia represents that Bingo Clash players play against players of similar skill in a “REAL PLAYER FACEOFF.”



33. Avia also claims that it matches players up with “real players of similar skill levels to compete in classic, fun, and fair skill-based cash games!”¹⁶⁹

34. The company also states that “Bingo Clash is a trusted and legitimate bingo game that provides players with an authentic and enjoyable gaming experience,”¹⁷⁰ and prods consumers to “[d]ownload now and turn your skills into dollar bills!”¹⁷¹

¹⁶⁹ <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531> [last accessed 10-05-2023]

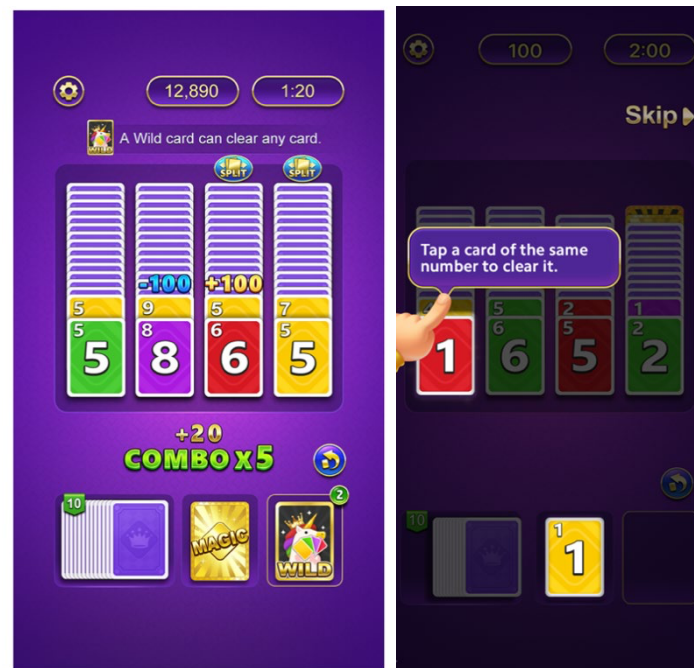
¹⁷⁰ <https://www.pocket7games.com/bingo-clash> [last accessed 11-17-2023]

¹⁷¹ <https://apps.apple.com/US/app/id1523820531?mt=8> [last accessed 11-17-2023]

35. As of the filing of this Complaint, Bingo Clash is the #4 game in the Casino category on the Apple App store.¹⁷²

(2) Match n Flip

36. Similar to UNO rules, the goal of Match n Flip is to match the cards on the game board with the cards on a player's deck, following a sequence of colors or numbers.¹⁷³ The number of points a player earns increases as the player makes more consecutive matches.¹⁷⁴ When a player runs out of moves, they can flip a new card from the stack of "UNO" cards or use wildcards to help them progress through. A player who accumulates the most points within the given timeframe wins.¹⁷⁵



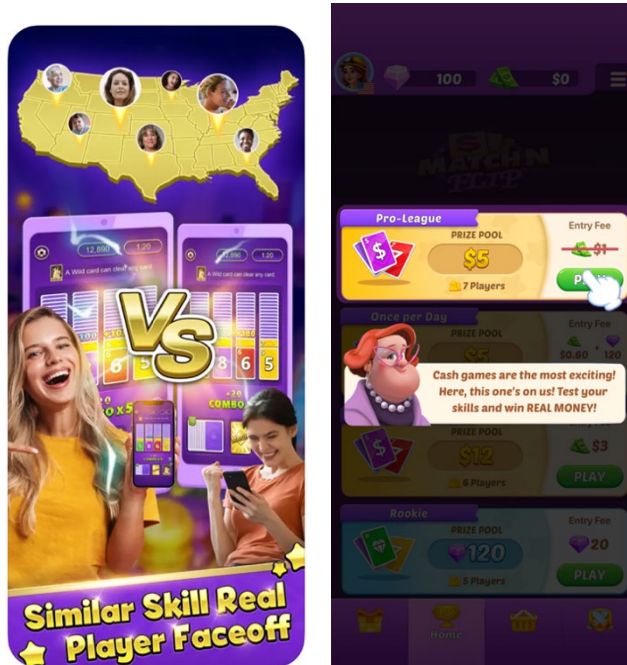
¹⁷² <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531> [last accessed 11-17-2023]

¹⁷³ <https://www.pocket7games.com/match-n-flip> [last accessed 11-17-2023]

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

37. Avia advertises Match n Flip as a game of skill, and claims that players play against real players. According to the App Store’s description, Match n Flip allows a player to “[m]atch with real players of similar skill levels to play class, fun, and fair skill-based cash games[.]”¹⁷⁶ The game invites the players to “[t]est [their] skills and win REAL MONEY!” At the beginning of the game, players are instructed to wait until the app finds them their purported “opponents” for the game.



