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

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

27 Plaintiffs,

28 vs.

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

Defendants.

Case No. _____

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 hundreds
11 of millions of dollars to compete in these games of “skill” against what Avia says are other human
12 users. 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 This action seeks to hold Defendants responsible for their deceptive practices and, separately, their
17 racketeering gambling enterprise.

18 2. Avia sells itself as a company that creates tournaments of real users who risk their
19 own money in games of skill through the company’s mobile apps or through a mobile browser.
20 Those games include traditional card games like solitaire or blackjack, bingo games, pool games,
21 Tetris/block puzzle games, or bubble popping games. Avia promises to improve the experience of
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26 ¹ ACME and Galaxy are referred to collectively as “RICO Investors.” The RICO Investors, Vickie
27 Yanjuan Chen, and Ping Wang are referred to collectively as “RICO Defendants.”

1 playing those traditional games by including specific features or “power-ups,” bonuses, or
2 “captivating” storylines.²

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

13 4. Avia repeatedly told players that they were playing against other, real people in
14 games of skill. It claims that its games are not games of chance, that it is not the “house” against
15 whom players are betting, and that, instead, it merely collects a fee for running its various games.
16 The same assertions were repeated by Avia’s co-founders, Ms. Chen and Ms. Wang, and its
17 investors, ACME and Galaxy (the “RICO Investors”).
18

19 5. Recently uncovered evidence indicates that Avia has perpetuated a lie on its
20 customers and that players are actually playing against computer bots in a stacked game of chance.
21 Litigation involving a competitor has revealed evidence “regarding AviaGames’ alleged use of
22

23 ² <https://www.pocket7games.com/post/top-5-most-popular-mobile-games-of-2023>

24 ³ <https://www.pocket7games.com/about-us>

25 ⁴ *Id.*

26 ⁵ *Id.*

27 ⁶ <https://www.pocket7games.com/support-faq>

28 ⁷ *Id.*

1 bots to purportedly ‘cheat the public’.”⁸ Namely, a “slew of documents” shows “that AviaGames
2 is matching gamers with robots to rig the games.”⁹ According to statements made in open court
3 and describing the content of Avia internal documents, “every cash game offered by AviaGames
4 in the U.S.” has a “guide with a robot” that “guarantees the winning rate in favor of AviaGames
5 against its customers.”¹⁰ Now, Ms. Chen has asserted the Fifth Amendment right against self-
6 incrimination when asked about Avia’s games.

7
8 6. In short, Avia, its co-founders (Ms. Chen and Ms. Wang), and the RICO Investors
9 duped Plaintiffs into wagering real money in games of chance, which could be easily manipulated,
10 instead of competing in games of skill as advertised. Plaintiffs spent money to play Avia’s games
11 without the knowledge that the games were skewed in Avia’s favor and full of bots. Plaintiffs
12 suffered monetary harm as a result.

13 7. This Complaint asserts various claims to hold Avia and other Defendants
14 accountable for their misrepresentations to consumers and stop them from continuing to exploit
15 Avia’s games users. First, Plaintiffs assert consumer protection claims against Avia under
16 California law for the deceptive and unfair business practices employed by Avia. Second, Plaintiffs
17 assert claims against Avia and the RICO Defendants under the RICO statute to remedy the harm
18 caused by the Defendants’ illegal gambling enterprise and fraudulent statements.
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25 ⁸ Dorothy Atkins, Mobile Game Maker Skillz Claims Rival Hid Crucial IP Evidence, Law360,
August 15, 2023, 10:58 PM EDT.

26 ⁹ *Id.*

27 ¹⁰ *Id.*

II. PARTIES

A. Plaintiffs

8. 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. Mr. Pandolfi estimates that he lost thousands of dollars playing those games.

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

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

11. Ms. Shawcroft was attracted to Avia’s games because she enjoys playing Solitaire and Bingo-related games. Ms. Shawcroft incurred monetary harm as a result of Avia’s misleading statements.

B. Defendants

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

1 13. **Defendant Vickie Yanjuan Chen** (“Chen”) is Avia’s co-founder and a CEO and
2 a resident of Mountain View, California.

3 14. **Defendant Ping Wang** (“Wang”) is Avia’s co-founder and a VP of Strategy &
4 Business Development and a resident of Mountain View, California.

5 15. **Defendant ACME LLC** (“Acme”) is a limited liability company with a business
6 address at 428 University Ave, Palo Alto, CA 94301, and a corporate office at 505 Howard St
7 #201, San Francisco, CA 94105. It, including its affiliated entities, is a venture capital investment
8 firm that “invests in breakthrough technologies that fuel platform shifts and disruptive business
9 models that capitalize on new platforms.”¹¹ Acme partner Hany Nada sits on Avia’s Board of
10 Directors,¹² and Acme partner Alex Fayette is Avia’s “Board Observer.”¹³

11 16. **Defendant Galaxy Digital Capital Management, L.P.** (“Galaxy”) is a venture
12 capital firm encompassing number of investment funds with a principal place of business at 300
13 Vesey Street, New York, New York 10282, some of the entities of which are incorporated as
14 limited partnerships in Delaware. The firm, including its affiliated entities, “invest[s] in pioneering
15 content, technology, and social commerce companies that enable and amplify our agency and self-
16 expression through integration of our digital and physical lives.”¹⁴ Galaxy’s partners are Sam
17 Englehardt, Richard Kim, Rian You, Michael Fan, and Jeff Brown.¹⁵

18 17. As defined above, Defendants Acme and Galaxy are also collectively further
19 referred to as “RICO Investors,” and Ms. Chen, Ms. Wang and RICO Investors are also
20 collectively further referred to as “RICO Defendants.”
21

22
23
24 ¹¹ <https://www.crunchbase.com/organization/acme-capital>

25 ¹² <https://pitchbook.com/profiles/company/435491-83>

26 ¹³ <https://www.linkedin.com/in/alexfayette>

27 ¹⁴ <https://interactive.galaxy.com/thesis>

28 ¹⁵ <https://interactive.galaxy.com/team/>

1 **C. Unnamed Co-Conspirators**

2 18. In addition to the above-named RICO Investors, there are other unnamed investors
3 of Avia, who provided funds and contributed to the operation of Avia. The scope of their
4 involvement and participation in the Defendants' fraudulent conduct is yet unknown and will be
5 established in the discovery. Plaintiffs therefore reserve the right to amend the Complaint to name
6 those investors as additional RICO Defendants.

7
8 19. Discovery may also show that other unknown persons, firms, corporations, and/or
9 other entities not named as Defendants in this Complaint participated as co-conspirators with
10 Defendants and performed acts and made statements in furtherance of Defendants' above-
11 described fraudulent conduct. If applicable, Defendants are jointly and severally liable for the acts
12 of their co-conspirators, regardless of whether Plaintiffs formally name such co-conspirators as
13 Defendants.

14 **III. JURISDICTION AND VENUE**

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

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

22 22. In addition to jurisdiction under 28 U.S.C. §1332(d), this Court has supplemental
23 jurisdiction over Plaintiffs' pendent state law claims pursuant to 28 U.S.C. §1367.
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1 each Defendant is subject to personal jurisdiction in this District; and Defendants transact business
2 in this District.

3 IV. FACTUAL ALLEGATIONS

4 A. Avia advertises itself to the public as a legitimate gaming company that 5 matches customers with real live gamers.

6 29. Avia describes itself as a company “dedicated to building a worldwide social game
7 competition platform that guarantees [their] players a fair, high-quality gaming experience.”¹⁶ The
8 company launched in 2017 to “create gaming apps that are both fun and challenging by offering
9 users the ability to compete against other gamers of equal skill levels.”¹⁷

10 30. Avia makes mobile games playable on its online platform Pocket7Games,
11 accessible through mobile browsers, and through standalone applications. The Pocket7Games
12 platform can be downloaded as a standalone application, or accessed online through a mobile
13 browser.¹⁸ Online games playable on mobile browsers through the Pocket7Games platform include
14 Bingo Clash, Solitaire, Pool Clash, Match n Flip,¹⁹ 21 Gold, and Tile Blitz.²⁰ Apple and Android
15 phones and tablet devices can host Avia’s standalone mobile games applications including 8 Ball
16 Strike, Bubble Miracle, Bingo Flash, Match n Flip, Bubble Buzz, Blockolot, Bingo Tour, Solitaire
17

18
19 _____
¹⁶ <https://www.pocket7games.com/about-us>

20 ¹⁷ *Id.*

21 ¹⁸ <https://www.pocket7games.com/>

22 ¹⁹ The name of the game is inconsistent across the Avia’s website and Pocket7Gaming platform—
23 both “Match’n Flip” and “Match n Flip” are used interchangeably. This Complaint uses “Match n
Flip.”

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

1 Clash, Bingo Clash, and Zumania.²¹ These standalone applications are available for download
 2 through Apple’s App Store, Android’s Google Play (Android App), and/or Samsung’s Galaxy
 3 Store. Bingo Clash and Match n Flip are available both as standalone applications and as a part of
 4 the Pocket7Games platform.²²

5 31. Avia’s offerings are among the most popular apps in Apple’s App Store and
 6 Android’s Google Play. For example, as of the filing of this Complaint, Bingo Tour is the #7 game
 7 in the Casino category,²³ Solitaire Clash is the #2 game in the Casino category,²⁴ Bingo Clash is
 8 the #4 game in the Casino category,²⁵ 8 Ball Strike is ranked #45 in the Sports category,²⁶ and
 9 Bubble Buzz is ranked #24 in Puzzle category.²⁷

10 32. Appendix A, attached hereto, contains details on various Avia’s games.

11 33. Avia claims that its Pocket7Games platform “guarantees [their] players a fair, high-
 12 quality gaming experience.”²⁸ Avia asserts that it employs a “complex algorithm” that purports to
 13 “assess and match each player’s ability in order to create [this] fair gaming environment.”²⁹ It adds
 14 that “this sophisticated algorithm is constantly monitored and updated to prevent players from
 15
 16
 17

18 ²¹<https://www.pocket7games.com/mobile-games;>
 19 <https://apps.apple.com/us/developer/aviagames-inc/id1513192817?see-all=i-iphonei-pad-apps>.
 20 The full list provided at the Avia’s profile on App Store is: 8 Ball Strike, Bubble Miracle, Bingo
 21 Flash, Match n Flip, Bubble Buzz, Blockolot, Bingo Tour, Solitaire Clash, Bingo Clash, and
 22 Zumania.

23 ²² <https://apps.apple.com/us/developer/aviagames-inc/id1513192817?see-all=i-iphonei-pad-apps>

24 ²³ <https://apps.apple.com/us/app/bingo-tour-win-real-cash/id1594170490>

25 ²⁴ <https://apps.apple.com/us/app/solitaire-clash-win-real-cash/id1589643727>

26 ²⁵ <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531>

27 ²⁶ <https://apps.apple.com/US/app/id1637363937?mt=8>

28 ²⁷ <https://apps.apple.com/US/app/id1625671597?mt=8>

²⁸ <https://www.pocket7games.com/about-us>

²⁹ *Id.*

1 cheating the system.”³⁰ It further states that a “fair and secure matching algorithm is the technical
2 basis for fair training” and that “[m]aking sure that players are matched by skill level has always
3 been a major focus of [its] app development.”³¹
4

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

8 **AviaGames Launches**

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

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

14 34. Avia further tells its users and prospective users that “[g]amers play against others,”
15 and refers to its games as “skill-based.”³² In its description of its games, Avia explains that players
16 “[c]ompete in real time against other players” and that they “[c]ompete using only [their] strategy
17 and skill.”³³ Avia furthers advertises that it lets players play “against real players” and allows a
18 player to “[m]atch with real players of similar skill levels to compete in classic, fun, and fair skill-
19 based cash games!”³⁴
20

21 **Play Against Real Players**

22 **-Match with real players of similar skill levels to compete in classic, fun, and fair
23 skill-based cash games!**
24

25 ³⁰ *Id.*

26 ³¹ <https://www.pocket7games.com/support-faq>

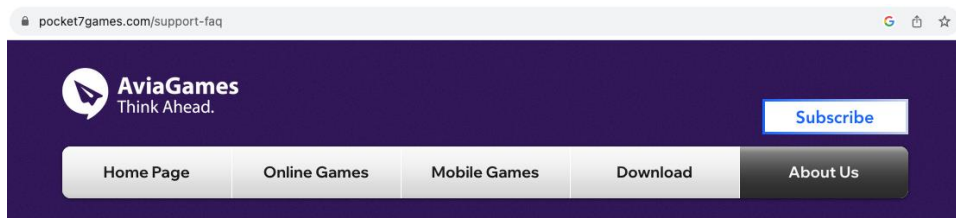
27 ³² <https://www.pocket7games.com/about-us>; or <https://www.pocket7games.com/support-faq>

28 ³³ *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]

³⁴ *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]

1 35. In the Frequently Asked Questions section of its website, Avia claims that its games
 2 are legal: “We promote skill-based competitions that are legal in most jurisdictions. In contrast to
 3 traditional gambling, where games are based purely on chance or luck, our cash games are
 4 designed to test and reward players’ skills and abilities.”³⁵ Avia claims to be “committed to
 5 providing a safe, fair, and legitimate gaming environment for all of [its] users,” and to “take pride
 6 in [its] reputation as a responsible and trustworthy operator of skill-based cash games.”³⁶

7
 8 36. Avia further claims that it has “no financial interest in the outcome of cash games,”
 9 nor “any stake in who wins or loses.”³⁷ It explains that its “goal is to provide a safe and fun gaming
 10 environment where players can compete on the basis of their skills, without worrying about any
 11 external factors.”³⁸



12
 13
 14
 15 **1. Are the Cash Games Legal?**

16 Yes, the cash games offered on Pocket7Games are legal.

17 We promote skill-based competitions that are legal in most jurisdictions. In contrast to traditional gambling, where games are
 18 based purely on chance or luck, our cash games are designed to test and reward players’ skills and abilities.

