

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

BO SHANG (In Pro Per),
Plaintiff,

v.

TWITCH INTERACTIVE, INC.;

IMANE "POKIMANE" ANYS;

POKIMANE LLC,

Defendants.

Case No.: [To Be Assigned]

INITIAL COMPLAINT

FOR:

1 Injunctive Relief

2 Damages

3 Declaratory Judgment

4 Breach of Contract

5 Breach of Express Warranty

6 Violations of the Consumers Legal Remedies Act (CLRA) [Cal. Civ. Code § 1750 et seq.]

7 Violations of the False Advertising Law (FAL) [Cal. Bus. & Prof. Code § 17500 et seq.]

8 Violations of the Unfair Competition Law (UCL) [Cal. Bus. & Prof. Code § 17200 et seq.]

9 Negligent or Reckless Misrepresentation

10 Intentional or Negligent Infliction of Emotional Distress

JURY TRIAL DEMANDED

Plaintiff, BO SHANG ("Plaintiff"), appearing pro se, hereby files this First Amended Complaint against TWITCH INTERACTIVE, INC. ("Twitch"), IMANE "POKIMANE" ANYS ("Pokimane"), and POKIMANE LLC (collectively, "Defendants"), and alleges on personal knowledge as to his own acts and on information and belief as to all other matters as follows:

1 INTRODUCTION

1.1 This action arises from Defendants' alleged violations of California statutory and common law, including but not limited to the Unfair Competition Law ("UCL") (Cal. Bus. & Prof. Code § 17200 et seq.), the False Advertising Law ("FAL") (Cal. Bus. & Prof. Code § 17500 et seq.), the Consumers Legal Remedies Act ("CLRA") (Cal. Civ. Code §§ 1750 et seq.), common law breach of contract, breach of express warranty, misrepresentation, and related theories.

1.2 Plaintiff contends that Twitch, in partnership with high-profile streamers such as Pokimane, has engaged in or facilitated unfair, deceptive, or unlawful practices under California law, including but not limited to:

1.2.1 Advertising intangible subscription benefits such as "undying love and appreciation," which were never actually provided to Plaintiff;

1.2.2 Restricting user investigations and reverse engineering ("RE") attempts that could detect or expose suspicious large-scale financial transactions or potential money laundering on the platform.

1.3 Specifically, Plaintiff alleges he was induced to purchase subscriptions by relying on Twitch's and Pokimane's advertised claims, and that he suffered emotional distress and economic harm when those promises went unfulfilled or were misrepresented.

1.4 Moreover, Plaintiff contends that Twitch's Terms of Service ("TOS") hamper legitimate security research

and investigations into potentially unlawful gambling or money-laundering activity, contravening well-established public policy and case law in California that protects reverse engineering in fair-use and security contexts. (See, e.g., *Sega Enters. Ltd. v. Accolade, Inc.* (9th Cir. 1992) 977 F.2d 1510, 1520 [“disassembly of object code to gain an understanding of the functional requirements of the program is fair use”]; *Sony Computer Entm’t, Inc. v. Connectix Corp.* (9th Cir. 2000) 203 F.3d 596, 599–603 [extending the fair use doctrine to intermediate copying]; cf. 17 U.S.C. § 1201(g) (DMCA exemption for encryption research); *Tunkl v. Regents of Univ. of Cal.* (1963) 60 Cal.2d 92, 96–98 [contracts exempting a party from negligence can violate public policy]; Civ. Code § 1668 [“All contracts which have for their object...to exempt anyone from responsibility for his own fraud...are against the policy of the law.”].)

1.5 On January 9, 2025, Judge Scott Corley of the U.S. District Court for the Northern District of California granted Plaintiff’s motion to amend, over Defendant Twitch’s protests that Section 230 of the Communications Decency Act (“CDA”) shields them from liability. Judge Corley specifically ruled that Twitch was not acting as a “Good Samaritan” as the CDA requires, thus exposing Twitch to legal liability for all actions of their streamers and community.

1.6 Section 230 of the Communications Decency Act provides, in part, verbatim:

“(c) Protection for ‘Good Samaritan’ blocking and screening of offensive material

(1) Treatment of publisher or speaker

No provider or user of an interactive computer service shall be treated as the publisher or speaker of any information provided by another information content provider.”