38. At the end of the game, a player is presented with a score board, which positions their score against the scores achieved by other “players” who purportedly played the game with that player.

C. Standalone applications

39. The following games are available as standalone applications dedicated exclusively to that particular game.

¹⁷⁶ <https://apps.apple.com/US/app/id1632870437?mt=8> [last accessed 10-05-2023]

(1) **Bingo Tour**

40. The goal of Bingo Tour is to match colors and numbers on player's bingo balls with those on their bingo card. The gameboard, which is like a digital version of a traditional bingo card, consists of five rows that each has a specific color.¹⁷⁷ Once the announcer reads a bingo number, the player has to click the number ("daub") on their bingo board.¹⁷⁸ Reaching five numbers in a row is a bingo. Players receive points for the speed they select the called numbers and the number of bingos they call within the given time limit.¹⁷⁹



¹⁷⁷ <https://www.pocket7games.com/bingo-tour>. It is not clear whether all the “players” have the same bingo card. The description on the App Store simply states that “fairness” is “guaranteed” in that the players face off against other players with the same starting conditions. <https://apps.apple.com/US/app/id1594170490?mt=8> [last accessed 11-17-2023]

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

41. Avia describes Bingo Tour as “the classic Bingo game you love with a fresh twist!”¹⁸⁰ “It is like a bingo casino, where fast paced online bingo and a user friendly multiplayer setup combine to offer thrilling gameplay and money winning opportunities.”¹⁸¹

42. Avia represents that the game is a game of skill, and that players play against real players. Its App Store advertisement states that Bingo Tour “[m]atches [a player] with real players of similar skill levels” so that they can “play classic, fun, and fair skill-based cash games[.]”¹⁸² At the beginning of each game, players are invited to wait until the app finds them purported “opponents” for the game.



43. At the end of the game, players are directed to a scoreboard with their score ranked among scores of other “players” that supposedly played the game with the player.

¹⁸⁰ <https://apps.apple.com/US/app/id1594170490?mt=8> [last accessed 11-17-2023]

¹⁸¹ <https://www.pocket7games.com/bingo-tour> [last accessed 11-17-2023]

¹⁸² <https://apps.apple.com/US/app/id1594170490?mt=8> [last accessed 10-05-2023]

44. As of the filing of this Complaint, Bingo Tour is the #8 game in the Casino category on the Apple App store.¹⁸³

(2) Solitaire Clash

45. Solitaire Clash is a multiplayer version of solitaire. Players sort a 52-card deck “to the 7-column tableau with the ultimate goal of arranging all 4 suits into ascending order.”¹⁸⁴ Players receive points for the number of cards they can put in order and the speed with which they can do that.



46. At the end of a game, players are taken to a scoreboard where their score is ranked against the scores of other, purportedly real players.

47. Avia represents that Solitaire Clash tournaments are skill-based and populated by real players. The company describes the game as “the best free solitaire app that offers

¹⁸³ <https://apps.apple.com/us/app/bingo-tour-win-real-cash/id1594170490> [last accessed 11-17-2023]

¹⁸⁴ <https://apps.apple.com/us/app/solitaire-clash-win-real-cash/id1589643727> [last accessed 11-17-2023]

multiplayer card game solitaire tournaments where you can compete against players of similar skill levels and even have the opportunity to win real money.”¹⁸⁵ The company further states that users “Play Against Real Players,” and the game matches players with “real players of similar skill levels to play classic, fun, and fair skill-based cash games!”¹⁸⁶

48. As of the filing of this Complaint, Solitaire Clash is the #2 game in the Casino category on the Apple App store.¹⁸⁷

(3) 8 Ball Strike

49. As with the regular game of pool, the goal of 8 Ball Strike is to pocket the balls around the pool table. A player needs to tap or drag to aim the cue stick and pull back the power bar to shoot.¹⁸⁸ Each pocket and ball come with a different point bonus. When a ball goes into a pocket, the ball number is multiplied by the pocket multiplier, and the total is the base score. The player who reaches the highest score within the given time limit wins.¹⁸⁹