19 However, it’s important to note that the legality of cash games can vary depending on the jurisdiction. Therefore, it’s always a
 20 good idea to review your local laws and regulations to ensure that you are permitted to participate in cash games.

21 At Avia Games, we take the legality and regulation of our platform very seriously. We comply with all applicable laws and
 22 regulations, and we work closely with regulatory authorities to ensure that our platform meets all relevant requirements.

23 We are committed to providing a safe, fair, and legitimate gaming environment for all of our users, and we take pride in our
 24 reputation as a responsible and trustworthy operator of skill-based cash games. If you have any concerns or questions
 25 regarding the legality of our cash games, please don’t hesitate to reach out to our customer support team, and we will be happy
 26 to assist you.

27 Read less

28

³⁵ <https://www.pocket7games.com/support-faq>

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

1 37. In an article she wrote for Forbes, Avia’s co-founder and CEO, Ms. Chen, explains
2 that Avia’s games are games of skill rather than games of chance.³⁹ According to Ms. Chen, a
3 game of chance is defined as “an activity where the outcome is determined predominantly by
4 chance. From playing dice to roulette to participating in a lottery game, the ‘win’ is dependent on
5 luck driven by some element of randomization.”⁴⁰ She adds that a “game of chance can also be
6 categorized as gambling if players wager money.”⁴¹ According to Ms. Chen, it’s the games of
7 skill—as Avia markets it’s games—rather than the games of chance that are the future of the
8 gaming industry: “Across the social competition realm, a range of popular casual, social casino
9 and sports games have been transformed into leading skill-based games over the past several years.
10 This growing category of social competition games includes Solitaire Clash and Bingo Tour,
11 which have been among the top three most downloaded apps under the card and casino categories
12 for a number of months.”⁴²

14 38. RICO Investors promote Avia’s games as games of skill, too. For example, Avia’s
15 investor Acme characterizes Avia as a “real-money mobile skill gaming app”.⁴³

23 ³⁹ 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-
opportunity/?sh=10d1ef322340](https://www.forbes.com/sites/forbesbusinesscouncil/2022/08/09/the-skill-based-gaming-opportunity/?sh=10d1ef322340)

25 ⁴⁰ *Id.*

26 ⁴¹ *Id.*

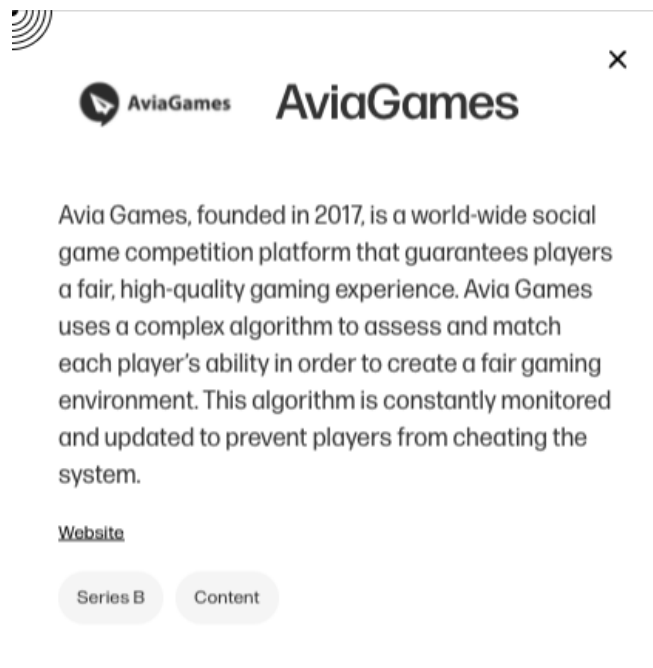
27 ⁴² *Id.*

28 ⁴³ <https://www.acme.vc/our-portfolio/>



A real-money mobile skill gaming app

39. 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.”⁴⁴



⁴⁴ <https://interactive.galaxy.com/investments>

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

3 40. Avia represents that its games are filled with human opponents, which guarantees
 4 a fair gaming environment. For example, Avia advertises Pocket7Games as “Skill-based” and
 5 “Fair Play” games.⁴⁵ The advertisement prepares the users to participate in a “REAL PLAYER
 6 FACEOFF,”⁴⁶ or “Skill-based Real Player Competition.”⁴⁷

7 41. At the beginning of each Avia game, the app informs the player that it is looking
 8 for their opponent for the game. After a few seconds, the player is matched with “opponents” in a
 9 number sufficient to play the game. At the end of each game, the player is directed to a scoreboard
 10 with their score ranked among the scores of other “players” that supposedly played the game with
 11 them. Depending on the player’s position in relation to other players, the player receives “cash”,
 12 if they are playing a cash game, or “tickets” to play other game(s). The “cash” can either be
 13 withdrawn or used to play other game(s).
 14

15 42. Avia advertises its games that are playable through the standalone applications in a
 16 similar way as its Pocket7Games’s games. It describes those games as games of skill, where
 17 players play tournaments against other real players of similar skill levels.⁴⁸ Avia explicitly claims
 18

19 _____
 20 ⁴⁵ <https://www.pocket7games.com/onlinegame>

21 ⁴⁶ See, e.g., <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531>;
 22 <https://apps.apple.com/us/app/bingo-flash-win-real-cash/id1669672366> [last accessed 10-05-
 2023]

23 ⁴⁷ See, e.g., <https://apps.apple.com/US/app/id1637363937?mt=8> [last accessed 10-05-2023]

24 ⁴⁸ <https://apps.apple.com/US/app/id1594170490?mt=8>; <https://apps.apple.com/us/app/solitaire-clash-win-real-cash/id1589643727>;
 25 <https://apps.apple.com/US/app/id6443533604?mt=8>;
 26 <https://apps.apple.com/US/app/id1625671597?mt=8>;
 27 <https://apps.apple.com/US/app/id1609403287?mt=8>; <https://apps.apple.com/us/app/bubble-miracle-win-real-cash/id6448908108?l=pt-BR>;
 28 <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531>;
<https://apps.apple.com/us/app/pocket7games-win-cash/id1402595440>
 [last accessed 10-05-2023]

1 that its applications “offer[] users the ability to compete against other gamers of equal skill
2 levels.”⁴⁹

3 43. At the beginning of each standalone game, players are asked to wait until the app
4 finds them purported “opponents” for the game. At the end of the game, players are directed to a
5 scoreboard with their score ranked among the scores of other “players” who supposedly played
6 the game with them.

7 44. The descriptions of the games that are playable both on the Pocket7Games platform
8 and through standalone applications, i.e., Bingo Clash and Match n Flip, use the same language.
9 In all of Avia’s games, players are told that they are playing with real people based on their skill
10 and stand a chance of winning real cash.⁵⁰

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

- 14
15 i. A player of the Solitaire Clash game expressed concerns whether real players
16 are involved. The player observed that many of the accounts are “obviously
17 faked” and that a player is “rarely fully matched when the game starts.”⁵¹ The
18 profile pictures of the players allegedly often “conflict[] with person’s name
19 (e.g. “Zach” with a picture of an older woman and “Jessica” with a beard).”⁵²

20
21
22 ⁴⁹ *Id.*

23 ⁵⁰ See <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531>;
24 <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-
25 2023] in relation to Bingo Clash and Match n Flip

26 ⁵¹ Complaint by ‘Casino Rat 954’ of August 7, 2022, <https://apps.apple.com/us/app/solitaire-clash-win-real-cash/id1589643727?see-all=reviews>

27 ⁵² *Id.*

1 Some players do not finish the game at all or take more time than other players;
2 yet, they turn out as champions.⁵³ In a response to this comment, Avia
3 maintained that the “app is skill-based real money gaming platform where you
4 always compete against real people of similar skills.”⁵⁴

5 ii. A player of Bingo Clash complained that the game is “full of bots to take your
6 money.”⁵⁵ Avia responded that it “would like to assure you that all of your
7 opponents are real players, not bots.”⁵⁶

8 iii. A player of Blockolot complained that the game “is a scam” and the “[n]ame of
9 the people are not real.”⁵⁷ In relation to the Blockolot’s player’s complaint, Avia
10 replied that the “game is a skill-based real money gaming platform where you
11 always compete with real people around your skill level.”⁵⁸

12
13 46. Avia consistently affirmed that the players compete against other real players, as
14 consistently advertised through all other channels.
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20 ⁵³ *Id.*

21 ⁵⁴ Complaint by ‘Casino Rat 954’ of August 7, 2022, [https://apps.apple.com/us/app/solitaire-clash-
22 win-real-cash/id1589643727?see-all=reviews](https://apps.apple.com/us/app/solitaire-clash-win-real-cash/id1589643727?see-all=reviews)

23 ⁵⁵ Complaint by ‘canceling Robinhood’ of 21 June, 2022, [https://apps.apple.com/us/app/bingo-
24 clash-battle/id1559173195?see-all=reviews](https://apps.apple.com/us/app/bingo-clash-battle/id1559173195?see-all=reviews)

25 ⁵⁶ Complaint by ‘canceling Robinhood’ of 21 June, 2022, [https://apps.apple.com/us/app/bingo-
26 clash-battle/id1559173195?see-all=reviews](https://apps.apple.com/us/app/bingo-clash-battle/id1559173195?see-all=reviews)

27 ⁵⁷ Complaint by ‘HossTV’ of 23 June, 2023, [https://apps.apple.com/us/app/blockolot-win-real-
28 cash/id1609403287?see-all=reviews](https://apps.apple.com/us/app/blockolot-win-real-cash/id1609403287?see-all=reviews)

⁵⁸ Complaint by ‘HossTV’ of 23 June, 2023, [https://apps.apple.com/us/app/blockolot-win-real-
cash/id1609403287?see-all=reviews](https://apps.apple.com/us/app/blockolot-win-real-cash/id1609403287?see-all=reviews)

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

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

6 48. During an emergency hearing in a lawsuit between Avia and its competitor, Skillz
7 Platform Inc. (“Skillz”), Skillz’s counsel represented that documents Avia produced in discovery
8 showed that Avia “cheat[s] the public” by matching gamers with bots to rig the outcome of
9 games.⁵⁹ Avia’s executives—including CEO Vickie Yanjuan Chen and a vice president of
10 marketing—repeatedly lied under oath during their depositions about the company’s use of bots.⁶⁰

11 49. As detailed by Avia’s opposing counsel in the transcript from that hearing, Avia
12 holds “themselves out as a trusted platform, and it tells the public that they are legitimate. It tells
13 the public that they have no financial interest in the outcome of the cash games.”⁶¹ But, the
14 documents uncovered in discovery show that’s not true:

15
16 **[T]hat’s all a lie, and we figured out that lie because we got, after**
17 **the close of fact discovery, a slew of documents that show exactly**
18 **what they are doing. They are using robots, they are cheating**
19 **the public.** So Avia’s senior executives, including their co-founder,
20 Ms. Vicki Chen, who is the CEO, she lied about the usage of bots
21 under oath. She was asked directly that question. And as well, the
22 VP of marketing, likewise was asked the question about whether
23 Avia uses bots, and he categorically said “no”.⁶²

24 ⁵⁹ [https://www.law360.com/articles/1710520/mobile-game-maker-skillz-claims-rival-hid-crucial-](https://www.law360.com/articles/1710520/mobile-game-maker-skillz-claims-rival-hid-crucial-ip-evidence)
25 [ip-evidence](https://www.law360.com/articles/1710520/mobile-game-maker-skillz-claims-rival-hid-crucial-ip-evidence)

26 ⁶⁰ *Id.*

27 ⁶¹ *Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 242-
28 4, pp. 6-7.