1.7 By Judge Corley’s determination, Twitch may not invoke Section 230 immunity regarding its alleged misconduct, because it has failed to demonstrate “Good Samaritan” protections in relation to its handling of user content, thereby removing the usual shield from liability.

2 JURISDICTION AND VENUE

2.1 Subject Matter Jurisdiction

2.1.1 This Court has jurisdiction over the subject matter because the amount in controversy exceeds \$25,000, and Plaintiff’s claims arise under California statutory and common law, including the UCL (Cal. Bus. & Prof. Code § 17200), the FAL (Cal. Bus. & Prof. Code § 17500), and the CLRA (Cal. Civ. Code §§ 1750 et seq.).

2.1.2 Although federal courts might have jurisdiction over certain claims (e.g., alleged violations of federal

anti-money-laundering laws under 18 U.S.C. §§ 1956, 1960), Plaintiff elects to pursue his claims under California law in the Superior Court, which has concurrent jurisdiction over the state-based causes of action. Plaintiff also references the January 9, 2025 ruling in the U.S. District Court for the Northern District of California, which clarifies that Twitch cannot rely on Section 230 immunity to escape liability in this related matter.

2.2 Venue

2.2.1 Venue is proper under California Code of Civil Procedure §§ 395 and 395.5 because Twitch has its principal place of business in San Francisco, California, or conducts substantial business within this forum. Additionally, a substantial part of the events or omissions giving rise to these claims occurred or emanated from the County of San Francisco.

3 THE PARTIES

3.1 Plaintiff

3.1.1 Plaintiff, Bo Shang, is a resident of Massachusetts. He has been a user of Twitch since approximately 2017. He purchased and renewed Twitch subscriptions to Pokimane's channel, in part due to specific marketing claims and product descriptions concerning "love and appreciation."

3.2 Defendants

3.2.1 Twitch Interactive, Inc., a Delaware corporation, maintains its principal place of business in California. Twitch operates the streaming platform used by millions of content creators, including Pokimane. As recognized by Judge Corley on January 9, 2025, Twitch cannot escape liability by invocation of Section 230's "Good Samaritan" defense, because it has not met the statutory requirements thereunder.

3.2.2 Imane "Pokimane" Anys is a highly prominent Twitch content creator. Pokimane earns significant revenue from subscription fees, donations, and brand partnerships. She markets her streams and subscription benefits in conjunction with Twitch's platform and subscription interface.

4 FACTUAL BACKGROUND

4.1 Twitch Platform and Potential Unlawful Activities

4.1.1 Plaintiff alleges that Twitch fosters large-scale suspicious financial transactions—often disguised as

donations or tips—that may be de facto gambling or money-laundering. Such transactions potentially implicate Cal. Penal Code § 330 (prohibiting certain gambling activities) and 18 U.S.C. §§ 1956, 1960 (federal anti-money-laundering provisions).

4.1.2 Twitch's TOS restrict or prohibit reverse engineering, effectively shielding potential illegal conduct from user-led detection. These restrictions allegedly contravene California's public policy favoring fair-use security research.

(See *Sega Enters. Ltd. v. Accolade, Inc.* (9th Cir. 1992) 977 F.2d 1510, 1520; *Sony Computer Entm't, Inc. v. Connectix Corp.* (9th Cir. 2000) 203 F.3d 596, 599–603; *Tunkl v. Regents of Univ. of Cal.* (1963) 60 Cal.2d 92, 96–98; Civ. Code § 1668; see also *A & M Produce Co. v. FMC Corp.* (1982) 135 Cal.App.3d 473, 479–481 [contractual unconscionability test].)

4.1.3 Pokimane benefits from or participates in the Twitch monetization and donation system. Whether or not she directly engages in wrongdoing, her large-scale revenue streams exemplify the environment where suspicious or unregulated transactions may take place.

4.1.4 Following Judge Corley's January 9, 2025 ruling rejecting Twitch's Section 230 defense, Twitch can no longer claim blanket immunity for conduct related to these suspicious transactions or the actions of its content creators.

4.2 Pokimane's Role and Promised Subscription Benefits

4.2.1 Pokimane's popularity is heavily promoted by Twitch. Her channel often advertises “subscriber benefits,” including special emoticons, badges, and—per the marketing language used—“undying love and appreciation.”

4.2.2 Plaintiff subscribed to Pokimane's channel believing these representations to be genuine. On information and belief, the words “undying love and appreciation” appeared (or were verbally stated) in promotional content or subscription tiers, forming part of the contractual inducement.