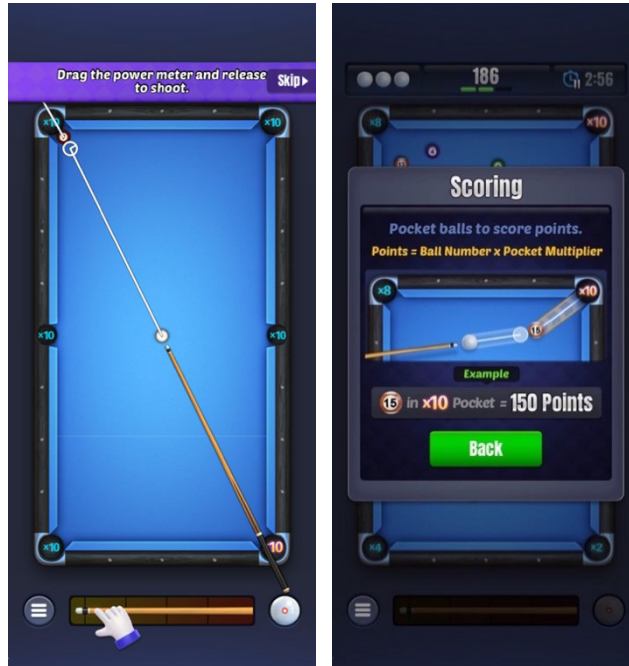
¹⁸⁵ <https://www.pocket7games.com/solitaire-clash> [last accessed 11-17-2023]

¹⁸⁶ <https://apps.apple.com/us/app/solitaire-clash-win-real-cash/id1589643727> [last accessed 10-05-2023]

¹⁸⁷ *Id.*

¹⁸⁸ <https://www.pocket7games.com/8-ball-strike> [last accessed 11-17-2023]

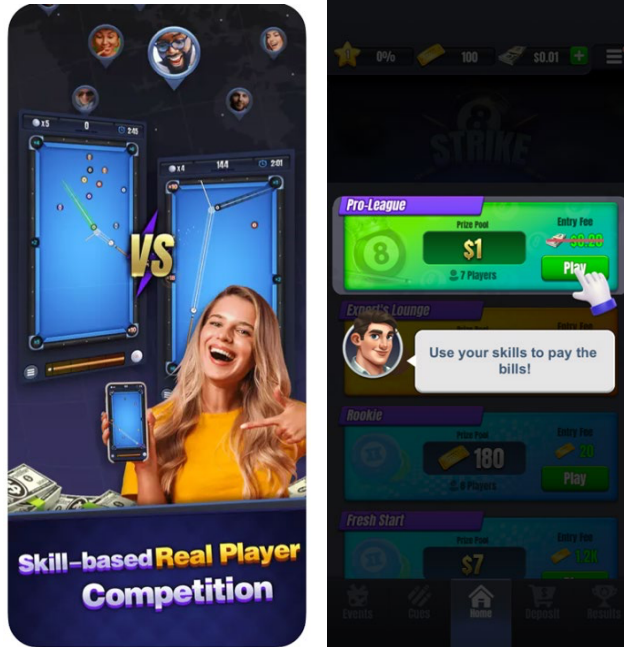
¹⁸⁹ *Id.*



50. Avia represents that 8 Ball Strike is a game of skill, and that players play against real players. Its App Store advertisement states that players are “[m]atch[ed] with real players of similar skill levels to play classic, fun, and fair skill-based cash games[.]”.¹⁹⁰ It adds that “[a]nyone can play this simple pool game, but it takes skill to walk away a champion.”¹⁹¹ The game invites players to “[u]se [their] skills to pay the bills!”

¹⁹⁰ <https://apps.apple.com/US/app/id1637363937?mt=8> [last accessed 10-05-2023]

¹⁹¹ *Id.*



51. At the end of a game, players are presented with a scoreboard which ranks their score against the scores of other, purportedly real players.

