

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

VOX Network Solutions, Inc. v. Gage Technologies, Inc.

No. 22-cv-09135-AMO (N.D. Cal. Mar. 27, 2025) · No. 22-cv-09135-AMO · Decided March 27, 2025

SUMMARY

The United States District Court for the Northern District of California grants in part and denies in part defendants’ motion to dismiss Vox Network Solutions’ first amended complaint and denies the motion to strike. The court dismisses Vox’s California Unfair Competition Law claims with leave to amend and dismisses its aiding-and-abetting claims as insufficiently pleaded, while allowing the fraudulent concealment claim to proceed. The court also addresses CUTSA supersession, reliance, the economic loss rule, and requested disgorgement.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Araceli Martinez-Olguin
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 27, 2025
DOCKET	22-cv-09135-AMO
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss claims in Vox's first amended complaint and moved under Rule 12(f) to strike portions of Vox's prayer for relief.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts factual allegations as true and construes the pleadings in the light most favorable to the nonmoving party, but requires sufficient factual allegations to state a facially plausible claim. A Rule 12(f) motion may strike redundant, immaterial, impertinent, or scandalous matter, but does not authorize striking claims for damages as legally unavailable.
PRECEDENTIAL VALUE	unpublished district court order; persuasive authority only

TOPICS

- motions to dismiss
- pleadings
- trade secrets
- fraud
- commercial litigation

PRACTICE AREAS

civil procedure

commercial litigation

intellectual property

torts

remedies

QUESTIONS PRESENTED

1. Whether Federal Rule of Civil Procedure 12(g)(2) barred defendants from raising arguments that were omitted from their first motion to dismiss.
2. Whether CUTSA superseded Vox's UCL and fraudulent concealment claims.
3. Whether Vox adequately pleaded UCL claims under the fraudulent and unfair prongs.
4. Whether Vox adequately pleaded aiding and abetting breach of fiduciary duty and aiding and abetting breach of the duty of loyalty.
5. Whether Vox adequately pleaded reliance for fraudulent concealment and whether the economic loss rule barred that claim.
6. Whether the court could strike Vox's request for profits and other benefits under Rule 12(f).

HOLDINGS

1. Rule 12(g)(2) barred defendants from challenging the fraudulent concealment claim on an economic-loss-rule theory because that defense was available but omitted from the prior motion and the claim survived without amendment; Rule 12(g)(2) did not bar arguments directed at claims Vox amended.
2. CUTSA did not supersede Vox's UCL and fraudulent concealment claims because those claims were based in part on conduct unrelated to trade-secret misappropriation, even though some allegations implicated confidential information.
3. A business competitor does not state a UCL claim under the fraudulent prong based solely on alleged deception directed at the competitor or its client; the plaintiff must allege that members of the public are likely to be deceived.
4. A competitor asserting an unfair-prong UCL claim must identify a relevant geographic and product market, allege harm to competition rather than merely injury to itself, and identify an unusual aspect of the conduct that implicates the policy or spirit of antitrust law.
5. Aiding-and-abetting claims require facts showing that the defendant knew of the underlying breach and provided substantial assistance or encouragement, acted with intent to facilitate the tort, or independently breached a duty while substantially assisting the tortious result; conclusory recitations of those elements are insufficient.
6. Vox adequately pleaded reliance by alleging concrete actions it would have taken had it known of the concealed sales opportunity, including terminating or monitoring the employees, preserving relevant devices and information, assigning personnel, and coordinating with Avaya.
7. The economic loss rule did not bar Vox's fraudulent concealment claim, both because defendants could not raise the omitted argument in the successive motion and because the California Supreme Court held that fraudulent concealment claims are exempt from the rule.

8. Rule 12(f) did not authorize striking Vox's request for profits and other benefits because a claim for damages may not be stricken on the ground that the damages are legally unavailable; such challenges should be brought under Rule 12(b)(6) or Rule 56.

KEY QUOTATIONS

“A business practice is fraudulent under the UCL if members of the public are likely to be deceived.” (at 7)

“Injury to a competitor is not equivalent to injury to competition; only the latter is the proper focus of antitrust laws.” (at 8)

“Rule 12(f) does not authorize district courts to strike claims for damages on the ground that such claims are precluded as a matter of law.” (at 12)

FACTUAL BACKGROUND

Vox provided consulting and network-support services and employed McGreevey and Frazier, who signed confidentiality agreements. The employees allegedly used relationships with Consumer Cellular and Avaya, as well as Vox resources and confidential information, to facilitate Consumer Cellular's transfer of business from Vox to Gage after both employees joined Gage. Vox alleged that the employees concealed the opportunity and failed to follow Vox procedures for documenting and supporting the proposed transition.