4.2.3 Plaintiff alleges that he was emotionally vulnerable at the time and became “madly in love” with Pokimane. He believed that, by subscribing, he was contracting for a certain level of personal engagement or affection—albeit intangible—beyond mere entertainment.

4.2.4 Contrary to these promises, neither Twitch nor Pokimane delivered any actual “undying love and appreciation.” Plaintiff was devastated emotionally and claims that this advertising was deceptive,

181 fraudulent, and/or constituted a breach of the subscription contract. 181
182 (Compare Consumer Advocates v. Echostar Satellite Corp. (2003) 113 Cal.App.4th 1351, 1361 182
183 [differentiating non-actionable puffery from specific, actionable misrepresentations]; see also In re Toyota 183
184 Motor Corp. Unintended Acceleration Mktg., Sales Practices, & Prod. Liab. Litig. (C.D. Cal. 2011) 754 184
185 F.Supp.2d 1145, 1172–1173 [discussing the threshold for plausibly misleading statements].) 185
186 186
187 4.3 Reverse Engineering Restrictions and Public Policy 187
188 188
189 4.3.1 The importance of reverse engineering in cybersecurity is well recognized. 189
190 (See Sega Enters. Ltd. v. Accolade, Inc., supra, 977 F.2d at p. 1520; Sony Computer Entm't, Inc. v. 190
191 Connectix Corp., supra, 203 F.3d at p. 599; Vault Corp. v. Quaid Software Ltd. (5th Cir. 1988) 847 F.2d 191
192 255, 267–270.) 192
193 193
194 4.3.2 Plaintiff contends Twitch's draconian TOS hamper lawful investigations into the platform's data flows, 194
195 stifling potential discoveries of wrongdoing (money laundering or fraud). This TOS stance may violate 195
196 California's fundamental public policies, as recognized under the UCL (Cal. Bus. & Prof. Code § 17200) 196
197 and the principle that contract provisions cannot contravene established law or public policy. 197
198 (See Civ. Code § 1668; Tunkl, supra, 60 Cal.2d at pp. 96–98; A & M Produce, supra, 135 Cal.App.3d at pp. 198
199 479–481.) 199
200 200
201 4.3.3 Because Judge Corley has found that Twitch was not a "Good Samaritan" under Section 230, 201
202 Twitch's attempts to enforce TOS provisions that obstruct lawful research or conceal potential misconduct 202
203 may also be scrutinized without the shield of federal immunity. 203
204 204
205 4.4 Plaintiff's Alleged Government Torture and Emotional Turmoil 205
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207 4.4.1 Plaintiff contends that from October 2020 to September 2021, Massachusetts Department of Mental 207
208 Health officials subjected him to forced confinement, misdiagnoses, and other abuses, allegedly violating 208
209 international treaties such as the United Nations Convention Against Torture (UNCAT). 209
210 210
211 4.4.2 In September 2024, Plaintiff again experienced forced confinement, exacerbating his emotional 211
212 fragility and fueling his sense of urgency to conduct open-source cybersecurity research (e.g., "execution 212
213 hijacking" code for SMBv2) as a deterrent to governmental overreach. 213
214 214
215 4.4.3 These experiences heightened Plaintiff's distress upon discovering that Twitch's TOS bars him from 215
216 pursuing the sort of in-depth investigations he believes necessary to expose wrongdoing or protect public 216

217 interests. The confluence of these factors allegedly contributed to Plaintiff's ongoing emotional harm. 217

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5 CAUSES OF ACTION

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COUNT I

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BREACH OF CONTRACT

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(Against All Defendants)

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5.1 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein.

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5.2 Formation of Contract

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5.2.1 Under California Civil Code § 1550, a valid contract requires (1) parties capable of consent, (2) a

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lawful object, (3) consideration, and (4) consent.

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- Cal. Civ. Code § 1550: "It is essential to the existence of a contract that there should be: 1. Parties

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capable of contracting; 2. Their consent; 3. A lawful object; and 4. A sufficient cause or consideration."

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5.2.2 Plaintiff alleges he entered into a subscription contract with Defendants by paying recurring fees in

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exchange for benefits, including the stated "undying love and appreciation."

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(See also Sateriale v. R.J. Reynolds Tobacco Co. (9th Cir. 2012) 697 F.3d 777, 788 [an advertisement may

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create a unilateral contract offer if it calls for performance and the terms are reasonably clear].)