52. As of the filing of this Complaint, 8 Ball Strike is ranked #50 in the Sports category on the App Store.¹⁹²

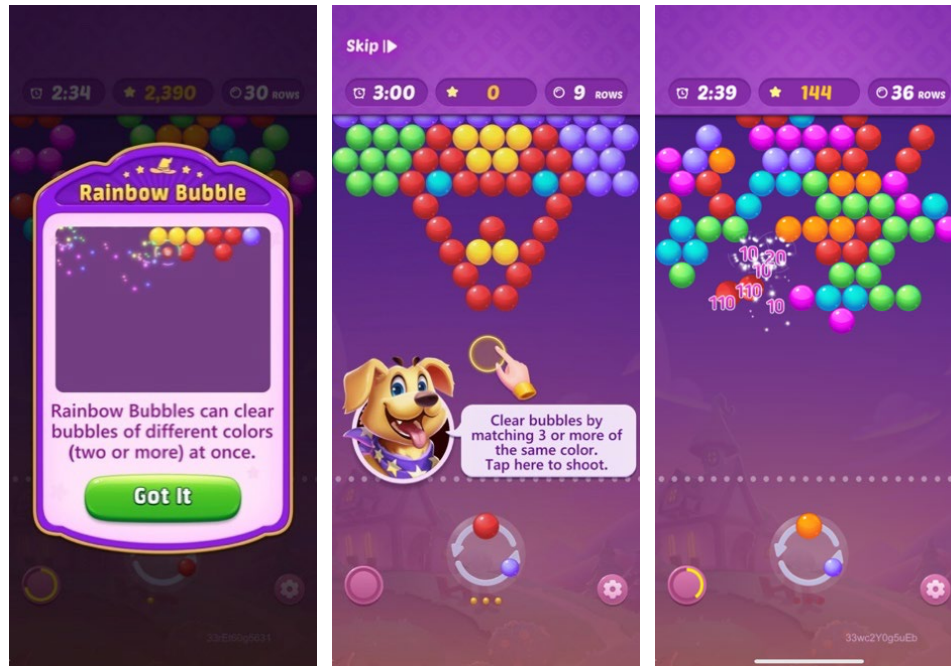
(4) Bubble Buzz

53. The goal of Bubble Buzz is to clear bubbles by matching three or more bubbles of the same color.¹⁹³ The more bubbles a player clears, the more points they score.¹⁹⁴ The player who gets the highest score by popping the most bubbles in a given time frame wins.

¹⁹² <https://apps.apple.com/US/app/id1637363937?mt=8> [last accessed 11-17-2023]

¹⁹³ <https://www.pocket7games.com/bubble-buzz> [last accessed 11-17-2023]

¹⁹⁴ *Id.*



54. Avia represents that Bubble Buzz is a game of skill, and that players play against real players. The description on the AppStore website promises players to be “[m]atch[ed] with real players of similar skills levels” and “to play classic, fun, and fair-skill cash games!”¹⁹⁵ The game invites players to “[u]se [their] skills to pay the bills!” At the beginning of each game, players are asked to wait until the app finds them their purported “opponents” for the game.

55. At the end of the game, the players are presented with a scoreboard which ranks their score among the scores of other “players” that supposedly played the game with them.

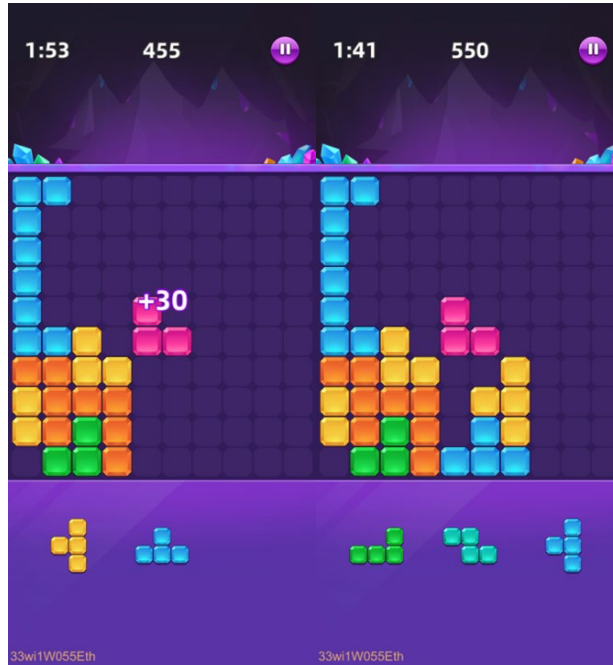
56. As of the filing of this Complaint, the game is ranked #24 in the Puzzle category on the App Store.¹⁹⁶

(5) Blockolot

¹⁹⁵ <https://apps.apple.com/US/app/id1625671597?mt=8> [last accessed 10-05-2023]

¹⁹⁶ *Id.*

57. Blockolot is a block puzzle game. A player is offered three shapes of block puzzles displayed at the bottom and the available empty spaces to strategically choose the best fit for those blocks.¹⁹⁷ The player can earn points by filling all spaces in a row or a column. The more consecutive moves that clear lines, the more points a player will earn. The match will end when the player runs out of space to place blocks and/or when the time limit runs up.¹⁹⁸



58. According to Avia, Blockolot is a game of skill, and players play against real players. The App Store advertisement promises Blockolot's players to "[p]lay Against Real Players", i.e., to "[m]atch [them] with real players of similar skill levels to play classic, fun, and fair skill-based cash games[.]".¹⁹⁹ According to the advertisement, "[a]nyone can play this simple block game, but it takes skill to walk away a champion!"²⁰⁰ The game invites players to "[u]se