⁶² *Id.*

1 Plaintiff's counsel also represented that "the evidence we do have suggests very clearly that guides
2 are robots and that they can guarantee a winning rate, so they can rig the game."⁶³ According to
3 the counsel, every cash game "has a guide with a robot, and they are balancing the winning rate
4 through that robot."⁶⁴ According to Skillz, the evidence indicates that "Avia always infringes
5 through its bots, and bots are the default for every match."⁶⁵

6
7 50. In granting Skillz relief on a discovery motion, the judge noted that documents
8 shared during discovery referenced bots using the codewords, like "guides" or "cucumbers."⁶⁶ This
9 evidences Avia was aware of the need to conceal their bot program.

10 51. According to Skillz, "Avia's internal messages reveal that Avia knew its
11 representations that games always involve "real players, not bots" were false." Avia knew that
12 these statements were false and intended for potential users reading these responses to rely on its
13 representations that all of its games were against real people. Users justifiably relied on these
14 representations and lost money to Avia when they encountered and lost to Avia's bots in cash
15 games.⁶⁷

16 52. Afterall, Skillz observes that Avia has repeatedly changed its story regarding the
17 use of bots: "**first**, Avia employees (including its CEO) testified at depositions that all of its games
18 were played by only real players; **then**, it claimed bots were used only during "tutorials"; **next**, it
19 claimed (again, through its CEO) that it merely matched players up with "older scores"; **later**, it
20 said bots were just a "system bug"; **then**, it described certain bot use as merely an "algorithm that
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23 ⁶³ *Id.*, p. 68.

24 ⁶⁴ *Id.*, p. 69.

25 ⁶⁵ *Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 466,
pp. 7-8.

26 ⁶⁶ *Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 247.

27 ⁶⁷ *Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 463,
pp. 1-2.

1 went wrong”; and *most recently*, it declared there is a relevant distinction between a “game” and
2 a “match” that neutralizes its fraudulent use of bots (there is not).⁶⁸ This further illustrates that no
3 matter which “mechanism” is used to generate scores of the purported “opponents” playing against
4 the real Avia games users, they are not competing against real people.

5
6 53. That is likely also the reason why Avia’s CEO Ms. Chen allegedly refused to
7 answer any questions about “skills-based gaming” at her deposition, invoking the Fifth
8 Amendment right against self-incrimination.⁶⁹ Under the threat of being found guilty of perjury,
9 Ms. Chen seems hesitant to repeat the assertions she made in her public statements that Avia’s
10 games are entirely skills-based.

11 54. Given the “secretive” nature of Avia’s fraudulent enterprise, filings in the referred
12 case also suggests that Avia might have defrauded financial institutions. Avia arguably submitted
13 opinions from Blank Rome attorneys, which denied that Avia would be engaged in unlawful
14 internet gambling: “Avia’s counsel admitted that when Avia’s bots play and win games, Avia
15 keeps the prize money. [...] Avia knew these representations were false, yet still sent letters to
16 financial institutions in furtherance of its fraud.”⁷⁰ As a result, “Judge van Keulen found that many
17 of Avia’s communications with counsel regarding the legal opinion letters and Avia’s responses
18 to customer complaints were in furtherance of its fraud.”⁷¹
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22 ⁶⁸ *Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 466,
23 pp. 1-2.

24 ⁶⁹ *Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 466,
25 p. 9.

26 ⁷⁰ *Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 463,
27 pp. 1-2.

28 ⁷¹ *Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 463,
p. 2.

1 55. In a related filing, Skillz also suggests that Avia has not limited itself to defrauding
2 financial institutions, but has also defrauded financial advisors: “evidence adduced in discovery
3 suggests Avia was providing false information to its Ernst & Young audit team when the auditors
4 discovered bot accounts.”⁷² Alarminglly, Skillz also suggests that “Avia executive Fuhai Zhong
5 attempted to extort significant sums from founders Vickie Chen and Ping Wang in exchange to
6 forebear from exposing Avia's fraudulent conduct.”⁷³

7
8 56. As these allegations have significant criminal law implications, the U.S.
9 Department of Justice became interested in the case. According to the case file documents in the
10 above-cited case, Skillz “received a criminal jury subpoena (the “Subpoena”) from the United
11 States Department of Justice which [redacted] relating to Avia’s use of bots, [redacted].”⁷⁴ Because
12 “[c]ertain filings, orders, and hearing transcripts received in this case are responsive to the
13 Subpoena and in Skillz’s possession, custody, or control” and because “some of these documents
14 are under seal by order of this Court (the “Sealed Materials”),” Skillz requested the court in that
15 case to “authorize Skillz to produce the Sealed Materials in unredacted form to comply with the
16 Subpoena and not run afoul of the Court’s expectations with respect to such orders.”⁷⁵

17
18 57. Using bots helps Avia maintain player liquidity. Avia needs players for the real
19 players to play against. If there are not enough real players and the players need to wait to get the
20 results of their match, they are less likely to keep playing. The incentives to secure such player
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22 ⁷² *Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 466,
23 pp. 5-6.

24 ⁷³ *Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 466,
25 p. 6.

26 ⁷⁴ *Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 475,
27 p. 1.

28 ⁷⁵ *Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 475,
p. 1.

1 liquidity are thus very strong. Some other multiplayer games try to overcome such a high burden
2 by matching players asynchronously, i.e., the players play the same game under the same
3 conditions, but not necessarily at the same time.⁷⁶ Avia asserts that its players are matched and
4 compete in real time, and in case an opponent is not found within 24 hours, the match will be
5 canceled:

6
7 Players are matched with an opponent of a similar skill level using
8 AviaGames' matchmaking technology. Sometimes it takes time to
9 find other players that are the appropriate match based on the criteria
10 applied and the community of players within a given time period.

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

16 In tournaments, if suitable opponents are unable to be matched
17 within 24 hours, the player will earn the rank currently held at the
18 end of the matchmaking period and the corresponding prizes will be
19 automatically sent to the player. In addition, a player may start a new
20 match while the platform searches for an opponent.⁷⁷

21 58. Avia's focus on a specific subset of players rather than the entire players' spectrum
22 further suggests that bots are involved. Avia proclaims to target especially female players, a
23 majority of which don't have PC or console gaming experience. According to reports, the
24 "company believes it has found a niche in providing competitive gaming to people for a few
25 minutes a day."⁷⁸ The smaller the player base, the lower the chance that a player will find an
26 equally skilled opponent instantaneously. Thus, greater player liquidity problems.

27 ⁷⁶ See, e.g., Skillz gaming platform, <https://support.skillz.com/hc/en-us/articles/211525983-How-does-Skillz-player-matching-work-#:~:text=In%20an%20asynchronous%20game%2C%20Player,1%2C%20who%20begins%20the%20match>

28 ⁷⁷ <https://www.linkedin.com/pulse/aviagames-faq-series-addressing-common-community-questions-chen>

⁷⁸ *Id.*

1 59. The fact that Avia’s games are populated and/or controlled with bots also
2 challenges assertions that the games are fair and skill-based. If the players compete against robots,
3 the game cannot be called fair and skill-based. When the game is not based on the skills of the
4 player, and the result is simply determined by random events, or otherwise controlled by Avia, the
5 game is no longer skills-based. Rather, it is a game of chance because player’s skill level does not
6 impact the game’s outcome. That is in stark contrast to how Avia markets its games.

7
8 **D. Avia’s apps allow users to compete for real money.**

9 60. Avia promises its users “the chance to win real money.”⁷⁹ Similar statements
10 promising financial gains are made in relation to specific games. The Pocket7Games platform
11 informs users that they can “Play Fun Games” and “Win REAL CASH.” Avia explains that the
12 “[g]amers play against others to earn either tickets or real cash.”⁸⁰ Tickets can be redeemed for
13 various prizes, including bonus cash. To win money, Avia instructs users to “participate in matches
14 with cash prize pools.”⁸¹ “Victors can cash out their winnings by using the easy withdrawal system
15 located within the menu bar of the game.”⁸² Uncashed money or tickets can be used as an “entry
16 fee” to play more games.⁸³

17 61. Players are often given wagering money for free to start—just for playing the game.
18 Thus, a player can spend time earning “real money” without making a deposit. Alternatively,
19 players can deposit their own money to wager. In all events, the player is putting money in its
20 account at risk.
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24 ⁷⁹ <https://www.pocket7games.com/support-faq>

25 ⁸⁰ <https://www.pocket7games.com/about-us>

26 ⁸¹ <https://www.pocket7games.com/support-faq>

27 ⁸² <https://www.pocket7games.com/about-us>

28 ⁸³ <https://www.pocket7games.com/support-faq>

1 62. Avia represents that the money that is at stake in the tournaments comes from the
2 cash prize pool. Allegedly, Avia has “no financial interest in the outcome of cash games” and has
3 no “stake in who wins or loses.”⁸⁴

4 63. Standalone applications are advertised in a similar way. Match n Flip challenges
5 the players to “[t]est [their] skills and win REAL MONEY.” Bingo Flash promises the users to
6 “participate in cash games to win real money.”⁸⁵ The players are told that they are playing with
7 real people based on their skill and stand a chance of winning real cash.⁸⁶ Some of the games even
8 invite players to “Use [their] skills to pay the bills!”⁸⁷

9 64. Because Avia uses bots that participate in its tournaments for in-game cash or
10 otherwise control the outcome, Avia misrepresents that it does not have any financial interest in
11 the game. When there are not real players, Avia has a financial interest in the outcome of the game
12 because Avia collects all prize money “won” by the Avia’s bots.⁸⁸ Avia’s actions position it as an
13 operator of a gambling scheme. Players are not competing against other players, but against Avia
14 as the “house.” By skillfully matching “players” both real time or ex post, or otherwise controlling
15 the results, Avia can decide how much money each player—and it—wins.

16 65. According to Ms. Chen, gambling “requires the presence of three elements: 1) the
17 wager (the amount of money bet), 2) the outcome determined by chance and 3) a reward or
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⁸⁴ *Id.*

⁸⁵ <https://apps.apple.com/us/app/bingo-flash-win-real-cash/id1669672366>

⁸⁶ *See, e.g.,* <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531>,
24 <https://apps.apple.com/us/app/bubble-buzz-win-real-cash/id1625671597>, or
<https://apps.apple.com/us/app/blockolot-win-real-cash/id1609403287?mt=8>

⁸⁷ *See, e.g.,* Bubble Buzz, Blockolot, or 8 Ball Strike.

⁸⁸ *See also Skillz Platform, Inc. v. AviaGames, Inc.*, No. 5:21-cv-02436-BLF (N.D. Cal.), Document 463, pp. 1-2, cited above: “Avia’s counsel admitted that when Avia’s bots play and win games, Avia keeps the prize money.”

1 prize.”⁸⁹ Outcomes being dependent on skill is the key feature that differentiates skill-based games
2 from gambling, in which outcomes are determined by chance.