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5.3 Breach

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5.3.1 Defendants failed to provide the promised intangible benefit or any semblance of personal "love and

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appreciation."

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5.3.2 The breach is material because it goes to the heart of the subscription's advertised value to Plaintiff.

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(See Central Valley Gen. Hosp. v. Smith (2008) 162 Cal.App.4th 501, 513–514 [material breach "goes to

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the essence of the agreement"].)

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5.4 Damages

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5.4.1 As a direct and proximate result, Plaintiff suffered monetary loss (subscription fees) and severe

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emotional distress due to unmet expectations of personal connection.

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(But see Erlich v. Menezes (1999) 21 Cal.4th 543, 558–559 [emotional distress damages generally not

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recoverable in contract actions unless tied to a tort].)

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253 5.4.2 However, Plaintiff alleges that the breach is intertwined with tortious conduct 253
 254 (fraud/misrepresentation), potentially allowing for broader recovery. 254
 255 (See Robinson Helicopter Co. v. Dana Corp. (2004) 34 Cal.4th 979, 991 [tort damages permissible where 255
 256 conduct also breaches a non-contractual duty].) 256

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 258 5.5 Prayer 258
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260 5.5.1 Plaintiff seeks compensatory damages, interest, and all other relief deemed proper by the Court. 260
 261 Further, due to the January 9, 2025 ruling, Plaintiff asserts that Twitch cannot claim CDA Section 230 261
 262 immunity to avoid liability for these contractual breaches. 262
 263 263

264 **COUNT II** 264
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266 **BREACH OF EXPRESS WARRANTY** 266
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268 (Against All Defendants) 268
 269 269

270 6.1 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein. 270
 271 271

272 6.2 Under California law, an express warranty is created by an affirmation of fact or promise that relates to 271
 272 goods or services, forming part of the basis of the bargain. 272
 273 (See Cal. Com. Code § 2313; Hauter v. Zogarts (1975) 14 Cal.3d 104, 112 ["Any affirmation of fact or 273
 274 promise can create an express warranty if it becomes part of the basis of the bargain."]; Greenman v. Yuba 274
 275 Power Prods., Inc. (1963) 59 Cal.2d 57, 61.) 275
 276 276

277 6.3 Express Representation 277
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279 6.3.1 The statement "undying love and appreciation" constituted a specific promise about the nature and 279
 280 quality of the subscription service—even if intangible. 280
 281 (See Keith v. Buchanan (1985) 173 Cal.App.3d 13, 21 [express warranties can arise from product 281
 282 descriptions and advertising statements that go beyond mere puffery].) 282
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284 6.4 Breach of Warranty 284
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286 6.4.1 Defendants failed to fulfill that representation. Despite collecting subscription fees, they did not 286
 287 provide any actual affection or personal recognition. 287
 288 288

288 6.4.2 Plaintiff reasonably relied on that warranty, to his detriment. 288

(See *Weinstat v. Dentsply Int'l, Inc.* (2010) 180 Cal.App.4th 1213, 1227–1228 [reliance on express warranty is presumed if the statement was part of the basis of the bargain].)

6.5 Damages

6.5.1 Plaintiff seeks damages for the subscription amounts paid, plus any consequential damages allowed under California law.

6.5.2 Plaintiff also reserves the right to seek restitution and incidental damages as permitted by Cal. Com. Code §§ 2714, 2715.

6.5.3 Judge Corley's January 9, 2025 ruling underscores that Twitch is not insulated by Section 230's "Good Samaritan" provision from these warranty-based allegations.

COUNT III

VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT (CLRA)

[Cal. Civ. Code § 1750 et seq.]

(Against All Defendants)

7.1 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein.

7.2 The CLRA prohibits unfair or deceptive acts in the sale or lease of goods or services to consumers. (Cal. Civ. Code § 1770(a); see also *Colgan v. Leatherman Tool Grp., Inc.* (2006) 135 Cal.App.4th 663, 680–681 [discussing CLRA requirements].)

7.3 Misrepresentation

7.3.1 Defendants advertised intangible benefits—personal emotional support or affection—as part of the subscription, an inherently deceptive tactic when it is never provided. (See Cal. Civ. Code § 1770(a)(5), (7) [prohibiting misrepresentations regarding characteristics, uses, benefits, or quality of services].)