¹⁹⁷ <https://www.pocket7games.com/blockolot> [last accessed 11-17-2023]

¹⁹⁸ <https://apps.apple.com/US/app/id1609403287?mt=8> [last accessed 10-05-2023]

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

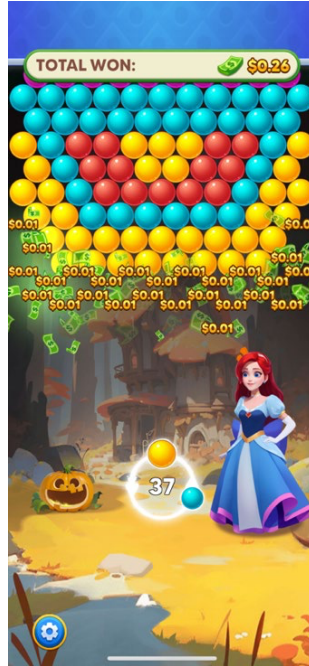
[their] skills to pay the bills!” At the beginning of each game, players are instructed to wait until the app finds them their purported “opponents” for the game.



59. At the end of the game, a player is directed to a score board where their performance is compared with other “players” that purportedly played the game with them.

(6) Bubble Miracle

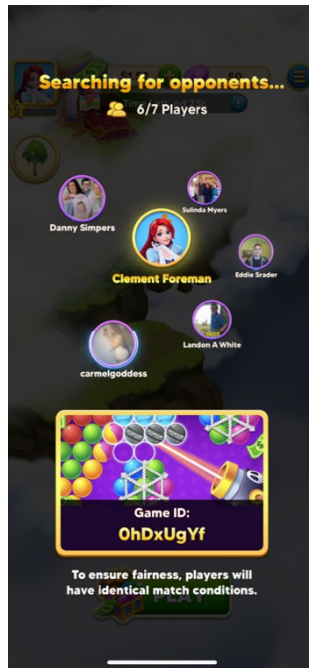
60. Bubble Miracle is similar to Bubble Buzz. The goal of the game is to clear bubbles by a targeting them with a launcher. Upon completing a round, a player is awarded points based on how many bubbles they cleared. Scoring points allows the player to enter a subsequent game plan (“map”) where the player is asked to fulfill certain task and collect chests.



61. The App Store describes Bubble Miracle as “all-new, miraculously fun bubble game!”²⁰¹ Avia represents that the players will be matched with “players of comparable ability”.²⁰² At the beginning of each game, a player is asked to wait until the app finds them their purported “opponent”.

²⁰¹ <https://apps.apple.com/us/app/bubble-miracle-win-real-cash/id6448908108?l=pt-BR> [last accessed 11-17-2023]

²⁰² *Id.*



62. At the end of the game, a player is directed to a score board where their performance is compared with other “players” that purportedly played the game with them.



1 **(7) Bingo Flash**

2 63. Avia describes Bingo Flash as the “newest online multiplayer Bingo game with
3 players from around the world!”²⁰³ Each player begins with allegedly the same bingo card,²⁰⁴ an
4 announcer reads a bingo number, and players need to tap or click the number (“daub”) on their
5 bingo card. Daubing five numbers in a row is a bingo. Players receive points for the speed they
6 daub the called numbers and the number of bingos they complete.

7
8 64. The description of the game on the App Store promises the users that they can make
9 “REAL CASH”.²⁰⁵ Users “[p]lay in tournaments of different match modes with 5-10 other
10 players.”²⁰⁶ It is claimed that users “Play Against Players with Similar Skills Level”, i.e., are
11 “[m]atch[ed] with players of similar skill levels.”²⁰⁷ At the beginning of each game, players are
12 asked to wait until the app finds them their purported “opponent”.

13
14
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21 ²⁰³ <https://apps.apple.com/us/app/bingo-flash-win-real-cash/id1669672366> [last accessed 11-17-
22 2023]

23 ²⁰⁴ *Id.* It is not possible to verify, whether each player truly has the same bingo card. A player only
24 sees their own card and they are not able to access the card(s) of other players.

25 ²⁰⁵ <https://apps.apple.com/us/app/bingo-flash-win-real-cash/id1669672366> [last accessed 11-17-
26 2023]

27 ²⁰⁶ *Id.*

28 ²⁰⁷ *Id.*



65. At the end of the game, a player is directed to a score board where their performance is compared with other “players” who purportedly played the game with them.