3 66. Ms. Chen notes that three tests are usually used to evaluate whether a game is a
4 game of skill or a game of chance. “The Dominant Factor Test determines whether skill heavily
5 influences the game. For example, in games with random number generators that determine the
6 outcome, skill should have no impact on the winner. The Material Element Test focuses on whether
7 chance plays a significant role in the outcome of the game. The Any Chance Test determines if
8 there is an element of luck that affects the outcome, such as the card flips in the game of blackjack,
9 pushing many relatively ‘skillful’ games into the illegal gambling category.”⁹⁰

10 67. Ms. Chen’s definition does not prevent Avia from advertising its blackjack game
11 called 21 Gold as a game of skill: “21 Gold: A lightning-fast version of classic casino Blackjack.
12 If you’re a fan of math games, show off your skill in this timeless skill-based card game!”⁹¹

13 68. Advertising Avia’s games as games of skill also stands in stark contrast with the
14 nature of the “mini-games” that are offered within the respective games. To earn additional money,
15 Avia offers players a chance to “participate in mini-games and events such as Lucky Card, Bonus
16 Wheel, Fortuity Wheel, Scratcher, and Lucky Box to win Bonus Cash Prizes.”⁹² Avia’s advertising
17 promises Pocket7Games’s users to “Win Extra Cash with Minigames”, i.e., “[c]laim fabulous extra
18 rewards and even real money by playing classic minigames like Lucky Box, Dice Tour, Fortuity
19 Wheel, and a plethora of other fun features!”⁹³ Those “mini-games” are pure games of chance and
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23 ⁸⁹ 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-opportunity/?sh=10d1ef322340>

25 ⁹⁰ *Id.*

26 ⁹¹ <https://apps.apple.com/US/app/id1402595440?mt=8>

27 ⁹² *Id.*

28 ⁹³ <https://apps.apple.com/us/app/pocket7games-win-cash/id1402595440>

1 Avia does not even claim otherwise. There's no skill whatsoever involved in scratching a scratch-
2 off ticket or turning a fortune wheel. Those games are a pure lottery. Their presence in Avia's
3 gaming environment also challenges Avia's assertions that Avia does not have financial interest
4 in the games. The fact that the players can win cash in the "mini-games" means that in case of the
5 player's success, Avia must be giving the prize "from its own pocket." That is because in those
6 "mini-games", a player is not competing against any other player, but only against the "odds". In
7 the absence of any opponent who would contribute to build the prize pool, the prize cannot be
8 covered but by Avia itself.

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

12 **E. Avia's illegal enterprise is fueled by investors in the gambling scheme.**

13 70. Avia's investors fuel Avia's fraudulent gaming scheme. As illustrated above, RICO
14 Investors disseminated fraudulent statements regarding the skill-based character of Avia's games
15 presented by Avia and its co-founders. RICO Investors are interested in attracting more players to
16 Avia's games because a larger player base boosts the value of their equity. More players means
17 more deposits and better player liquidity. Yet, instead of achieving the growth of Avia's games by
18 improving the quality of user experience, RICO Investors have chosen to join co-founders Ms.
19 Chen and Ms. Wang in tricking consumers to believe they are playing different, more attractive
20 games that they in reality are. Each player tricked by those fraudulent statements translates into
21 larger financial windfall for RICO Investors.

22
23 71. The fact that the deployment of bots makes Avia's games chance-based rather than
24 skill-based also implies that RICO Investors have knowingly and intentionally supported illegal
25 gambling scheme. To offer games of chance, Avia would need to comply with California anti-
26 gambling statutes. Given RICO Investors' proclaimed experience with investment in the gaming
27

1 industry, they must have been aware that games of chance are strictly regulated. The willingness
2 to circumvent such regulation by fraudulently misrepresenting the nature of Avia’s games
3 illustrates RICO Investors’ determination to engage in and support the purpose of the fraudulent
4 racketeering enterprise hidden behind Avia. The fact that the representatives of some of the RICO
5 Investors are members of Avia’s Board of Directors further supports the view that the RICO
6 Investors much have been aware of Avia’s fraudulent activities.

8 V. FRAUDULENT CONCEALMENT AND TOLLING

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

13 73. Avia failed to reveal facts sufficient to put Plaintiffs and the other Class members
14 on inquiry notice. Avia does not inform players that they are matched with computer robots or
15 otherwise impact the outcome of games. Rather, it gives players the false and misleading
16 impression that they are playing against other users by claiming that users “compete against other
17 gamers of equal skill levels.”⁹⁴ It adds that “[m]aking sure that players are matched by skill level
18 has always been a major focus of [its] app development,”⁹⁵ and informs users that it has decided
19 to “allow players to be matched across Avia apps” to allegedly “give players more matching
20 options while maintaining fairness.”⁹⁶

21
22 74. Avia affirmatively misrepresented to players, through omissions, half-truths, and
23 misrepresentations, how it connects the players. It intentionally hid from Plaintiffs and the other
24

25 ⁹⁴ <https://www.pocket7games.com/about-us>

26 ⁹⁵ <https://www.pocket7games.com/support-faq>

27 ⁹⁶ *Id.*

1 Class members that it utilizes computer robots for its own advantage and profits. Indeed, Avia
2 explicitly denies that bots are involved, and affirmatively misleads the users as to the rules of the
3 game and nature of other players.

4 75. Whenever a player had concerns about the nature of the game, Avia responded to
5 dispel those concerns by affirming that only real people compete. This information corresponded
6 to the statements communicated by Avia through all other channels, including Avia's own website,
7 advertisements on various app marketplaces, Ms. Chen's public comments, or and descriptions of
8 Avia on the websites of RICO Investors. Given such consistency, the players had no reason to
9 question those affirmations and continued to play in the belief that they compete with real people.

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

14 77. An ordinary person acting reasonably diligently would not have had the time,
15 resources, or specialized training to uncover the misconduct that plaintiff in that case, through
16 experienced counsel, have alleged in that case.

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

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

10 VI. CLASS ACTION ALLEGATIONS

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

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

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

19 82. The Class members, moreover, can be readily identified and notified in an
20 administratively feasible manner using, among other information, Defendants' own electronic
21 transactional records.

22 83. Plaintiffs' claims are typical of those of the Class. Plaintiffs and all members of the
23 Class claim that Defendants' alleged misconduct violates Cal. Bus. & Prof Code § 17200, *et seq.*,
24 Cal. Civ. Code § 1750, *et seq.*, and the Racketeer Influenced and Corrupt Organizations Act 18
25 U.S.C. § 1961, *et seq.* Plaintiffs and all Class members also allege and will show that they were
26 injured by the same conduct that misled Plaintiffs and the Class into spending money to enter
27

1 tournaments and games that Avia had filled and/or controlled with bots rather than real, human
2 players.

3 84. Plaintiffs will protect and represent the interests of Class members fairly and
4 adequately. The interests of Plaintiffs and Plaintiffs' counsel are fully aligned with, and not
5 antagonistic to, the interests of the Class members. Plaintiffs are willing and able to dispatch the
6 duties incumbent upon a class representative to protect the interests of all Class members. In
7 addition, Plaintiffs' counsel has significant experience successfully prosecuting complex class
8 actions and possesses the necessary resources to vigorously litigate the case to the greatest extent
9 necessary for the Class.
10

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

- 13 a. Whether Avia matches human players against bots or otherwise uses bots
14 to impact outcomes;
- 15 b. Whether Avia's use of bots constitutes illegal gambling;
- 16 c. Whether Avia's and the RICO Defendants' misrepresentations and
17 omissions are false, misleading, deceptive, or likely to deceive reasonable
18 consumers;
- 19 d. Whether Avia's and the RICO Defendants' failure to disclose that it
20 matches human players against robots in tournaments is likely to deceive;
- 21 e. Whether Avia's operations, as described in this Complaint, violate
22 California law;
- 23 f. Whether Plaintiffs and the Class members were damaged by Avia's
24 conduct;
- 25 g. Whether Avia's actions or inactions violated the consumer protection
26 statutes invoked herein;
- 27 h. Whether Avia and the RICO Defendants involved in the Fraudulent Illegal
28 Gambling Enterprise as defined below engaged in a pattern of racketeering;
- i. Whether the Fraudulent Illegal Gambling Enterprise, in whole or in part,
has substantially affected interstate and intrastate commerce; and

1 89. From at least 2017, when Avia was founded, to the present, the affiliation between
2 and among Avia and the RICO Defendants has constituted an association-in-fact enterprise, whose
3 activities have affected interstate commerce.

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

7
8 **A. The Fraudulent Illegal Gambling Enterprise**

9 91. At all relevant times, Avia and the RICO Defendants operated as an association-in-
10 fact enterprise formed for the purpose of providing games of chance without the necessary
11 statutory authorization, thereby engaging in illegal gambling, and which defrauded the public as
12 regards the true nature of those games.

13 92. The Fraudulent Illegal Gambling Enterprise was effectively established in 2017 at
14 the latest, when Ms. Chen and Ms. Wang co-founded Avia and relied on the investment from
15 several venture capital investment funds to support the company. To Plaintiffs' knowledge, the
16 investment came primarily from ACME and Galaxy, i.e., the RICO Investors as defined above.
17 Yet, discovery may show that other unnamed co-conspirators contributed to the enterprise.

18 93. Since its founding, Avia has presented itself as a legitimate online gaming company
19 providing games of skill where players compete against real players in real time. As described
20 above, Avia's website and its advertisements on mobile app marketplaces such as App Store are
21 overflowing with statements extolling the fairness and legality of Avia's games. Similarly, Ms.
22 Chen and the RICO Investors replicate those affirmations in their public statements or
23 proclamations.⁹⁷

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27 ⁹⁷ See, e.g., Vickie Chen, *The Skill-Based Gaming Opportunity*, Forbes, August 9, 2022,
28 <https://www.forbes.com/sites/forbesbusinesscouncil/2022/08/09/the-skill-based-gaming->

1 94. As illustrated at length above, such statements are blatantly false. Avia’s games are
2 populated and/or controlled with bots and the results of the game do not depend on players’ skills,
3 but the mere whims of Avia and the RICO Defendants. The real purpose of the enterprise is not to
4 revolutionize the gaming industry, but to steal money from innocent consumers. The RICO
5 Defendants, through their operation of Avia, strived to attract as many players as possible, incite
6 them to deposit money and wager to participate in cash games, and then, by skillfully rigging the
7 games, siphon money from the players regardless of the players’ skills or their performance in a
8 particular match.
9

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

15 96. Each member of the Fraudulent Illegal Gambling Enterprise shared in the financial
16 windfall generated by the enterprise, and Avia and each RICO Defendant shared in the common
17 purpose of tricking customers into believing that they are playing against real players to increase
18 the attractiveness of the games. The increased attractiveness was reflected in a larger user base.
19 Avia had more customers who deposited their money into the games believing they are playing
20 with real players in real time. Little did they know that they are playing with the bots. A higher
21 deposit pool and a broader player base translated into higher sales and profits for Avia and the
22 RICO Defendants.
23

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26
27 opportunity/?sh=10d1ef322340];
28 <https://interactive.galaxy.com/investments>.

[https://www.acme.vc/our-portfolio/;](https://www.acme.vc/our-portfolio/)

1 97. On top of that, due to the deployment of bots the Avia’s games were games of
2 chance rather than games of skill, Avia and the RICO Defendants effectively established an illegal
3 gambling platform.

4 98. Provision of games by Avia amounts to running an illegal gambling business.
5 Gambling is unlawful unless expressly permitted by statute. Section 1955 prohibiting illegal
6 gambling business states:

7 Whoever conducts, finances, manages, supervises, directs, or owns
8 all or part of an illegal gambling business shall be fined under this
9 title or imprisoned not more than five years, or both. 18 U.S.C. §
10 1955(a) (West).

11 99. Illegal gambling business is defined as:

12 a gambling business which — (i) is a violation of the law of a State
13 or political subdivision in which it is conducted; (ii) involves five or
14 more persons who conduct, finance, manage, supervise, direct, or
15 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).

16 100. According to the statute, gambling:

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

20 101. Certain organizations are exempt from the statute:

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

1 102. No such permissive statute allows gambling in the manner engaged in by Avia.
2 Games offered by Avia are games of chance rather than games of skills. Avia’s games satisfy the
3 three-prong test used in case law to evaluate whether a game is a game of chance rather than a
4 game of skill, i.e., consideration, chance and prize. Avia’s games involve the element of
5 consideration because players must pay for the participation in the games, either through real
6 money or in-game “tickets.” Although it is possible to play Avia’s games using the “free” tickets
7 without having to deposit real money, the investment of those “free” tickets into the game still
8 constitutes consideration because the “free” tickets have a value translatable into real money. In
9 any case, Plaintiffs and the Class wagered real money to play Avia’s games, hence traded value
10 for the chance to win real money.
11

12 103. Avia’s games also involve the element of chance. Avia’s deployment of bots means
13 that the tournaments are not based on skills but determined by chance. The assignment of bots, at
14 best, renders the result of the game random. By having its own bots play in the matches, Avia is
15 financially interested in those matches and is able to determine their results at its whim.
16

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

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

25 106. Avia’s games constitute illegal gambling also under California law. California
26 Penal Code, section 330 states:
27
28

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

13 107. That Avia’s games constitute illegal gambling under California law is confirmed
14 by the case law. For example, the game of blackjack, which is provided by Avia under the name
15 “21 Gold”, is clearly prohibited by California law. “The operation of a “blackjack” game is clearly
16 prohibited by West’s Ann.Cal.Pen. Code, section 330 and, thus, is violative of this section’s
17 prohibition against illegal gambling businesses.” *United States v. Graham*, 534 F.2d 1357 (9th Cir.
18 1976).