7.3.2 Such conduct may violate Cal. Civ. Code § 1770(a)(5) and § 1770(a)(7).

7.4 Reliance and Harm

7.4.1 Plaintiff justifiably relied on these statements when purchasing subscriptions.

(See *In re Tobacco II Cases* (2009) 46 Cal.4th 298, 312 [only named plaintiff need show actual reliance, so

325 long as it was substantial factor].)

326 7.4.2 Plaintiff was harmed when the promised benefits were nonexistent.

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328 7.5 Prayer

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330 7.5.1 Plaintiff seeks actual damages, injunctive relief, and other remedies available under Cal. Civ. Code §

331 1780, including costs and any applicable attorneys' fees (though Plaintiff is pro se).

332 7.5.2 Plaintiff further notes that the District Court has found that Twitch may not rely on Section 230's broad

333 protections, reinforcing Plaintiff's CLRA claims against Twitch.

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335 **COUNT IV**

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337 **VIOLATION OF THE FALSE ADVERTISING LAW (FAL)**

338 [Cal. Bus. & Prof. Code § 17500 et seq.]

339 (Against All Defendants)

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341 8.1 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein.

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343 8.2 The FAL makes it unlawful to disseminate any statement concerning real or personal property or

344 services that is untrue or misleading, and which is known (or reasonably should be known) to be untrue or

345 misleading.

346 (Cal. Bus. & Prof. Code § 17500; see *McAdams v. Monier, Inc.* (2010) 182 Cal.App.4th 174, 186–187.)

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348 8.3 False or Misleading Statements

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350 8.3.1 Defendants represented that Pokimane subscribers would receive “undying love and appreciation.”

351 This is, at best, a misleading marketing ploy that offers unwarranted personal illusions.

352 (See *Committee on Children's Television, Inc. v. Gen. Foods Corp.* (1983) 35 Cal.3d 197, 211 [“misleading”

353 is broadly construed under consumer protection statutes].)

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355 8.4 Materiality and Injury

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357 8.4.1 These statements influenced Plaintiff's decision to purchase subscriptions.

358 (See *Kwikset Corp. v. Superior Court* (2011) 51 Cal.4th 310, 327–328 [material misrepresentations confer

359 standing under FAL/UCL].)

360 8.4.2 Plaintiff was thereby deceived and suffered monetary loss.

361		361
362	8.5 Prayer	362
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364	8.5.1 Plaintiff seeks an injunction prohibiting such misleading marketing claims, restitution of subscription	364
365	fees, and all other relief the Court deems proper.	365
366	8.5.2 Plaintiff contends that Twitch, having been denied "Good Samaritan" status by Judge Corley, remains	366
367	liable for these deceptive practices hosted or facilitated on its platform.	367
368		368
369	COUNT V	369
370		370
371	VIOLATION OF THE UNFAIR COMPETITION LAW (UCL)	371
372	[Cal. Bus. & Prof. Code § 17200 et seq.]	372
373	(Against All Defendants)	373
374		374
375	9.1 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein.	375
376		376
377	9.2 Under Cal. Bus. & Prof. Code § 17200, "unfair competition" includes any unlawful, unfair, or fraudulent	377
378	business act or practice.	378
379	(Cel-Tech Commc'ns, Inc. v. L.A. Cellular Tel. Co. (1999) 20 Cal.4th 163, 180.)	379
380		380
381	9.3 Unlawful	381
382		382
383	9.3.1 Defendants' conduct violates multiple statutes (e.g., the CLRA, the FAL, or federal	383
384	anti-money-laundering provisions).	384
385	(See Cel-Tech, supra, at p. 180; Korea Supply Co. v. Lockheed Martin Corp. (2003) 29 Cal.4th 1134,	385
386	1143.)	386
387		387
388	9.4 Unfair	388
389		389
390	9.4.1 The TOS restrictions on reverse engineering unduly burden lawful security research and hamper	390
391	detection of potential money laundering, contravening public policy.	391
392	(See Drum v. San Fernando Valley Bar Ass'n (2010) 182 Cal.App.4th 247, 257; South Bay Chevrolet v.	392
393	Gen. Motors Acceptance Corp. (1999) 72 Cal.App.4th 861, 886.)	393
394	9.4.2 Similarly, marketing intangible emotional benefits that are not actually provided is unfair and	394
395	unethical, taking advantage of vulnerable consumers.	395
396		396

