

CASE NO: 8:24cv02383

PETITIONERS:

JOSEPH DEAN, a Tampa resident

IN THE UNITED STATES DISTRICT
COURT

MIDDLE
DISTRICT OF
FLORIDA

DEFENDANTS:

ROKU INC, a Delaware corporation
headquartered in San Jose, California

TAMPA
DIVISION

**PLAINTIFF'S AMENDED OPPOSITION TO DEFENDANT'S MOTION TO
DISMISS**

Plaintiff Joseph Dean ("Plaintiff"), proceeding pro se, hereby submits this Amended Opposition to Defendant Roku Inc.'s ("Roku") Motion to Dismiss the Amended Complaint (ECF No. 19) ("Motion"). Concurrently with this Opposition, Plaintiff is filing a Motion for Leave to File a Second Amended Complaint, which addresses and renders moot many of the issues raised in Defendant's Motion.

I. INTRODUCTION

Roku's Motion attempts to avoid addressing the substance of Plaintiff's well-pleaded antitrust claims by mischaracterizing both the legal standards and the detailed factual allegations in the Amended Complaint. The Motion should be denied for three primary reasons: (1) the Amended Complaint presents a clear, organized account of Roku's anticompetitive conduct with specifically referenced exhibits, not a "shotgun pleading"; (2) Plaintiff has established standing through documented personal injury and exclusion from clearly defined markets; and (3) the Amended Complaint properly defines relevant markets and demonstrates Roku's monopoly power through both direct evidence of exclusionary conduct and market share data.

II. FACTUAL BACKGROUND

Since 2010, Plaintiff has developed software applications under the name "Veamcast" that has features that enhance the streaming experience for Roku users, including remote control capabilities, content discovery, video/voice communication and social sharing features. These Veamcast applications rely on Roku's APIs to enable remote control, content discovery, and deep linking features. They provide users with enhanced functionality for content discovery and sharing beyond what Roku's standard applications offer [Exhibit 5]. It was a tremendous personal effort as demonstrated in Exhibit C.

In 2009, Roku CEO Anthony Wood promised to "let third parties publish content and applications that consumers can access directly from their TV" [Exhibit 1].

After achieving market dominance, Roku systematically reversed course by implementing technical restrictions that disadvantage competitors while maintaining those same capabilities for Roku's own applications. In its February 2025 email to developers, Roku claimed "This incredible growth is largely due to our amazing developers" [Exhibit A1], yet in its public press release about the same milestone, Roku attributed this success solely to "our laser focus on simplifying and enhancing the streamer's journey" with no mention of developers' contributions [Exhibit A2].

Roku has implemented a pattern of retroactive and undocumented API changes that specifically target competitive functionality. The Amended Complaint documents:

1. Roku's systematic restriction of External Control Protocol (ECP) commands, which provide essential remote-control functionality for third-party applications [Exhibit 4b];
2. Roku's silent removal of search functionality in Roku OS 12.0, which remained undocumented for at least 16 months until February 2025 [Exhibits A3, B];

3. Roku's launch of Photo Streams in 2023, replicating core Veamcast functionality while simultaneously restricting the APIs that would allow Plaintiff's application to provide similar features [Exhibit 7].

When Plaintiff sought clarification in the Roku Community Forum, moderators with pseudonyms and taglines proclaiming not to be Roku employees provided contradictory information, with some claiming the limitation was not new while others confirmed the discontinuation of the feature. A Roku representative eventually confirmed: "support for ECP commands from within Roku channel applications and other platforms, including mobile remote apps, has been discontinued." This post was subsequently removed from the forum. Plaintiff also discovered that the forum actively prevents users from using the word "lawyer" in posts and blocks attempts to share evidence of this censorship, further demonstrating Roku's pattern of suppressing legitimate discussions about potential legal recourse [Exhibits 4a, 6].

III. LEGAL STANDARD

To survive a motion to dismiss, a complaint must contain sufficient factual matter to "state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

In the antitrust context, a plaintiff must allege: (1) a violation of antitrust law; (2) direct injury from the violation; and (3) damages. The Amended Complaint satisfies each of these requirements.

IV. ARGUMENT

A. The Amended Complaint Is Not a "Shotgun Pleading"

Roku's characterization of the Amended Complaint as a "shotgun pleading" is incorrect. The Amended Complaint presents a clear, organized account of Roku's anticompetitive conduct with specifically referenced exhibits supporting particular allegations that advance a logical progression from background and jurisdiction (¶¶ 1-9), through factual allegations (¶¶ 10-56), market definition (¶¶ 57-58), to specific causes of action (¶¶ 59-77).

