ORIGINAL

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable HAYWOOD S. GILLIAM, JR., Judge

RUMBLE, INC., Plaintiff, vs. GOOGLE LLC and DOES 1-10, inclusive, Defendants.	**Motion to Dismiss and Motion to Strike** NO. C 21-00229HSG Pages 1 - 26 Oakland, California Thursday, September 9, 2021

REPORTER'S TRANSCRIPT OF TELECONFERENCE PROCEEDINGS

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P R O C E E D I N G S

(Teleconference)

THE CLERK: We're calling, Your Honor, CV21-00229, Rumble, Inc. versus Google, LLC, et al.

Please state your appearances for the record, please.

MR. DICKERSON: This is Robert Dickerson for plaintiff Rumble.

MR. STERN: Jack Stern from Cadwalader on behalf of plaintiff Rumble.

(Off-the-record discussion.)

MR. DICKERSON: Robert Dickerson for plaintiff Rumble.

THE COURT: And I'm sorry. Who was the appearance with for the defendant?

MR. SCHMIDTLEIN: Good afternoon, Your Honor. This is John Schmidtlein from Williams & Connolly for Google.

THE COURT: All right. Good afternoon to you both.

So we're here for a hearing on the partial motion to dismiss the first amended complaint and motion to strike that the defendant filed.

And let's see. It is certainly sort of an interesting matter in a couple regards. One is the original complaint had a tying theory under Section 1, and there's a motion to dismiss as to that complaint. And rather than oppose the --

the amended complaint was filed, which removed the Section 1 tying theory as one of the ones pled in the complaint but then continued to include what I'll call tying-related language in the -- in allegations and also, as the defendant notes, seems to have incorporated a large volume of material from -- from other lawsuits in terms of allegations that were made there about the -- the general search market.

But it -- it's not entirely clear to me, you know, the -- the basis for the plaintiff's effort to -- to loop in things that are happening in the general search market in which I think it's undisputed that the plaintiff doesn't participate.

And, really, the -- the justification that's offered is that there's a monopoly leveraging theory and that the plaintiff is seeking to introduce actions happening in the general search market. It's a claim that that is a -- was a monopoly leveraging gambit for the -- for the video market.

But it's not clear to me, really, that monopoly leveraging is a viable theory as a matter of law. Really, the -- the plaintiff was citing the -- the *Verizon* footnote and then a few other cases. But it -- it looks to me in more recent cases, the courts have all but said that that theory is not a standalone theory without some allegation of independent anti-competitive conduct in the leveraged market.

And so, you know, really, one of the questions I have I think as an initial matter, and, really, it's for the -- the

defendant's first and then I'll hear from the plaintiff on this point is, does your motion depend on me essentially saying that as a matter of law, the monopoly leveraging theory is -- is inviable under any circumstances?

Or are you arguing that for it to be pled, there would have to be different facts pled here which then tends to suggest that what we would be talking about is dismissal of leave. But it's -- it wasn't entirely clear to me which of those two things you are saying.

MR. SCHMIDTLEIN: Thank you, Your Honor. This is -- this is John Schmidtlein.

On the monopoly leveraging claim, I think -- I think we make both arguments, that -- that you are -- you are correct that the case law does not recognize -- has not really established a monopoly leveraging as a -- as a standalone theory.

In other words, the mere fact that you have a monopoly in one market and you use whatever advantages that gives you to compete effectively in another market, that's -- that's just not a viable claim. You need to plead independent exclusionary conduct directed at that second leveraged market, as -- as Your Honor recognized.

Here, our argument is that they have not made such allegations. So whether or not there could be some sort of independent monopoly leveraging theory, which we say there

isn't, they haven't even pled the necessary facts to establish something that would look like a viable leveraging theory because all of the conduct that they allege is unlawful or exclusionary, is all the conduct that they've copied from another lawsuit that pertains to the actual monopolization or alleged monopolization of -- of the search market, not the video-sharing platform market or the leveraged market that I think Your Honor referred to it as.

THE COURT: Yeah, and what --

(Simultaneous colloquy.)

THE COURT: What -- what case do you think -- and I'm talking about controlling authority. Obviously, there are a lot of district court cases. There are unpublished Ninth Circuit cases. But what -- what do you think is the best controlling authority that I should look to to determine what the pleading requirements would be for that claim, even assuming it exists?