397 9.5 Fraudulent 397
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 399 9.5.1 Defendants' marketing of a safe and transparent platform—while failing to disclose the possibility of 399
 400 suspicious large-scale transactions—and promising intangible emotional benefits never provided is 400
 401 fraudulent under the UCL's broad coverage. 401
 402 (See *In re Tobacco II Cases*, supra; *Pfizer Inc. v. Superior Court* (2010) 182 Cal.App.4th 622, 630.) 402
 403 403

404 9.6 Prayer 404
 405 405

406 9.6.1 Plaintiff seeks injunctive relief to prohibit Defendants from enforcing TOS provisions that bar 406
 407 legitimate forensic or security research and from continuing to misrepresent subscription benefits. 407
 408 9.6.2 Plaintiff also seeks restitution and disgorgement of any ill-gotten gains pursuant to Cal. Bus. & Prof. 408
 409 Code § 17203. 409
 410 (See *Cortez v. Purolator Air Filtration Prods. Co.* (2000) 23 Cal.4th 163, 177–178; *Korea Supply*, supra, 29 410
 411 Cal.4th at p. 1149.) 411
 412 9.6.3 Plaintiff emphasizes that, in light of the January 9, 2025 federal court decision declaring Twitch 412
 413 ineligible for “Good Samaritan” immunity, these UCL violations are not shielded under Section 230. 413
 414 414

415 COUNT VI 415

416 NEGLIGENCE OR RECKLESS MISREPRESENTATION 416

417 (Against All Defendants) 417
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420 10.1 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein. 420
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422 10.2 Negligent or reckless misrepresentation requires: 422

- 423 (1) Misrepresentation of a material fact, 423
- 424 (2) Without reasonable grounds for believing it to be true, 424
- 425 (3) Intent to induce reliance, 425
- 426 (4) Justifiable reliance, and 426
- 427 (5) Resulting damage. 427

428 (See *Bily v. Arthur Young & Co.* (1992) 3 Cal.4th 370, 407–408; Civ. Code §§ 1709–1710.) 428
 429 429

430 10.3 Application 430
 431 431

432 10.3.1 Defendants' statements regarding “love and appreciation” were made either recklessly or 432

negligently, without regard for whether they could be realistically fulfilled.
(See Gagne v. Bertran (1954) 43 Cal.2d 481, 487–488 [negligent misrepresentation requires a positive assertion without reasonable grounds].)
10.3.2 Plaintiff justifiably relied on these statements and suffered damages in the form of subscription fees and emotional distress.
(See Lazar v. Superior Court (1996) 12 Cal.4th 631, 637 [plaintiff must allege facts showing “actual reliance” on misrepresentation].)

10.4 Damages

10.4.1 Plaintiff seeks compensatory damages for the subscription fees lost and for emotional harm arising directly from the misrepresentations.
10.4.2 Because Judge Corley has ruled Twitch is not entitled to Section 230 immunity, Defendants cannot avoid liability for these misrepresentations by invoking “Good Samaritan” defenses.

COUNT VII

INTENTIONAL OR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

(Against All Defendants)

11.1 Plaintiff incorporates by reference all preceding paragraphs as though fully set forth herein.

11.2 Intentional Infliction of Emotional Distress (IIED)

11.2.1 A cause of action for IIED requires:

- (1) Extreme and outrageous conduct by the defendant,
- (2) Intent to cause, or reckless disregard of the probability of causing, emotional distress,
- (3) The plaintiff’s suffering severe or extreme emotional distress, and
- (4) Actual and proximate causation.

(See Hughes v. Pair (2009) 46 Cal.4th 1035, 1050; Potter v. Firestone Tire & Rubber Co. (1993) 6 Cal.4th 965, 1001.)

11.2.2 Defendants’ conduct in promising personal love—an intrinsically emotional matter—while knowing it was illusory or false may be deemed outrageous and intended (or undertaken with reckless disregard) to cause severe emotional harm.

(See KOVR-TV, Inc. v. Superior Court (1995) 31 Cal.App.4th 1023, 1030 [defining outrageous conduct].)