Each exhibit serves a specific purpose in supporting these allegations:

1. Exhibits demonstrating Roku CEO Anthony Wood's statements [Exhibits 1-3, 8, 12-13] document Roku's evolution from promising an open platform to systematically restricting competition;
2. Exhibits showing Veamcast functionality [Exhibits 5, C] provide concrete evidence of the product features directly impacted by Defendant's API restrictions;
3. Technical documentation [Exhibits 4b, A3, B] shows the specific API changes that caused direct harm to Plaintiff's product.

The Amended Complaint does not indiscriminately incorporate previous allegations but rather builds a coherent narrative of Defendant's anticompetitive conduct.

B. Plaintiff Has Established Standing

A. Article III Standing

Plaintiff satisfies the three requirements for Article III standing:

1. Concrete Injury: Plaintiff has suffered concrete injury through wasted development costs for functionality subsequently disabled by Roku's API restrictions, lost revenue from applications rendered non-functional, and lost business opportunities as documented in Exhibit C. This exhibit shows over twelve years of continuous development with 2,132 documented code changes and 34,741 file operations, representing substantial investments rendered worthless by Roku's conduct.
2. Causation: These injuries are directly traceable to Roku's conduct. The Amended Complaint documents how Roku's systematic API restrictions specifically targeted functionalities that differentiate Plaintiff's applications from Roku's own, enabling Roku to eliminate competitive threats while maintaining the same capabilities for its own services.
3. Redressability: The injuries are redressable through both damages and injunctive relief. Restoration of API access on non-discriminatory terms

would allow Plaintiff to resume development and compete in the relevant markets.

B. Personal Standing

Roku's attempt to characterize Plaintiff's injuries as merely derivative of corporate harm ignores critical facts and established legal precedent:

1. **Pre-Corporate Individual Work:** Plaintiff began development in 2010 as an individual, long before any corporate entity was formed. His personal investment of time and resources, and the direct harm to his individual interests, distinguish this case from those cited by Roku.
2. **Continuous Personal Investment:** Plaintiff invested significant personal time, resources, and professional reputation in the development of Veamcast prior to and across multiple corporate entities. Throughout all iterations of development (under names SyncStor, Xekyn, Veamcast Corporation, and Veamcast Corp.), Plaintiff maintained 100% ownership and control, with no investors or employees.
3. **Direct Personal Harm:** The U.S. Supreme Court has established that individuals have standing apart from their corporations when they suffer direct, personal injuries. See *Warth v. Seldin*, 422 U.S. 490, 501 (1975). Plaintiff's injuries are not derivative of the corporation's but are uniquely personal, including damage to professional reputation, lost career

opportunities, and wasted personal development efforts spanning over a decade.

4. Legally Recognized Distinction: This Court has previously acknowledged that Plaintiff could "proceed on his own behalf" and "set forth claims he maintains on behalf of himself, rather than on behalf of Veamcast." See *Veamcast Corp. v. Facebook, Inc.*, No. 8:20-cv-2667-T-36AEP (M.D. Fla. Dec. 9, 2020).

C. Antitrust Standing

In *Blue Shield v. McCready*, the Supreme Court recognized standing where a plaintiff's injury was "inextricably intertwined with the injury the conspirators sought to inflict" on the market. 457 U.S. 465, 483-84 (1982). Here, Plaintiff's exclusion from the market through API restrictions is inseparable from the broader harm to competition.

1. Antitrust Injury: Plaintiff's injuries resulting as a result of exclusion from clearly defined markets are precisely the type the antitrust laws were designed to prevent. Roku's API restrictions prevent innovation, limit consumer choice, and advantage Roku's own applications in ways that hugely harm the competitive process itself.
2. Efficient Enforcer: As a competitor intentionally excluded from relevant markets through discriminatory API restrictions, Plaintiff is well-

positioned to vindicate the harm to competition. The essential facilities doctrine, while not explicitly recognized by the Supreme Court, provides a framework for understanding how platform monopolists like Roku can leverage API restrictions to maintain market power.

C. The Amended Complaint Properly Defines Relevant Markets and Alleges Monopoly Power

1. Relevant Markets

The Amended Complaint properly defines two interrelated markets: (1) the market for applications that control and interact with Roku devices, and (2) the U.S. streaming platform operating system market.