19 108. The Fraudulent Illegal Gambling Enterprise engaged in, and its activities affected
20 interstate and foreign commerce, because it involved commercial activities across state boundaries,
21 such as the marketing, promotion, advertisement and sale of Avia’s games throughout the country,
22 as well as the receipt of monies from the sale of the same.

23 109. At all relevant times, Avia and the RICO Defendants have been “persons” under 18
24 U.S.C. § 1961(3) because they are capable of holding, and do hold, “a legal or beneficial interest
25 in property.”

26 110. Within the Fraudulent Illegal Gambling Enterprise, there was a common
27 communication network by which Avia and the RICO Defendants shared information on a regular
28 basis.

Each participant in the Fraudulent Illegal Gambling Enterprise had a systemic
linkage to each other through corporate ties, contractual relationships, factual relationships, and

1 continuing coordination of activities. These links provide evidence that the Fraudulent Illegal
2 Gambling Enterprise is something more than a group of entities who agreed to commit a pattern
3 of racketeering activity. It has a specific structure through which Avia and the RICO Defendants
4 pursued the common purpose.

5 112. Through the Fraudulent Illegal Gambling Enterprise, Avia and the RICO
6 Defendants functioned as a continuing unit with the purpose of furthering the illegal scheme and
7 their common purpose of increasing Avia's revenues and profits.
8

9 113. While the RICO Defendants participated in, or are members of, the Fraudulent
10 Illegal Gambling Enterprise, they have a separate existence from that enterprise, including distinct
11 legal statuses and individual personhood.

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

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

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

19 b. Wire Fraud: Avia and the RICO Defendants violated 18 U.S.C. § 1343
20 being engaged in an unlawful scheme to defraud involving false pretenses,
21 misrepresentations, promises, and omissions. In furtherance of this scheme,
22 Avia and the RICO Defendants relied on the interstate wires.
23

24 115. Avia's and the RICO Defendants' use of the wires include, but is not limited to: (a)
25 the transmission of marketing and other materials through the internet media indicating that Avia's
26 games are games of skill where players compete in time against real human players; (b) the
27

1 accessibility of the game applications through the Internet and the transmission of the games
2 through such online applications; and (c) the receipt of the deposits from the players by means of
3 the online transfers and related payment services.

4 116. Avia and the RICO Defendants participated in the scheme to defraud by using the
5 Internet and wires to transmit information in interstate and foreign commerce. In devising and
6 executing the illegal scheme, Avia and the RICO Defendants devised and knowingly carried out a
7 material scheme and/or artifice to defraud Plaintiffs and the Class or to obtain money from
8 Plaintiffs or the Class by means of materially false or fraudulent pretenses, representation,
9 promises, or omissions of material facts.

10 117. For the purposes of executing the illegal scheme, Avia and the RICO Defendants
11 committed these racketeering acts intentionally and knowingly with specific intent to advance the
12 illegal scheme.

13 118. The Fraudulent Illegal Gambling Enterprise has remained in existence for several
14 years, enabling its members to pursue the enterprise's purpose.

15 119. The above-described racketeering activities amounted to a common course of
16 conduct intended to deceive and harm Plaintiffs and the Class.

17 120. Each instance of racketeering was related, had a common purpose, was carried out
18 with similar participants and methods, and impacted Plaintiffs and the Class in the same manner.
19 The racketeering activities therefore constitute a continuing threat to Plaintiffs and the Class.

20 **VIII. CAUSES OF ACTION**

21 FIRST COUNT

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

25 121. Each of the preceding paragraphs is incorporated by reference as though fully set
26 forth herein.

1 122. 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.

5 123. 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.

8 124. 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.”

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

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

15 127. 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
23 conditions of participation in a contest.” Avia violates these provisions because it fails to disclose
24 that it has filled or controlled its games with bots.
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1 128. The games in Avia’s applications are “contests” within the meaning of Cal. Civ.
2 Code § 17539.1 because they are “any game, contest, puzzle, scheme, or plan that holds out or
3 offers to prospective participants the opportunity to receive or compete for gifts, prizes, or
4 gratuities as determined by skill or any combination of chance and skill and that is, or in whole or
5 in part may be, conditioned upon the payment of consideration.” Cal. Civ. Code § 17539.3.

6 129. As a result of engaging in the conduct alleged in this Complaint, Avia has also
7 violated the UCL’s proscription against engaging in “unlawful” conduct by virtue of its violations
8 of the following laws:
9

10 a. California Penal Code § 337j(a)(1): By “operat[ing], carry[ing] on,
11 conduct[ing], maintain[ing], or expos[ing] for play” unlicensed gambling in
12 the state, Avia violates section 337j(a)(1).

13 b. California Penal Code § 337j(a)(2): By “receiv[ing], directly or indirectly,
14 any compensation or reward or any percentage or share of the revenue, for
15 keeping, running, or carrying on any controlled game,” Avia violates
16 section 337j(a)(2).

17 c. California Penal Code § 330a: Section 330a states that “[e]very person, who
18 has in his or her possession or under his or her control . . . or who permits
19 to be placed, maintained, or kept in any room, space, enclosure, or building
20 owned, leased, or occupied by him or her, or under his or her management
21 or control, any slot or card machine, contrivance, appliance or mechanical
22 device, upon the result of action of which money or other valuable thing is
23 staked or hazarded, and which is operated, or played, by placing or
24 depositing therein any coins, checks, slugs, balls, or other articles or device,
25 or in any other manner and by mean whereof, or as a result of the operation
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1 of which any merchandise, money, representative or articles of value,
2 checks, or tokens, redeemable in or exchangeable for money or any other
3 thing of value, is won or lost, or taken from or obtained from the machine,
4 when the result of action or operation of the machine, contrivance,
5 appliance, or mechanical device is dependent upon hazard or chance . . . is
6 guilty of a misdemeanor.” Avia violates the UIGEA because it operates
7 illegal gambling applications over the Internet for money and in-game cash.
8

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

15 e. The Unlawful Internet Gambling Enforcement Act of 2006 (31 U.S.C. §§
16 5361-5367) (the “UIGEA”): The UIGEA makes it illegal for a “person
17 engaged in the business of betting or wagering” to knowingly accept
18 payments “in connection with the participation of another person in
19 unlawful Internet gambling.” 31 U.S.C. § 5633. “Unlawful Internet
20 Gambling” is placing, receiving, or transmitting a bet or wager through, at
21 least in part, the Internet where such bet or wager “is unlawful under any
22 applicable Federal or State law in the State or Tribal lands in which the bet
23 or wager is initiated, received, or otherwise made.” 15 U.S.C. § 5362(10)(a).
24 Avia violates the UIGEA because it operates illegal gambling applications
25 over the Internet for money and in-game cash.
26

1 illegal practices. Otherwise, Plaintiffs and the Class members may be irreparably harmed and/or
2 denied effective and complete remedy if such an order is not granted.

3 139. Avia had a duty not to mislead consumers about participating in games of skill
4 against real, live players. The ability to play against real people is material in that a reasonable
5 person would have considered it important in deciding whether to enter Defendant's tournaments.
6

7 140. Avia's concealment, omissions, misrepresentations, and deceptive practices, in
8 violation of the CLRA, were designed to induce and did induce Plaintiffs and Class members to
9 pay money to enter tournaments.

10 141. On information and belief, Avia intentionally, willfully, and consciously acted to
11 misrepresent and omit material information regarding its tournaments to Plaintiffs and the Class,
12 in order to deceive and illicit payment from them to enter its tournaments.

13 142. Avia's acts, practices, representations, omissions, and courses of conduct with
14 respect to the class that users could enter tournaments to play games of skill against real, live
15 players violated the CLRA in that, among other things: it violated § 1770(a)(5) because it filled or
16 controlled these contests with bots; and violated § 1770(a)(9) by advertising its tournaments as
17 games of skill played against real, human players, when in reality it filled or controlled its games
18 with bots.

19 143. Avia's acts, practices, representations, omissions, and courses of conduct with
20 respect to the participants in its tournaments violate the CLRA in that, among other things: it
21 violated and continues to violate § 1770(a)(5) because Avia knowingly failed to disclose and
22 continues to fail to disclose that it fills its tournaments with bots, which is information that is solely
23 in Avia's possession and which is material to consumers purchasing decisions; violated and
24 continues to violate § 1770(a)(9) because Avia knowingly advertised and advertises that its
25 tournaments are games of skill played against real, human players when Avia fills its tournaments
26

1 with bots, which is information that is solely in Avia’s possession and which is material to
2 consumers purchasing decisions.

3 144. Avia’s acts and practices, undertaken in transactions intended to result and which
4 did result in consumers entering tournaments violate Civil Code § 1770 and caused harm to
5 Plaintiffs and Class members.

6 145. In accordance with Cal. Civ. Code § 1780(a), Plaintiffs and the Class members seek
7 injunctive and equitable relief for violations of the CLRA, including restitution and disgorgement.
8

9 146. Plaintiffs reserve the right to amend the Complaint to seek damages within thirty
10 (30) days of Plaintiffs’ notice to Avia under Cal. Civil Code § 1782.

11 THIRD COUNT

12 Violation of the federal Racketeer Influenced and Corrupt Organizations Act
13 18 U.S.C. § 1962(c) and (d)
(Against the RICO Defendants)

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

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

20 149. Section 1962(d) makes it unlawful for “any person to conspire to violate” Section
21 1962(c), among other provisions. 18 U.S.C. § 1962(d).

22 150. To carry out, or attempt to carry out the scheme to provide games of chance for
23 money without complying with the applicable statutory regulation, RICO Defendants knowingly
24 conducted or participated, directly or indirectly, in the affairs of a RICO enterprise through a
25 pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5) and 1962(c).
26

1 regulation, in violation of California anti-gambling laws. In addition, the RICO Defendants
2 violated 18 U.S.C. § 1343 by engaging in an unlawful scheme to defraud involving false pretenses,
3 misrepresentations, promises, and omissions. In furtherance of this scheme, the RICO Defendants
4 used the interstate wires, as alleged above.

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

13 158. By reason of, and as a result of, the conduct of RICO Defendants, and the pattern
14 of racketeering activity, Plaintiffs and the Class have been injured in their property.

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

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21 FOURTH COUNT

22 Violation of the federal Racketeer Influenced and Corrupt Organizations Act
23 18 U.S.C. § 1962(a)
24 (Against Avia and the RICO Defendants)

25 160. Plaintiffs incorporate and reallege, as though fully set forth herein, each and every
26 allegation set forth in the preceding paragraphs of this Complaint.
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1 161. Plaintiffs seek monetary and injunctive relief on behalf of themselves and all other
2 members of the Class under the federal Racketeer Influenced and Corrupt Organizations Act 18
3 U.S.C. § 1962(a).

4 162. Section 1962(a) makes it “unlawful for any person who has received any income
5 derived, directly or indirectly, from a pattern of racketeering activity or through collection of an
6 unlawful debt in which such person has participated as a principal within the meaning of section
7 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or
8 the proceeds of such income, in acquisition of any interest in, or the establishment or operation of,
9 any enterprise which is engaged in, or the activities of which affect, interstate or foreign
10 commerce.” 18 U.S.C. § 1962(a).

11 163. To carry out the racketeering scheme subsisting in the provision of games of chance
12 for money without complying with the applicable statutory regulation, Avia and the RICO
13 Defendants knowingly used or invested part of the income or the proceeds of such income in
14 acquisition of interest in, or the establishment or operation of the RICO enterprise through a pattern
15 of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1), 1961(5) and 1962(a).

16 164. On information and belief, Avia and the RICO Defendants used the proceeds
17 derived directly or indirectly from the pattern of racketeering activity by the Fraudulent Illegal
18 Gambling Enterprise to maintain, control and expand the said enterprise.

