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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SC Innovations, Inc.,

Plaintiff,

v.

Uber Technologies, Inc; Rasier LLC; Rasier-
CA LLC; Rasier-PA LLC; Rasier-DC LLC;
Rasier-NY LLC; Uber-USA LLC,

Defendants.

CASE NO. 3:18-CV-07440-JCS

**DEFENDANTS' MOTION TO DISMISS
SECOND AMENDED COMPLAINT**

Hearing:

Date: April 3, 2020
Time: 9:30 a.m.
Place: Courtroom G, 450 Golden Gate
Avenue, San Francisco, CA
Judge: Honorable Joseph C. Spero

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on April 3, 2020, before the Honorable Joseph C. Spero, in Courtroom G of the United States District Court, Northern District of California, located at 450 Golden Gate Avenue, San Francisco, CA 94102, Defendants Uber Technologies, Inc; Rasier LLC; Rasier-CA LLC; Rasier-PA LLC; Rasier-DC LLC; Rasier-NY LLC; and Uber-USA LLC (“Defendants” or “Uber”) will and hereby do move this Court to dismiss, with prejudice, the claims brought by Plaintiff SC Innovations Inc. (“SCI”) pursuant to Federal Rule of Civil Procedure 12(b)(6).

This Court dismissed all claims asserted in SCI’s First Amended Complaint (“FAC,” dkt. 60). Order Granting Mot. to Dismiss [First] Am. Compl. (“Order,” dkt. 71). This Court found that, as a matter of law, Plaintiff’s factual allegations did not support a conclusion that Uber violated the Sherman Act § 2. *Id.* Specifically, this Court found that SCI did not allege (1) market power or (2) a cognizable probability of recoupment, and gave SCI the opportunity to amend its complaint to cure these defects. *Id.* at 12-16. This Court dismissed SCI’s claim under California’s Unfair Practices Act (“UPA”) with prejudice. *Id.* at 18-21.

SCI’s Second Amended Complaint (“SAC,” dkt. 73) offers no new allegations to correct the deficiencies that condemned its FAC. Defendants’ motion to dismiss is based on the grounds that the SAC fails to state any claim upon which relief can be granted because (1) the Sherman Act § 2 claims fail to plead the possession (or a dangerous probability) of monopoly power; (2) the predatory pricing claims under Section 2 fail to allege the requisite elements of predatory pricing (exclusion of competition, dangerous probability of recoupment); (3) the “tortious interference” claims under Section 2 are conclusory and lack any factual support, plead no injury to competition, and are based on lawful and justified conduct; and (4) the applicable statutes of limitations bar SCI’s claims in whole or in part. SCI’s UPA claim should be stricken since the SAC repleads it after it was dismissed with prejudice.

This motion is based on this Notice of Motion and Motion, the concurrently filed Memorandum of Points and Authorities, the pleadings and papers on file, and the argument received by the Court.

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