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470 11.3 Negligent Infliction of Emotional Distress (NIED) 470
471 471
472 11.3.1 Alternatively, if Defendants did not intend to harm Plaintiff, they acted negligently in making 472
473 statements likely to cause emotional turmoil to vulnerable individuals. 473
474 (See Dillon v. Legg (1968) 68 Cal.2d 728, 739–740 [foreseeability test]; Burgess v. Superior Court (1992) 2 474
475 Cal.4th 1064, 1072–1073.) 475
476 11.3.2 California courts have recognized NIED claims where a special relationship or foreseeability of 476
477 emotional harm is established. 477
478 (See Molien v. Kaiser Found. Hosps. (1980) 27 Cal.3d 916, 928–929.) 478
479 479
480 11.4 Severe Emotional Distress 480
481 481
482 11.4.1 Plaintiff's confinement history and emotional vulnerability magnify the harm from Defendants' 482
483 conduct. 483
484 (See Molien, supra, at p. 928.) 484
485 485
486 11.5 Prayer 486
487 487
488 11.5.1 Plaintiff seeks compensatory damages for emotional distress, punitive damages if Defendants' 488
489 conduct is found sufficiently outrageous, and all other relief deemed just. 489
490 (See Restatement (Second) of Torts § 46, cmt. d [describing severe emotional distress and outrageous 490
491 conduct]; KOVR-TV, Inc. v. Superior Court, supra.) 491
492 11.5.2 In light of the January 9, 2025 ruling, Twitch is not immune under Section 230, and its actions or 492
493 failures to act that contributed to Plaintiff's distress must be fully adjudicated. 493
494 494
495 **6 PRAYER FOR RELIEF** 495
496 496
497 WHEREFORE, Plaintiff prays for judgment against Defendants as follows: 497
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499 A. Declaratory Judgment 499
500 1. Declaring that Twitch's TOS restrictions on reverse engineering are unconscionable, void, or 500
501 unenforceable under California law and public policy; 501
502 2. Declaring that advertisements or marketing referencing "undying love and appreciation" are deceptive or 502
503 misleading if not genuinely provided; 503
504 3. Recognizing the January 9, 2025 determination by Judge Scott Corley that Section 230 does not shield 504

505 Twitch from liability because it is not acting as a “Good Samaritan”;
 506
 507 B. Injunctive Relief
 508 1. Enjoining Twitch from enforcing TOS that prohibit good-faith, lawful security or forensic research aimed
 509 at detecting potential money laundering or other illegal activities;
 510 2. Enjoining Defendants from advertising intangible emotional benefits (e.g., “love” or “appreciation”)
 511 without making clear that these are entertainment-only or purely figurative statements;
 512 3. Requiring corrective advertising and disclosure of the speculative or figurative nature of intangible
 513 benefits;

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 515 **C Restitution, Disgorgement, and Damages**

- 516 1. Restitution and/or disgorgement of subscription fees and any ill-gotten gains derived from misleading
 517 promises;
 518 2. Compensatory and consequential damages for emotional distress and related harm;
 519 3. Punitive damages as allowed by law, given the potential outrageousness of false emotional promises;

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 521 **D CLRA & FAL Remedies**

- 522 1. Awarding all remedies authorized under the Consumers Legal Remedies Act and False Advertising Law,
 523 including actual damages, injunctive relief, and, where permitted, attorneys’ fees and costs (though Plaintiff
 524 is pro se);

525
 526 **E. Costs and Other Relief**

- 527 1. Awarding costs of suit, pre- and post-judgment interest, and any other relief the Court deems just and
 528 proper.

529
 530 **7 DEMAND FOR JURY TRIAL**

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 532 Pursuant to California law, Plaintiff demands a trial by jury on all causes of action so triable.
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534 Dated: February 14, 2025 (Valentine’s Day)
 535

536 /s/ Bo Shang (In Pro Per)
 537 _____

538 BO SHANG (In Pro Per)

539 10 McCafferty Way

540 Burlington, MA 01803

541 Phone: (781) 999-4101 or (617) 618-8279

542 Email: bo@pdfsage.org | boshangsoftware@proton.me

543 Plaintiff, In Pro Per

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EXHIBIT 1:

Twitch Terms of Sale and Pokimane (subsequently Pokimane LLC) sold her 'undying love and appreciation' as a subscription product continuously from 2013 - 2020, and Pokimane is the most followed female TV channel on Twitch! A "gamin" website!

EXHIBIT 2:

CALIFORNIA IS SMOKING TOO MUCH WEED BY ALLOWING POKIMANE TO OPERATE AS A "LAWFUL"
BUSINESS