MR. SCHMIDTLEIN: Well, I think -- I think the -- I think the -- if I'm remembering correctly, I think the -- the *Verizon* footnote even draws that -- draws that distinction.

But I think we've -- we've also obviously cited the *Doe vs. Abbott Labs* case, and the *Stein vs. Pac Bell* case, which I think both -- again, I think recognizing Prinko [phonetic], recognize that you couldn't even have a monopoly-leveraging claim unless you got an allegation of independent

anti-competitive conduct that's directed at that second leveraged market.

And -- and here, as I said, the -- the -- the argument we've pressed, at least as it pertains to those search-related conduct, is that that conduct can't form the basis for a monopoly-leveraging claim. And I believe that's the argument that the -- the plaintiff is trying to make here, is that they can try to use those allegations to establish a monopoly-leveraging claim that goes into the video-sharing platform market.

THE COURT: Right.

And then I -- and then I read your papers. And I'm looking at your reply at page 5 to also make a related but perhaps analytically distinct argument that there's also a standing problem because of the way that the conduct is pled. And you're citing the *American Ad Management* case for that.

Is that a distinct argument, or is that part and parcel of what you just said?

MR. SCHMIDTLEIN: That would be a distinct argument, Your Honor.

I think that the standing argument, you know, would -- would apply to any antitrust claim whether viable or -- or not.

The fact that you may have pled the actual elements of a claim would not necessarily give you antitrust standing. That

really pertains to where the plaintiff is situated in the market and what harm or the nature of the harm that the plaintiff is alleging.

Here, our argument is, is that the -- the conduct again, just focusing on that search-market-related conduct, the distribution of Google on various -- for example, Android devices and how Google has agreements with various device manufacturers to distribute Google Search, not YouTube, but Google Search.

Our position is, is that the fact that the plaintiff is not a participant in this search market, either as a competitor or -- or as a consumer customer, places them outside of the boundaries of having antitrust standing to complain about conduct that purportedly would give Google a monopoly in any sort of search market.

And that is -- I think that is based on historically cases that -- that look for, you know, kind of jurisprudential concerns about causation, around who is the appropriate plaintiff to address those sorts of allegations.

And just to -- to amplify that, Your Honor, I mean, here, for the -- for the plaintiff to have really a connection to those allegations, there would have to be a whole slew of very speculative and -- and distinct steps in the causal chain, none of which they have pled, nor I think could they plead in a -- in a direct fashion that would give them standing.

'Cause the argument, as -- as I understand it, they would to have make is in the absence of Google's supposed conduct in the search market, somehow other competing search engines, not the plaintiff 'cause they're not a search engine -- other competing plaintiffs would somehow have gotten better distribution or would have gotten more usage instead of Google and that people searching on those other competing search engines would have been directed somehow to search results that were more favorable for the plaintiff.

Those -- those types of speculative and, you know, large leaps in the causal chain, I think, is exactly what informs courts consideration and analyses of antitrust standing in the types of cases that we've cited.

So that to us, Your Honor, is a -- is a distinct and independent grounds for the dismissal of the search-market-related allegations.

THE COURT: Let me hear from Mr. Dickerson.

And, really, just starting with a couple of preliminary points, and I'll let you speak to this monopoly leveraging question.

First, I take it there's no dispute that your client doesn't participate in the general search market and therefore wouldn't have standing in the market.

MR. DICKERSON: Your Honor, this is Robert Dickerson. Mr. Stern is going to address these issues.

THE COURT: All right. Well, whoever.

MR. STERN: Thank you.

Jack Stern from Cadwalder, Your Honor.

Contrary to what Google suggested in its reply, we do not make a monopolization claim with respect to the general search market or the online advertising market.

We allege claim of monopolization with respect to the online video platform market and allege antitrust standing with respect to that market.

The --

THE COURT: Right.

(Simultaneous colloquy.)

MR. STERN: -- exclusionary.

THE COURT: Right, but so -- and just what I like to do is just check off things that aren't contested so I understand the lay of the land is before we get into the argument.

Your client doesn't participate in the general search market, correct?

MR. STERN: Correct. We do not have standing in relation to that market. We have standing in relation to the online video platform market.

THE COURT: Okay.

MR. STERN: And we have --

THE COURT: And then just the second question that

I -- and then I'll let you speak to the substance of it.

But just before I forget them, on every motion to dismiss, the question arises is it dismissal with leave or dismissal without leave. Obviously, you're arguing that there shouldn't be a dismissal at all, and I haven't decided that yet.