19 165. Avia and the RICO Defendants received and benefited from the income derived
20 from the pattern of racketeering activity. Avia received that profit by collecting the deposits and
21 related processing fees and payments made by the players. Ms. Chen received remuneration or
22 compensation for her work as Avia’s CEO. Similarly, Ms. Wang received remuneration or
23 compensation for her work as Avia’s VP of Strategy & Business Development. The RICO
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1 Investors received dividends or other returns on their ownership interest from Avia’s corporate
2 profits.

3 166. Avia and the RICO Defendants used the income received from Avia in operation
4 of the alleged Fraudulent Illegal Gambling Enterprise and to further the alleged fraudulent scheme.
5 Avia used the income from that enterprise to support its further operations, such as provide salaries
6 to Avia’s employees, purchase necessary equipment, pay operating costs etc. It may have also used
7 the profits from the racketeering enterprise to increase its capital and/or buy its own shares. Avia
8 would not have such resources if it weren’t for the racketeering activity, which constituted its
9 “regular” way of doing business. The RICO Investors either (a) increased their share in the
10 enterprise after they already participated in the enterprise, i.e., after they received profits from the
11 enterprise itself as described above or (b) saw their investment grow in Avia as a result of the
12 Fraudulent Illegal Gambling Enterprise. Similarly, Ms. Chen and Ms. Wang continued control and
13 influence over the racketeering enterprise was made possible thanks to their previous involvement
14 in the racketeering enterprise. The remuneration or consideration they received for their work for
15 the enterprise allowed them to continue being engaged in the activities of the enterprise. The
16 racketeering activities by the Fraudulent Illegal Gambling Scheme were a “regular” way through
17 which Ms. Chen and Ms. Wang earned (part of) their income.
18

19 167. Avia and the RICO Defendants used income derived from an illegal gambling
20 enterprise in violation of 18 U.S.C. § 1955, as explained above. In addition, Avia and the RICO
21 Defendants used income derived from the unlawful scheme to defraud which involved false
22 pretenses, misrepresentations, promises and omissions in violation of 18 U.S.C. § 1343. In
23 furtherance of this scheme, Avia and the RICO Defendants relied on the interstate wires. Interstate
24 wires were also used to extract and use the income from that enterprise.
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1 168. In addition to the use of wire described above, Avia and the RICO Defendants relied
2 on wires to receive the income and invest it in the Fraudulent Illegal Gambling Enterprise. They
3 likely: (a) received the income through an online wire; (b) deposited such receipt back in the
4 Fraudulent Illegal Gambling Enterprise through an online wire; and (c) relied on email or other
5 forms of electronic communication to exchange information about such reception and usage of the
6 income.

7
8 169. It follows that Avia and the RICO Defendants profited from and supported the
9 illegal gambling and fraudulent scheme of the Fraudulent Illegal Gambling Enterprise by using the
10 Internet and wires to transmit information in interstate and foreign commerce.

11 170. As the Fraudulent Illegal Gambling Enterprise has remained in existence for several
12 years, Avia and the RICO Defendants used or invested the profit derived from that enterprise for
13 a significant amount of time.

14 171. Avia's and RICO Defendants' usage or investment of the profit was driven by a
15 common objective to expand the scope and magnitude of the alleged Fraudulent Illegal Gambling
16 Enterprise, and thereby deceive and harm Plaintiffs and the Class.

17 172. The support of the alleged RICO Enterprise through re-investment of the profits
18 derived from such enterprise was carried out by the same participants and methods, and impacted
19 Plaintiffs and the Class in the same manner. Such activities therefore constitute a continuing threat
20 to Plaintiffs and the Class.

21
22 173. As a direct and proximate cause of the above-described investment and/or use of
23 income from the alleged Fraudulent Illegal Gambling Enterprise, Plaintiffs have been injured in
24 their property within the meaning of 18 U.S.C. § 1964(c).

25 174. Plaintiffs' injuries result from the use and/or investment of racketeering income.
26 The income generated by providing games of chance outside applicable statutory regulation and
27

1 by fraudulently misrepresenting the true nature of those games has been used to solicit further
2 players for the games, including Plaintiffs and the members of the Class, develop the bots to play
3 in the games including in games with Plaintiffs and the members of the Class, or hire employees
4 to process the operation of the Avia’s business including in interactions with Plaintiffs and the
5 members of the Class etc.

6 175. The violations alleged herein constitute a pattern of racketeering activity damaging
7 Plaintiffs by reason of violation of 18 U.S.C. § 1962(a), for which Plaintiffs are entitled to treble
8 damages, injunctive/equitable relief, costs of suit and reasonable attorney fees’ pursuant to 18
9 U.S.C. § 1964(c).

10
11 FIFTH COUNT

12 Violation of the federal Racketeer Influenced and Corrupt Organizations Act
13 18 U.S.C. § 1962(b)
(Against Avia and the RICO Defendants)

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

16 177. Plaintiffs seek monetary and injunctive relief on behalf of themselves and all other
17 members of the Class under the federal Racketeer Influenced and Corrupt Organizations Act 18
18 U.S.C. § 1962(b).

19 178. Section 1962(b) makes it “unlawful for any person through a pattern of racketeering
20 activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any
21 interest in or control of any enterprise which is engaged in, or the activities of which affect,
22 interstate or foreign commerce.” 18 U.S.C. § 1962(b).

23 179. Avia and the RICO Defendants have acquired or maintained, directly or indirectly,
24 interest in or control of an enterprise engaged in interstate or foreign commerce through a pattern
25 of racketeering activity.
26

1 Illegal Gambling Enterprise as a whole. It might have also gained an interest or control of itself
2 through the purchase of outstanding shares of stock with the proceeds from the pattern of
3 racketeering.

4 185. Similarly, the RICO Defendants acquired or maintained interest or control of the
5 Fraudulent Illegal Gambling Enterprise by using the income derived from their current interest in
6 that enterprise and/or by using their current interest or control to further increase their influence
7 and control over the Fraudulent Illegal Gambling Enterprise.

8 186. In doing so, Avia and the RICO Defendants were driven by a common purpose to
9 support the Fraudulent Illegal Gambling Enterprise in its racketeering activities as described
10 above. More investment in the Fraudulent Illegal Gambling Enterprise means that the enterprise
11 has more resources to advance its racketeering scheme.

12 187. Avia and the RICO Defendants violated 18 U.S.C. § 1955 by acquiring or
13 maintaining an interest in or control of an enterprise, which is itself engaged in racketeering
14 activity, by means of investing the income earned through the provision of games of chance
15 without complying with the relevant anti-gambling statutory regulation. The Fraudulent Illegal
16 Gambling Enterprise was built on an illegal gambling scheme and Avia and the RICO Defendants
17 have controlled that scheme.

18 188. Avia and the RICO Defendants also violated 18 U.S.C. § 1343 by engaging in an
19 unlawful scheme to defraud involving false pretenses, misrepresentations, promises, and
20 omissions, to acquire or maintain an interest in or control of the illegal gambling enterprise
21 described above. Avia and the RICO Defendants used the interstate wires to obtain or maintain
22 their interest in or control of the enterprise engaged in illegal gambling.

23 189. In addition to the use of wires described above, Avia's and the RICO Defendants'
24 use of the wire should include, but is not limited to: (a) the wire transfers to purchase ownership
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1 interest in Avia; (b) the receipt of those investments by Avia; (c) the transmission of the related
2 communication among Avia and the RICO Defendants via email or other forms of electronic
3 communication; or (d) the transmission of instructions to effectuate control among Avia and the
4 RICO Defendants via email or other forms of electronic communication.

5
6 190. Avia and the RICO Defendants engaged in a common course of conduct intended
7 to maintain or increase their interest in or control of the enterprise, which was itself engaged in
8 racketeering activities. They invested the proceeds from racketeering activities to further support
9 that racketeering activity. They acted intentionally and knowingly with specific intent to advance
10 the illegal scheme.

11 191. As alleged above, the Fraudulent Illegal Gambling Enterprise has remained in
12 existence for several years. This enabled Avia and the RICO Defendants to keep earning funds to
13 support the operation of the alleged enterprise. Avia and the RICO Defendants acted in concert to
14 maintain or increase their control over the alleged Fraudulent Illegal Gambling Enterprise. The
15 expansion of the racketeering enterprise has been in the common interest of Avia and the RICO
16 Defendants, as it has increased the value of the company or their investment, respectively.

17
18 192. Each of the investments involved was related, had a common purpose, was carried
19 out with similar participants and methods, and impacted Plaintiffs and the Class in the same
20 manner. The racketeering activities constitute a continuing threat to Plaintiffs and the Class. Avia
21 keeps profiting from the illegal gambling scheme to increase its corporate profits and RICO
22 Defendants keep earning money from operating that illegal gambling scheme which they can freely
23 re-invest back to operate or increase their presence in the Fraudulent Illegal Gambling Enterprise.

24 193. By reason of, and as a result of the conduct of Avia and the RICO Defendants, and
25 their investment in or control of the Fraudulent Illegal Gambling Enterprise, Plaintiffs and the
26 Class have been injured in their property within the meaning of 18 U.S.C. § 1964(c).

1 adopting or following any practice, plan, program, or device having a similar
2 purpose or effect;

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

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

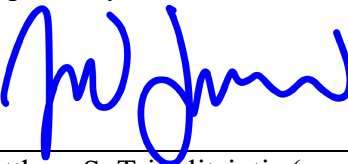
7 G. Plaintiffs and the members of the Class be awarded any other relief as the case may
8 require and the Court may deem just and proper.
9

10 **X. JURY TRIAL DEMAND**

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

13 Dated: November 17, 2023

14 Respectfully submitted,

15 

16 /s/

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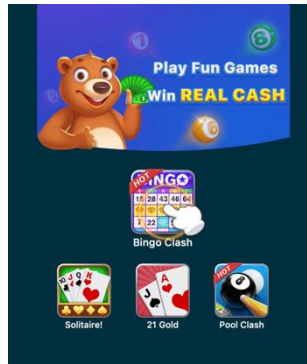
Appendix A: Description of Avia's games

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.⁹⁸ 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.⁹⁹ Players receive points for the number of cards

⁹⁸ <https://www.pocket7games.com/all-in-one-games>

⁹⁹ <https://www.pocket7games.com/onlinesolitaire>

1 they can put in order and the speed with which they can put the cards in order.¹⁰⁰ The player with
 2 the highest score wins.



14 5. On the App Store, Avia describes Solitaire! as “[a] fun new take on a classic card
 15 game.”¹⁰¹ It invites the players to “[t]est [their] Solitaire skill against opponents and make money
 16 at the same time!”¹⁰² In the “Explore Fun Features” section of the game’s description on the App
 17 Store, it is noted that players should expect to “[m]atch with real players of similar skill levels to
 18 compete in classic, fun, and fair skill-based cash games!”¹⁰³ At the beginning of the game, a player
 19 is told that the app is “[l]ooking for [their] Opponent” for the game.
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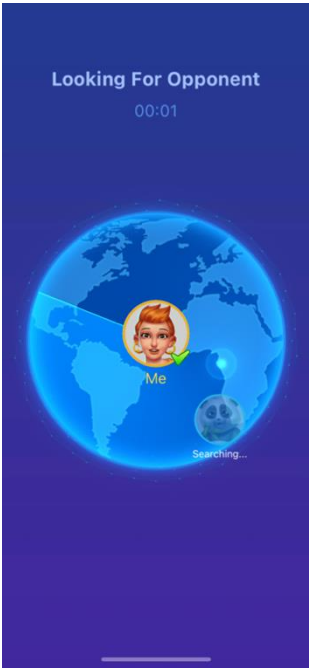
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 25 ¹⁰⁰ *Id.*

¹⁰¹ <https://apps.apple.com/US/app/id1402595440?mt=8> [last accessed 10-05-2023]

26 ¹⁰² *Id.*

27 ¹⁰³ *Id.*

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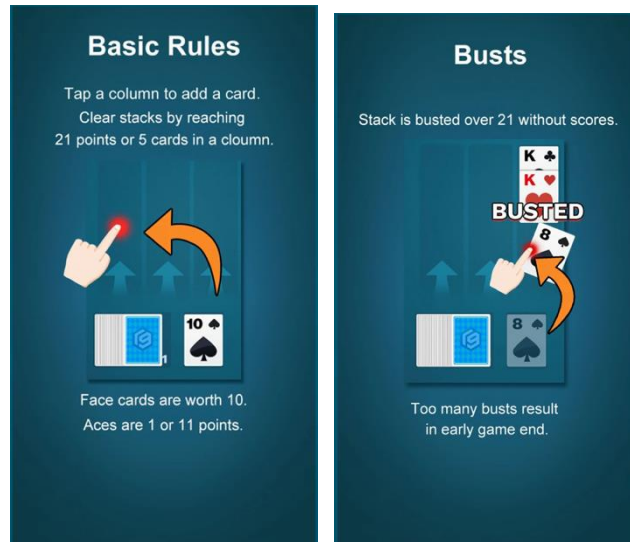
6. At the end of the game, a player is directed to a scoreboard with their score ranked among scores of other “players” that supposedly played the game with the player.