PROCEDURAL HISTORY

Vox sued Gage Technologies and former employees Kristopher McGreevey and Kevin Frazier concerning the alleged diversion of a client. The court previously dismissed several claims with leave to amend, while allowing other claims to proceed. After Vox filed its first amended complaint, defendants again moved to dismiss and also moved to strike requests for relief. The court granted dismissal with leave to amend as to the UCL and aiding-and-abetting claims, denied dismissal of the breach of fiduciary duty, breach of duty of loyalty, and fraudulent concealment claims, and denied the motion to strike.

DISPOSITION

other

CASES CITED

- Godecke v. Kinetic Concepts, Inc., 937 F.3d 1201, 1208 (9th Cir. 2019)
- Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)
- Manzarek v. St. Paul Fire & Marine Ins. Co., 519 F.3d 1025, 1031 (9th Cir. 2008)
- Levitt v. Yelp! Inc., 765 F.3d 1123, 1135 (9th Cir. 2014)
- Hinds Invs., L.P. v. Angioli, 654 F.3d 846, 850 (9th Cir. 2011)
- K.C. Multimedia, Inc. v. Bank of Am. Tech. & Operations, Inc., 171 Cal. App. 4th 939, 958 (2009)
- Arthur J., 409 F. Supp. 3d at 1175

- Henry Schein, Inc. v. Cook, No. 16-CV-03166-JST, 2017 WL 783617, at *3 (N.D. Cal. Mar. 1, 2017)
- Davis v. HSBC Bank Nevada, N.A., 691 F.3d 1152, 1169 (9th Cir. 2012)
- Travelers Prop. Cas. Co. of Am. v. Centex Homes, No. 11-3638-SC, 2013 WL 4528956, at *5 (N.D. Cal. Aug. 26, 2013)
- Watson Labs., Inc. v. Rhone-Poulenc Rorer, Inc., 178 F. Supp. 2d 1099, 1121 (C.D. Cal. 2001)
- Med. Instrument Dev. Lab'ys v. Alcon Lab'ys, No. C-05-1138-MJJ, 2005 WL 1926673, at *5 (N.D. Cal. Aug. 10, 2005)
- Payroll Res. Grp. v. HealthEquity, Inc., No. 23-CV-02794-TSH, 2024 WL 1744089, at *6 (N.D. Cal. Apr. 23, 2024)
- Nat'l Rural Telecommunications Co-Op v. DIRECTV, Inc., 319 F. Supp. 2d 1059, 1078 (C.D. Cal. 2003)
- Cel-Tech Commc'ns, Inc. v. Los Angeles Cellular Tel. Co., 20 Cal. 4th 163, 186-87 (1999)
- Facebook, Inc. v. BrandTotal Ltd., No. 20-CV-7182-JCS, 2021 WL 2354751, at *15 (N.D. Cal. June 9, 2021)
- Hicks v. PGA Tour, Inc., 897 F.3d 1109, 1120-21 (9th Cir. 2018)
- CVS Pharmacy, Inc., 982 F.3d 1204, 1214-15 (9th Cir. 2020)
- Blantz v. Cal. Dep't of Corr. & Rehab., Div. of Corr. Health Care Servs., 727 F.3d 917, 927 (9th Cir. 2013)
- Soo Park v. Thompson, 851 F.3d 910, 928 (9th Cir. 2017)
- Arista Records LLC v. Doe, 604 F.3d 110, 120 (2d Cir. 2010)
- Casey v. U.S. Bank Nat'l Ass'n, 127 Cal. App. 4th 1138, 1144 (2005)
- Gerard v. Ross, 204 Cal. App. 3d 968, 983 (1988)
- Austin B. v. Escondido Union Sch. Dist., 149 Cal. App. 4th 860, 879 (2007)
- Jones v. ConocoPhillips Co., 198 Cal. App. 4th 1187, 1198 (2011)
- In re Yahoo! Inc. Customer Data Sec. Breach Litig., 313 F. Supp. 3d 1113, 1134 (N.D. Cal. 2018)
- Robinson Helicopter Co. v. Dana Corp., 34 Cal. 4th 979, 988 (2004)
- JMP Sec. LLP v. Altair Nanotechnologies Inc., 880 F. Supp. 2d 1029, 1042-43 (N.D. Cal. 2012)
- Stewart v. Electrolux Home Prods., Inc., 304 F. Supp. 3d 894, 904-05 (E.D. Cal. 2018)
- Rattagan v. Uber Techs., Inc., 17 Cal. 5th 1, 38 (2024)
- Whittlestone, Inc. v. Handi-Craft Co., 618 F.3d 970, 974-75 (9th Cir. 2010)
- Davis v. Hollywood & Ivar, LLC, No. 221-CV-01235-VAP-JPRX, 2021 WL
- Yu v. Design Learned, Inc., No. 15-CV-05345-LB, 2016 WL 3541046, at *7 (N.D. Cal. June 29, 2016)
- Thomas-Byass v. Michael Kors Stores (California), Inc., No. ED-CV-15369-JGB-KKX, 2015 WL 13756100, at *3 (C.D. Cal. Sept. 16, 2015)