But I assume that your position is that if I were to find infirmities in any of the theories, whether it's monopoly leveraging or tying or any of -- any of the theories that are being challenged, your position would be that I should hew to the Ninth Circuit's own presumption and allow leave to amend once I point out what the problems are, right?

MR. STERN: Yes. Yes, Your Honor.

THE COURT: All right.

So then, with respect to this monopoly leveraging theory, why don't you speak to both of those --

MR. STERN: Sure.

THE COURT: -- pieces of it.

First, it seems like the theory is at a minimum perhaps out of favor, if not having been completely found wanting, but there certainly -- it seems to be a sort of trail of bread crumbs kind of approach to establishing it growing out of, you know, one footnote in *Verizon*. So that really is the first --

What's your best case, current case, for -- that has applied that sort of theory? And then, two, where do I look to find what the elements are for pleading that theory,

especially where here, you've got the circumstance where you obviously acknowledge that you don't participate in the market that is providing the leverage and you participate in the supposedly leverage market.

What case or cases that are recent do you think best lay out the pleading standard for that sort of claim? And controlling --

(Simultaneous colloquy.)

THE COURT: -- better.

MR. STERN: Well, I think -- first of all, I do want to address the labels that Google has tried to apply to our allegations because I -- I do reject the narrow labeling. But -- but in -- to answer your question directly, I think the governing authority really is in the Supreme Court *Trinko* case, which says that monopoly leveraging theory must include allegations of -- of dangerous probability of success in monopolizing a second market. Here, the second market would be the online video platform market.

But to come back to my more general point if I can, Google has tried to label our -- our -- our range of -- the range of exclusionary conduct we've alleged as tying allegations, monopoly leveraging allegations. And I don't view what we've alleged as falling under any specific label.

Rather, the exclusionary conduct that we allege contractual restrictions and tech -- technological bundling

that effectively direct mobile searches to Google's own video platform, YouTube, all of that conduct relates to Google's monopolization of the online video platform market.

And Google's motion effectively seeks to cut out of this case significant categories of exclusionary conduct that it -- that relate to its monopolization of the online platform market, the market that Google's affiliate YouTube dominates.

We allege exclusionary conduct that we claim had the effect of cementing YouTube's dominance of the online video platform market. And at pages five to six of our opposition brief, ECF44, we detail the specific allegations that explain how Google's exclusionary conduct in relation to mobile search affected competition in the online video platform market.

Mobile searches are a very important means by which consumers engage in both general searches and specialized searches.

Our client Rumble is a specialized search provider that focuses on the sharing of videos online. Rumble competes or attempts to compete with Google's own specialized search platform in the area, YouTube.

We allege that Google has taken a variety of steps in relation to mobile phones that have enhanced YouTube's position as an online video-sharing platform in a way that excludes competition and has contributed significantly to YouTube's monopolization of the online video platform market.

That is -- that is what we claim.

Now, as to tying, as to those categories of exclusionary conduct that --

THE COURT: Let me ask you -- before we move on to that, but -- but -- I do take the defendant's point that there's a disconnect there, and I'm just wondering what cases you think bridge the disconnect.

You're saying they did all of this stuff in a market we don't participate in. We're not -- we're not in it. That's not where the injury occurred. That's undisputed.

And you're arguing that that conduct had anti-competitive effects on the market you do participate in. But what's the authority for the idea that -- I mean, don't you have to show that there were anti-competitive actions taken within the market you participate in?

And if you don't think that's the law, what controlling authority best supports your position on that?

MR. STERN: Well, I -- I would say that our allegations do -- do allege a direct impact on the market that we participate in. The contractual restrictions and technological bundling that Google has put in place in dealing with phone manufacturers, as we allege, have played a major role in positioning YouTube as the dominant online video search site and monopolizing that online video platform market.

And -- and so that I think is just basic Section 2 monopolization law that a plaintiff is required at the pleading stage to make plausible allegations of exclusionary conduct that have an effect on the market at issue.

And we submit that that's -- that's precisely what we've alleged and we -- we provide the specifics at page 5 to 6 of our opposition brief.

On the subject of tying, it -- Google has tried to -- to label certain conduct as tying conduct. You are correct, Your Honor, in terms of your history -- the history of this litigation. The initial complaint had a Section 1 claim in addition to Section 2 claim.