(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.¹⁰⁴ 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.¹⁰⁵

¹⁰⁴ <https://www.pocket7games.com/21-gold>

¹⁰⁵ *Id.*



8. On the App Store, Avia describes 21 Gold as “[a] lightning-fast version of classic casino Blackjack.”¹⁰⁶ 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!”¹⁰⁷ 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!”¹⁰⁸ 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

10. Pool Clash mimics a traditional game of pool. The goal is to pocket the balls in the sockets of the pool table.¹⁰⁹ When a ball goes into a pocket, the ball number is multiplied by the

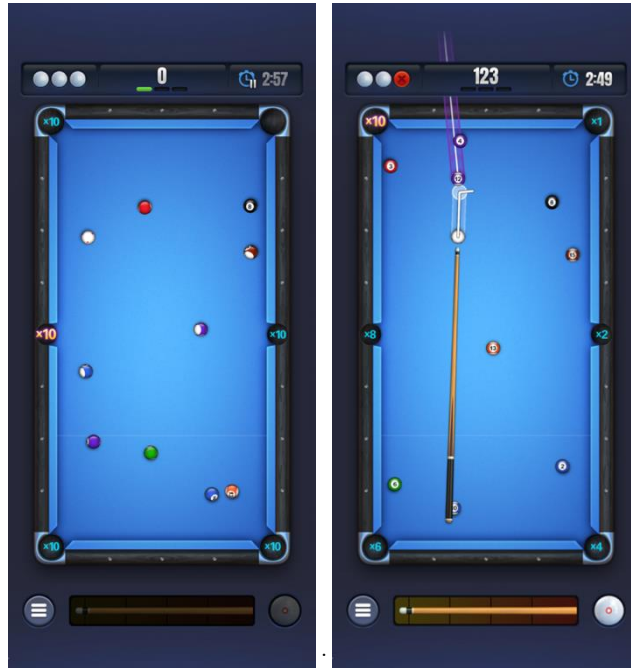
¹⁰⁶ <https://apps.apple.com/US/app/id1402595440?mt=8> [last accessed 10-05-2023]

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ <https://www.pocket7games.com/pool-clash>

1 pocket multiplier, and the total is the base score. A player who reaches the highest score within
 2 the given time limit wins.¹¹⁰



13
14 11. On the App Store, Avia advertises Pool Clash as a “fast-paced version of the classic
 15 billiards game.”¹¹¹ It invites players to “[g]o head-to-head against opponents and strategize to
 16 defeat them!”¹¹² Under the “Play Against Real Players” caption, the App Store’s description
 17 promises future players that they will be “[m]atch[ed] with real players of similar skill levels” so
 18 that they can “compete in classic, fun, and fair skill-based cash games!”¹¹³ At the beginning of the
 19 game, players are told that the app is “[l]ooking for [their] Opponent” for the game.

20 12. At the end of the game, a player is directed to a scoreboard with their score ranked
 21 among scores of other “players” that supposedly played the game with the player.
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25 ¹¹⁰ *Id.*

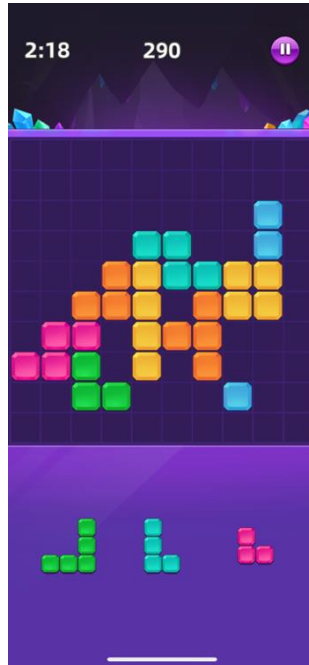
¹¹¹ <https://apps.apple.com/US/app/id1402595440?mt=8> [last accessed 10-05-2023]

26 ¹¹² *Id.*

27 ¹¹³ *Id.*

1 **(4) Tile Blitz**

2 13. Tile Blitz is similar to the classic game Tetris. The goal of the game is to fit in the
3 different tile shapes to complete rows and columns on the game board.¹¹⁴ A player is given three
4 sets of different tile shapes and their task is to place them on the game board in the most suitable
5 manner. The player who completes more rows and/or columns within the given time limit wins.¹¹⁵
6



17 14. The App Store’s advertisement describes Tile Blitz as follows: “Tetris fans will
18 love this block game. This brain game gives you the chance to improve your spatial reasoning and
19 earn money along the way.”¹¹⁶

20 15. Avia states that players face off real players and compete based on skill: “Play
21 Against Real Players – Match with real players of similar skill levels to compete in classic, fun,
22
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25 ¹¹⁴ <https://www.pocket7games.com/tile-blitz>

26 ¹¹⁵ *Id.*

27 ¹¹⁶ <https://apps.apple.com/US/app/id1402595440?mt=8> [last accessed 10-05-2023]

1 and fair skill-based cash games!”¹¹⁷ At the beginning of the game, players are told that the app is
2 “[l]ooking for [their] Opponent” for the game.

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

5 **(5) Dunk Shot**

6 17. Dunk Shot is an online basketball game. A player scores points by shooting the ball
7 into the hoop. The game ends when a player finishes three minutes of playing or runs out of balls.
8 The player with the most points scored wins.¹¹⁸
9



19 18. Avia states that the players face off players in real time: “In this ball shooter game,
20 you score points by shooting the ball into the hoop and compete against other players in real
21 time.”¹¹⁹
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¹¹⁷ *Id.*

26 ¹¹⁸ <https://www.pocket7games.com/dunk-shot> [last accessed 10-05-2023]

27 ¹¹⁹ *Id.*

1 **(6) Dominoes**

2 19. Dominoes is a classic dominoes game. The goal is to place the dominoes tiles to
3 match the number of dots to the connecting end of other tiles. There are 28 dominoes tiles in total.
4 Each of the two players receives 7 tiles and competes against a computer. The player who beats
5 the computer by more points than the opponent wins.¹²⁰



15 20. Avia promises the players that they “can win big cash prizes by playing this
16 dominoes game online.”¹²¹

17 **(7) Fruit Frenzy**

18 21. Fruit Frenzy is a fruit matching game. The goal is to match fruits by swiping and
19 connecting identical fruits to create explosive combinations and thereby earn points. The more
20 fruits a player matches within the two minutes time limit, the higher score they get.¹²²

25 ¹²⁰ <https://www.pocket7games.com/dominoes> [last accessed 10-05-2023]

26 ¹²¹ *Id.*

27 ¹²² <https://www.pocket7games.com/fruit-frenzy> [last accessed 10-05-2023]



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.”¹²³ It adds that “Pocket7Games ensures fair matchups by pairing players with similar skill sets, ensuring a fun and balanced gameplay experience.”¹²⁴

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

¹²³ *Id.*

¹²⁴ *Id.*

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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.¹²⁵



¹²⁵ <https://www.pocket7games.com/explodocube>

(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.¹²⁶



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?”¹²⁷

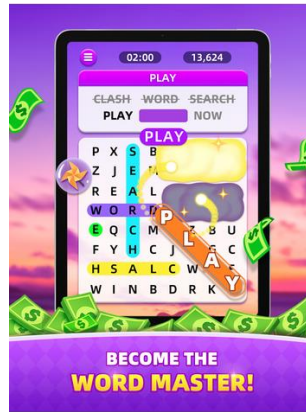
(10) Word Search

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

¹²⁶ <https://www.pocket7games.com/2048> [last accessed 10-05-2023]

¹²⁷ *Id.*

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



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 10 28. Avia promises that “Word Search is a social game that you will match [sic] with
 11 other players.” It recommends to “[g]et ready to put [player’s] skills to the test!”¹²⁸ The app
 12 describes the game as a “REAL PLAYER COMPETITION!” with a “HUGE PRIZE POOL”.



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

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

23
 24 **(1) Bingo Clash**

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 26
 27 ¹²⁸ <https://www.pocket7games.com/wordsearch> [last accessed 10-05-2023]

30. Avia describes Bingo Clash as the “classic Bingo game with a twist.”¹²⁹ 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.¹³⁰ 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.



¹²⁹ <https://www.pocket7games.com/bingo-clash>

¹³⁰ 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.

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



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10 33. Avia also claims that it matches players up with “real players of similar skill levels
11 to compete in classic, fun, and fair skill-based cash games!”¹³¹

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13 34. The company also states that “Bingo Clash is a trusted and legitimate bingo
14 game that provides players with an authentic and enjoyable gaming experience,”¹³² and prods
15 consumers to “[d]ownload now and turn your skills into dollar bills!”¹³³

16 35. As of the filing of this Complaint, Bingo Clash is the #4 game in the Casino
17 category on the Apple App store.¹³⁴

18 **(2) Match n Flip**

19 36. Similar to UNO rules, the goal of Match n Flip is to match the cards on the game
20 board with the cards on a player’s deck, following a sequence of colors or numbers.¹³⁵ The number
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22
23 ¹³¹ <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531> [last accessed 10-05-
24 2023]

25 ¹³² <https://www.pocket7games.com/bingo-clash>

26 ¹³³ <https://apps.apple.com/US/app/id1523820531?mt=8>

27 ¹³⁴ <https://apps.apple.com/us/app/bingo-clash-win-real-cash/id1523820531>

28 ¹³⁵ <https://www.pocket7games.com/match-n-flip>

1 of points a player earns increases as the player makes more consecutive matches.¹³⁶ When a player
 2 runs out of moves, they can flip a new card from the stack of “UNO” cards or use wildcards to
 3 help them progress through. A player who accumulates the most points within the given timeframe
 4 wins.¹³⁷

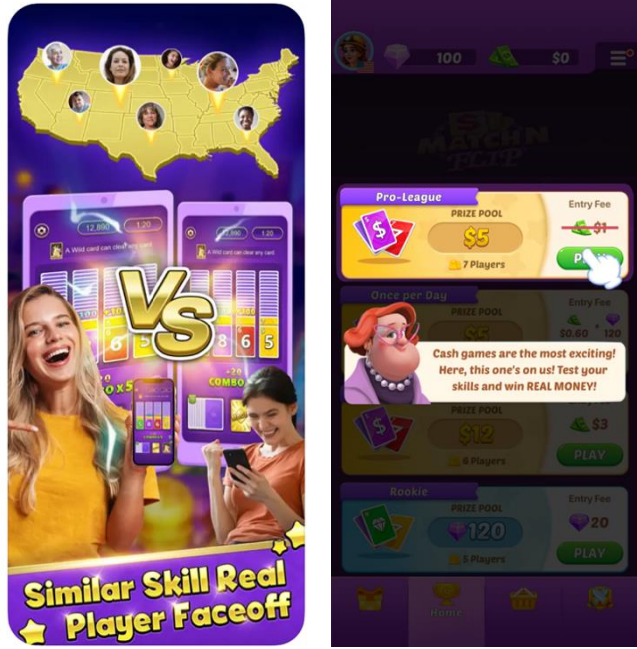


16 37. Avia advertises Match n Flip as a game of skill, and claims that players play against
 17 real players. According to the App Store’s description, Match n Flip allows a player to “[m]atch
 18 with real players of similar skill levels to play class, fun, and fair skill-based cash games[.]”¹³⁸ The
 19 game invites the players to “[t]est [their] skills and win REAL MONEY!” At the beginning of the
 20 game, players are instructed to wait until the app finds them their purported “opponents” for the
 21 game.

25 ¹³⁶ *Id.*

26 ¹³⁷ *Id.*

27 ¹³⁸ <https://apps.apple.com/US/app/id1632870437?mt=8> [last accessed 10-05-2023]



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.

(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.¹³⁹ Once the announcer reads a bingo number, the player has to click the number (“daub”) on their bingo board.¹⁴⁰ Reaching five

¹³⁹ <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>.