When Google moved to dismiss that, we decided rather than get involved in motion practice, we would amend our complaint to remove the Section 1 claim and expand our previous allegations of exclusionary conduct in relation to mobile search and how that affects the online video platform market.

We did not expect that Google would make a motion that it could have made in response to the original complaint but they did, and we make our argument -- our procedural argument under Federal Rule of 12(g)(2).

You know, in terms of tying, we -- we have alleged at -- at -- and this is quoted and -- and summarized at page 5 of our opposition brief, we've alleged that phone manufacturers had no economically viable choice but to accept Google's

condition.

So on the subject of coercion, the court need not go beyond those specific allegations. But in terms of the -- the relevant law bearing on tying, at pages 12 to 15 of our opposition brief, we were careful to quote and not really paraphrase the cases that hold that tying allegations in the context of the Section 2 monopolization claim need not meet all the requirements of the Section 1 agreement in restraint of trade claim.

THE COURT: But which -- and which cases are those? My recollection is those were -- were they district court cases? I don't remember.

MR. STERN: This is at pages 12 to 15 of our opposition brief. We start with *Tele Atlas*, which is a Northern District of California case. And *California Computer Products*, which is a Ninth Circuit case. Those are the two primary authorities on treatment of tying allegations in relation to a Section 2 claim.

Now, in -- in terms of the -- the -- allegations that we included from the -- the DOJ complaint, Google attacks us for presenting those allegations and allegations based on the related congressional investigation. But, Your Honor, there's -- there's nothing improper about that.

We explicitly cited the DOJ complaint and the congressional investigation report as our sources in both our

original complaint and the amended complaint. We've provided cites to those explicit references at pages 3 and 6 of our opposition brief.

And it is -- is really quite common for private antitrust plaintiffs to incorporate allegations that the DOJ has made.

THE COURT: Right. Well --

(Simultaneous colloquy.)

THE COURT: Let me ask this. I don't need to determine, really, whether that is toward or untoward.

But going back to the -- the tying question, it seems to me it's not just the -- the defendant is characterizing the theory as tying. That's how your complaint frames it. And I understand you're saying it's not just tying, but to the point, you know, paragraph 27 talks about tying. Paragraph 151 talks about tying. Paragraph 169 talks about tying.

To the extent there is a tying-based theory, and I understand you're saying "and that's not all," but what's the -- what's the rational for your claim that as long as we just say that it's part of a broader pattern of anti-competitive conduct, the court can't scrutinize whether it meets the tying pleading requirements at all.

And I know you cited Judge White's case from 2008 and some others, but that -- that's what I'm wondering, is why -- to the extent you yourself are saying part of the theory is tying, why wouldn't tying doctrine and pleading requirements

apply to that?

MR. STERN: Well, the -- they do under Section 2. And the cases that we've cited have -- have held that the pleading requirements for a Section 2 claim are less rigorous than for a Section 1 agreement in restraint of trade claim.

In any event, Google's main attack on those tying allegations -- and you're correct. They're reflected in six paragraphs of the complaint -- their main attack is that we've not adequately alleged coercion. But as we -- as we outline at page 5 of our opposition brief, we made detailed allegations concerning the coercive nature of Google's terms and conditions.

THE COURT: All right.

And so there's a lot at paragraph 5, and it's kind of an omnibus, so help me out. Which -- you know, in your opposition, for example, you make the representation that "an appreciable number of buyers have accepted burdensome terms that have required the buyers to forgo possibly desirable substitutes," and I actually didn't see a complaint cite to that.

Where in the complaint is that allegation supported?

MR. STERN: The -- the -- the -- the allegation, Your Honor, that -- that -- that phone manufacturers have no choice?

THE COURT: Yeah, exactly. I'm --

MR. STERN: I -- I --

(Simultaneous colloquy.)

MR. STERN: I may have -- I may have created some confusion. I was referring not to paragraph 5 of the complaint. I was referring to page 5 of our opposition brief.

THE COURT: No, I know --

(Simultaneous colloquy.)

THE COURT: -- but --

MR. STERN: And -- and --

THE COURT: So the question still obtains.

MR. STERN: Yeah. Paragraphs 109 to 117 of the amended complaint describe the coercive no choice operation of the mobile application distribution agreements.

The -- paragraphs 149 through 155 and Figure 7 of the amended complaint allege and illustrate how Google's pre-installation agreements present phone manufacturers with an all or nothing choice, et cetera.

Paragraphs 109 to 117 describe the pressure on mobile phone manufacturers to obtain certain "must have" and "gotta have" Google apps. And there's more. And it's all set forth and paraphrased at pages 5 through 6 of our opposition brief.

THE COURT: All right.

And so I should just look at those paragraphs, and, obviously, it's one thing to say, well, this is a great thing, you know, our product's great. It's another thing to say

we're going to preclude you from adopting their product.

So I'll -- I will just look at those paragraphs, but how in your view does that meet the coercion threshold?

MR. STERN: Well, the coercion is -- the coercion issue really relates to whether phone manufacturers have a choice but to accept Google's conditions. And we explain why they don't -- they don't have an economically viable choice.

Now, you know, in terms of the -- you know, the different standard of pleading tying in a Section 2 claim versus a Section 1 claim, Google's reply at page 7 cites three cases. They cite *Golden Boy*, which is a case in which the plaintiff alleged both Section 1 and Section 2 claims and failed to provide support for either.

The Seventh Circuit case that they cite, *Viamedia*, actually allowed the plaintiff to proceed with its tying allegations in support of the Section 2 claim reversing a trial court dismissal of those claims at summary judgment.

And the *Ramallo* case -- the *Ramallo* case that they cite describes the coercion element in a way that is consistent with what we alleged, in other words, focusing on whether a counter-party had any economically viable alternative to agreeing to the defendant's terms.

And if I could just get back to the DOJ because there -- there is a suggestion that there's something improper or untoward about --

THE COURT: Well, I --

(Simultaneous colloquy.)

THE COURT: We can save that. I -- I -- I don't ascribe any. It's just --

(Simultaneous colloquy.)

MR. STERN: I was just going to say, Your Honor, that I mostly defend antitrust cases, and -- and as a defendant, often find where there is a DOJ case, private plaintiffs use those allegations because private plaintiffs must plead plausible antitrust allegations. And the fact that allegations are the product of a DOJ investigation is generally considered a pretty strong indication of plausibility.

THE COURT: All right. I understand your -- your take.

I'll give Mr. Schmidtlein the last word briefly since it's your motion.

MR. SCHMIDTLEIN: Thank you, Your Honor.

On this -- on this tying point, Your Honor is -- is -- is right on the money in the sense that they are -- they have explicitly made allegations of unlawful tying.

The heading, if you look at the -- in bold -- bold capital letters on page 55 of their complaint, they say Google's pre-installation agreements affect an illegal tying arrangement. So they are -- they are obviously trying to tuck

in some sort of tying claim into a Section 2 claim.

This is a different tying claim than the one they originally alleged which had no factual basis whatsoever either. And that's why they -- that's why they dismissed it. They tried a new version of a tying claim. But they don't -- unlike before, they don't actually have it stand on its own two legs. They're trying to tuck it into this Section 2 theory and -- and glom it on to other allegations.

The reason why that is improper is -- is for a couple of reasons. Without pleading the actual elements of the tying claim here, and specifically without having pled -- adequately replied coercion, and your -- Your Honor, again, was right on the money. That page in their brief that they keep pointing you to, page 5, there's a reason there are no paragraph [sic] in the complaint cited for that proposition because there are none in the second amended complaint.

They haven't pled anywhere that a single device manufacturer, mobile phone carrier, anybody who manufactures or sells a device that comes pre-installed with YouTube on it, they haven't alleged that anybody was coerced into taking YouTube and pre-loading it on a device and that they would have preferred not to do that absent the licensing terms that were provided by Google and that they would have instead preferred to have pre-installed Rumble.

Mr. Stern keeps talking about whether they have a choice

or not, that -- they've claimed that -- they made allegations that -- that people don't have a choice. They have not alleged that anyone -- anyone that Rumble could have potentially done a deal with would have chosen otherwise. And under those circumstances, they have not demonstrated any sort of coercion.

The agreements that are at issue here -- the agreements that they claim are the tying agreement are somewhat unusual agreements for antitrust cases.

First, the license that includes YouTube and other Google's apps as a bundle of apps -- the license is free. The -- the device manufacturer pays nothing for it.

THE COURT: And is this a fact that's pled in the complaint itself? Obviously, we're at the 12(b)(6) stage.

MR. SCHMIDTLEIN: It -- they do not -- they do not allege otherwise. There is -- there is nothing in any of the complaint that says that any -- any OEM manufacturer paid Google for YouTube or paid Google for any of these other apps that are included in this license.