¹⁴⁰ *Id.*

1 numbers in a row is a bingo. Players receive points for the speed they select the called numbers
 2 and the number of bingos they call within the given time limit.¹⁴¹



15 41. Avia describes Bingo Tour as “the classic Bingo game you love with a fresh
 16 twist!”¹⁴² “It is like a bingo casino, where fast paced online bingo and a user friendly multiplayer
 17 setup combine to offer thrilling gameplay and money winning opportunities.”¹⁴³

18 42. Avia represents that the game is a game of skill, and that players play against real
 19 players. Its App Store advertisement states that Bingo Tour “[m]atches [a player] with real players
 20 of similar skill levels” so that they can “play classic, fun, and fair skill-based cash games[].”¹⁴⁴ At
 21 the beginning of each game, players are invited to wait until the app finds them purported
 22 “opponents” for the game.
 23

24
 25 ¹⁴¹ *Id.*

¹⁴² <https://apps.apple.com/US/app/id1594170490?mt=8>

¹⁴³ <https://www.pocket7games.com/bingo-tour>

¹⁴⁴ <https://apps.apple.com/US/app/id1594170490?mt=8> [last accessed 10-05-2023]



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.

44. As of the filing of this Complaint, Bingo Tour is the #8 game in the Casino category on the Apple App store.¹⁴⁵

(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.”¹⁴⁶ Players receive points for the number of cards they can put in order and the speed with which they can do that.

¹⁴⁵ <https://apps.apple.com/us/app/bingo-tour-win-real-cash/id1594170490>

¹⁴⁶ <https://apps.apple.com/us/app/solitaire-clash-win-real-cash/id1589643727>



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 multiplayer card game solitaire tournaments where you can compete against players of similar skill levels and even have the opportunity to win real money.”¹⁴⁷ 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!”¹⁴⁸

48. As of the filing of this Complaint, Solitaire Clash is the #2 game in the Casino category on the Apple App store.¹⁴⁹

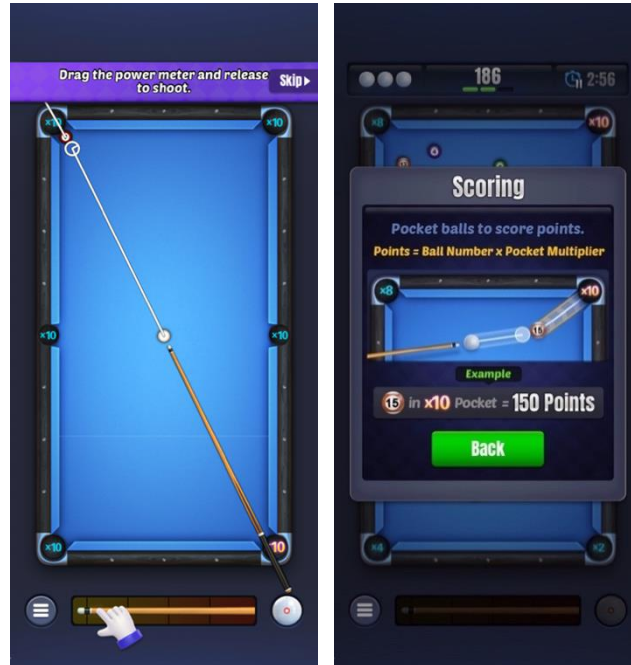
(3) 8 Ball Strike

¹⁴⁷ <https://www.pocket7games.com/solitaire-clash>

¹⁴⁸ <https://apps.apple.com/us/app/solitaire-clash-win-real-cash/id1589643727> [last accessed 10-05-2023]

¹⁴⁹ *Id.*

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.¹⁵⁰ 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.¹⁵¹



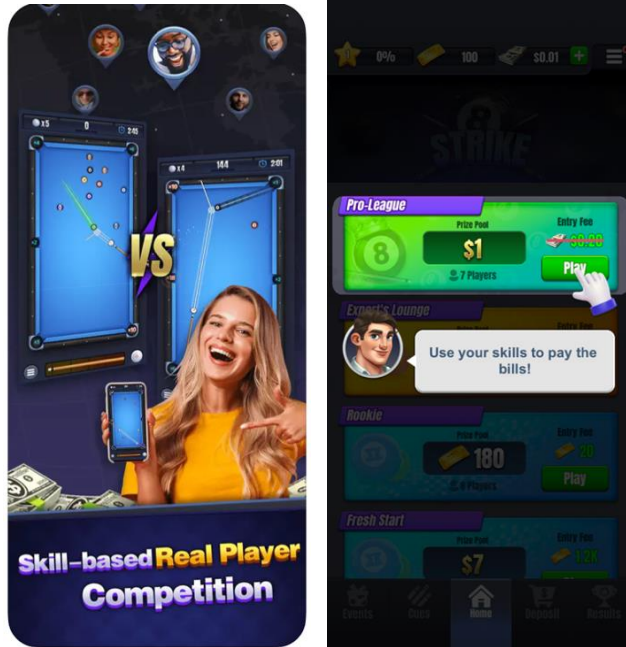
50. Avia represents that 8 Ball Strike is a game of skill, and that players play against real players. Its App Store advertisement states that players are “[m]atch[ed] with real players of similar skill levels to play classic, fun, and fair skill-based cash games[.]”¹⁵² It adds that “[a]nyone can play this simple pool game, but it takes skill to walk away a champion.”¹⁵³ The game invites players to “[u]se [their] skills to pay the bills!”

¹⁵⁰ <https://www.pocket7games.com/8-ball-strike>

¹⁵¹ *Id.*

¹⁵² <https://apps.apple.com/US/app/id1637363937?mt=8> [last accessed 10-05-2023]

¹⁵³ *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.¹⁵⁴

(4) Bubble Buzz

53. The goal of Bubble Buzz is to clear bubbles by matching three or more bubbles of the same color.¹⁵⁵ The more bubbles a player clears, the more points they score.¹⁵⁶ The player who gets the highest score by popping the most bubbles in a given time frame wins.

¹⁵⁴ <https://apps.apple.com/US/app/id1637363937?mt=8>

¹⁵⁵ <https://www.pocket7games.com/bubble-buzz>

¹⁵⁶ *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!”¹⁵⁷ 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.¹⁵⁸

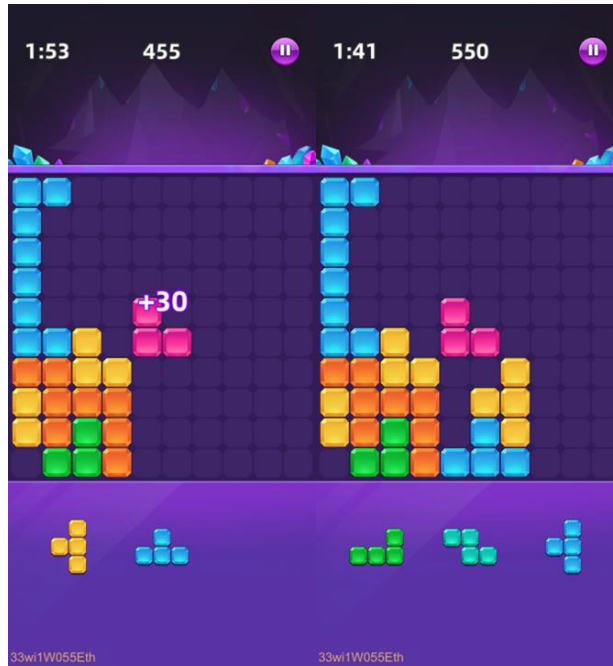
(5) Blockolot

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

¹⁵⁷ <https://apps.apple.com/US/app/id1625671597?mt=8> [last accessed 10-05-2023]

¹⁵⁸ *Id.*

1 blocks.¹⁵⁹ The player can earn points by filling all spaces in a row or a column. The more
 2 consecutive moves that clear lines, the more points a player will earn. The match will end when
 3 the player runs out of space to place blocks and/or when the time limit runs up.¹⁶⁰



15 58. According to Avia, Blockolot is a game of skill, and players play against real
 16 players. The App Store advertisement promises Blockolot’s players to “[p]lay Against Real
 17 Players”, i.e., to “[m]atch [them] with real players of similar skill levels to play classic, fun, and
 18 fair skill-based cash games[.]”¹⁶¹ According to the advertisement, “[a]nyone can play this simple
 19 block game, but it takes skill to walk away a champion!”¹⁶² The game invites players to “[u]se
 20 [their] skills to pay the bills!” At the beginning of each game, players are instructed to wait until
 21 the app finds them their purported “opponents” for the game.
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25 ¹⁵⁹ <https://www.pocket7games.com/blockolot>

¹⁶⁰ <https://apps.apple.com/US/app/id1609403287?mt=8> [last accessed 10-05-2023]

26 ¹⁶¹ *Id.*

27 ¹⁶² *Id.*

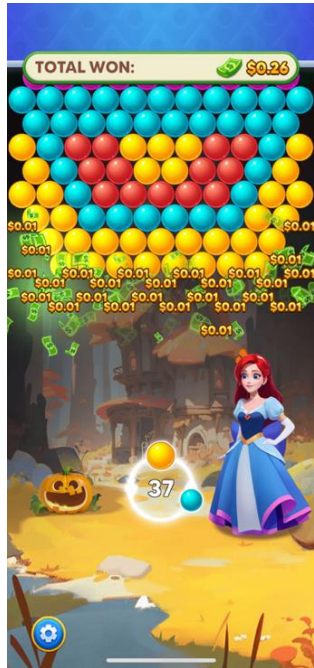


59. At the end of the game, a player is directed to a score board where their performance is compared with other “players” that purportedly played the game with them.

(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.

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61. The App Store describes Bubble Miracle as “all-new, miraculously fun bubble game!”¹⁶³ Avia represents that the players will be matched with “players of comparable ability”.¹⁶⁴ At the beginning of each game, a player is asked to wait until the app finds them their purported “opponent”.

¹⁶³ <https://apps.apple.com/us/app/bubble-miracle-win-real-cash/id6448908108?l=pt-BR>

¹⁶⁴ *Id.*

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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!”¹⁶⁵ Each player begins with allegedly the same bingo card,¹⁶⁶ 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.

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8 64. The description of the game on the App Store promises the users that they can make
9 “REAL CASH”.¹⁶⁷ Users “[p]lay in tournaments of different match modes with 5-10 other
10 players.”¹⁶⁸ 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.”¹⁶⁹ At the beginning of each game, players are
12 asked to wait until the app finds them their purported “opponent”.

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¹⁶⁵ <https://apps.apple.com/us/app/bingo-flash-win-real-cash/id1669672366>

24 ¹⁶⁶ *Id.* It is not possible to verify, whether each player truly has the same bingo card. A player only
25 sees their own card and they are not able to access the card(s) of other players.

26 ¹⁶⁷ <https://apps.apple.com/us/app/bingo-flash-win-real-cash/id1669672366>

27 ¹⁶⁸ *Id.*

28 ¹⁶⁹ *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.

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CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

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

(b) County of Residence of First Listed Plaintiff Bexar County, Texas (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

See Attachment

DEFENDANTS

AVIAGAMES INC., VICKIE YANJUAN CHEN, PING WANG, ACME, LLC, GALAXY DIGITAL CAPITAL MANAGEMENT LP AND OTHER UNNAMED CO-CONSPIRATORS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation-Transfer
8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): Cal. Bus. & Prof Code § 17200 et seq.; Cal. Civ. Code §§ 1750, et seq.; 18 U.S.C. § 1962(c) and (d); 18 U.S.C. § 1962(a); 18 U.S.C. § 1962(b)
Brief description of cause: Violation of California Unfair Competition Law; Violation of the Consumer Legal Remedies Act; Violation of the federal Racketeer Influenced and Corrupt Organizations Act; Violation of the federal Racketeer Influenced and Corrupt Organizations Act

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S), IF ANY (See instructions): JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2) (Place an "X" in One Box Only) SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 11/17/2023 SIGNATURE OF ATTORNEY OF RECORD /s/ Todd Logan

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
- c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.

Attachment

Edelson PC, 150 California St., 18th Floor, San Francisco, CA 94111

Burns Charest LLP, 757 Third Ave., 20th Floor, New York, NY 10017

Burns Charest LLP, 4725 Wisconsin Avenue NW, Suite 200, Washington, D.C. 20016

Burns Charest LLP, 365 Canal Street, Suite 1170, New Orleans, LA 70130