The -- the other thing that they don't plead is that the license is somehow exclusive. There is nothing in this license, this supposed coerce -- this supposed license that people have no choice but to accept -- there is nothing in that license that prevents a device manufacturer or a -- a carrier from also taking a license and pre-installing Rumble.

If they want to do that, they are free to do that. That is different than the typical tying case where a party says, if you want the -- the product A that I supposedly have a monopoly in, you have to buy that but then you also have to buy product B. You have to pay an affirmative price for product B.

In those cases, oftentimes plaintiffs allege under those circumstances, I can't sell my product to the customer 'cause they've already paid for the competing product. They don't want to pay twice for this -- the competing product, and they've already had to buy my competitor's version of that product.

Those facts are not present here. And they have not alleged a single instance -- not once do they allege in all of their reformulated allegations from elsewhere, they never -- they never allege once that they went and talked to a Samsung or they talked to an LG or they talked to anyone and -- and said "we want to pre-load our app on your phone," and the person said, "I'm sorry I can't do that. I'm prevented from doing it," or "it's just not feasible for me to do that because I already have a deal with Google."

And it's not just, you know, the fact that Google -- Google but -- Android phones are not the only devices where Rumble could get distribution. Rumble could -- Rumble could go and try to persuade Apple to pre-load their app. Google

doesn't have an agreement with Apple to have YouTube pre-loaded. They're not pre-loaded on Apple. Rumble could go and try to get pre-loaded on a laptop computer, like many other apps are pre-loaded on a laptop computer. Google doesn't control the laptop computer market.

They don't allege that anybody has indicated an interest in pre-loading Rumble on any device, much less that they were blocked from doing so because they had a free nonexclusive license to pre-install YouTube on their device.

And under those circumstances, there's no coercion, there's no exclusionary conduct, there's nothing anti-competitive about the license to begin with. And when there's nothing anti-competitive about the conduct, you can't use it either alone or in conjunction with other alleged conduct to make up a Section 2 claim.

It's just a zero on the score card of anti-competitive conduct and that's why that those allegations and that theory -- that a illegal tying theory arrangement that they've pled should be dismissed at the 12(b)(6) stage.

THE COURT: And just -- you know, one of the things that is always interesting on motions to dismiss is obviously there's a -- you know, you've laid out a lot of arguments, so you -- by my -- kind of compelling in terms of what sort of facts might emerge, but are you -- what is -- what's the authority for the idea that they have to -- they have to plead

the particular facts like the ones that you laid out? Like an exclusive license or, you know, other --

And I know it's -- it's a balance because they -- they have to plausibly plead facts under *Twombly*, and I'll look and make sure they've done that. But to the extent, you seem to be saying that to prevail, they would have to show particular facts like the ones you -- that you just listed, what's the authority for that?

MR. SCHMIDTLEIN: I think -- I think -- Your Honor, I think it is *Twombly* and -- and the cases that -- that follow. I mean, they -- they -- right now, they have basically just alleged a -- a conclusory statement that -- the idea that -- that, you know, device manufacturers have no choice, that is a conclusory statement, not backed up by any specific factual allegation, and it actually doesn't actually plead coercion.

Whether -- whether -- if somebody offers a customer a bundle of products, and they -- and they want them, and they are happy to have them, and they are not forced -- they don't feel forced into buying them, they would -- they would prefer to buy them that way, there is no coercion, and there's no exclusionary conduct.

And under these circumstances in this particular factual setting, they -- they are duty bound to make those sorts of specific factual allegations to back up the generalized notion or the element of coercion and anti-competitive or

exclusionary conduct to state a claim.

THE COURT: All right.

UNIDENTIFIED SPEAKER: Your Honor --

THE COURT: So no rebuttal, 'cause this is the problem. We always -- everyone -- of course, you're good advocates; you want the last word, but we have to end. And now's the -- now is the end. It's their motion so I give them the last word because it's the equivalent of their reply.

I'll take the motions -- the motion under submission, and we'll aim to issue a ruling as soon as I can.

UNIDENTIFIED SPEAKER: Thank you, Your Honor.

MR. SCHMIDTLEIN: Thank you, Your Honor.

THE COURT: You're welcome.

(Proceedings were concluded at 3:10 P.M.)

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not financially nor otherwise interested in the outcome of the action.

Raynee H. Mercado, CSR, RMR, CRR, FCRR, CCRR

Friday, September 24, 2021