The primary market consists of software applications designed to remotely control, cast content to, and interact with Roku streaming devices and Roku-powered smart TVs. This market has distinct product characteristics that distinguish it from other potential substitutes: (a) Specialized functionality requiring Roku-specific APIs; (b) Distinct customers (Roku device owners); (c) Roku's exclusive control over access to essential APIs; and (d) Industry recognition as a distinct market segment.

The secondary market is the U.S. streaming platform operating system market, in which Roku competes with other operating systems for streaming devices and

smart TVs. The geographic scope of both markets is the United States, where Roku implements its developer policies consistently nationwide.

2. Monopoly Power

The Amended Complaint presents both direct and circumstantial evidence of Roku's monopoly power:

Direct evidence includes Roku's ability to: (a) Unilaterally modify or remove API access without market consequences, as demonstrated by the retroactive removal of search functionality [Exhibits A3, B]; (b) Implement contradictory technical requirements without justification; (c) Advantage its own services through platform modifications.

Circumstantial evidence includes: (a) Roku's 48.3% market share in the U.S. streaming platform operating system market as of Q1 2024, growing from 33% in 2020 [Exhibit 11]; (b) Roku's announcement of reaching 90 million streaming households [Exhibits A1, A2]; (c) More than triple the market share of its nearest competitor.

Roku's monopolistic intent is evidenced by CEO Anthony Wood's repeated statements about global domination, including his declaration that "Roku's mission is to power every TV in the world - that's what we're focused on" [Exhibit 12] and his confirmation during Roku's IPO that "our goal is to power every TV in the world" [Exhibit 13].

D. The Amended Complaint Adequately Alleges Anticompetitive Conduct

1. Sherman Act Section 2 Claim

Roku has willfully maintained monopoly power through exclusionary conduct rather than superior products or business acumen. The Amended Complaint identifies:

- (a) Systematic API restrictions that disadvantage competitors while maintaining functionality for Roku's own applications [Exhibits 4b, A3, B]; This conduct parallels the anticompetitive behavior found illegal in *United States v. Microsoft Corp.*, 253 F.3d 34 (D.C. Cir. 2001), where the court found Microsoft violated antitrust laws by restricting access to key technical interfaces, and as Judge Jackson noted, placed 'an oppressive thumb on the scale of competitive fortune'.
- (b) Retroactive removal of documented functionality without notice, creating development uncertainty that deters market entry;
- (c) Platform modifications that advantage The Roku Channel over competing applications [Exhibit 9];
- (d) Exploitation of platform data to identify and replicate successful features from potential competitors as seen in Roku's Photo and Mobile Apps [Exhibit 7] and as seen in their adoption and domination of fast channels despite not being an innovator of them [Exhibit 8].

2. Clayton Act Section 3 Claim

Roku's technical restrictions effectively create exclusive dealing arrangements that substantially foreclose competition. The Amended Complaint details how Roku has:

(a) Made the Roku Mobile App the exclusive application that can fully control Roku devices;

(b) Created technical barriers that prevent third-party applications from accessing essential functionality;

(c) Implemented contradictory requirements that make compliance impossible, as demonstrated by the February 2025 announcement requiring both that "the Control by mobile apps setting must be Enabled for a Roku device to receive ECP commands" while simultaneously mandating that "ECP commands may not be sent from 3rd-party platforms" [Exhibit A3].

The creation of insurmountable barriers to any new third-party remote-control applications renders existing applications increasingly non-functional as they attempt to comply with contradictory requirements.

E. Roku's Conduct Lacks Legitimate Business Justification

Roku's conduct lacks any legitimate business or technical justification, as Roku has the ability to control access to its APIs selectively – evidenced by its maintenance of identical functionality for its own applications while denying

access to competitors. The External Control Protocol was designed for network-based control of Roku devices, and providing secure, documented API access to third-party developers on fair and non-discriminatory terms is technically feasible.

IV. NEW EVIDENCE RESPONSIVE TO DEFENDANT'S MOTION

A. Introduction of Supplemental Evidence

While a motion to dismiss under Rule 12(b)(6) typically limits the Court's review to the allegations in the complaint, the Court may consider additional evidence under certain circumstances without converting the motion to one for summary judgment. See *Horsley v. Feldt*, 304 F.3d 1125, 1134 (11th Cir. 2002) (holding that documents may be considered when they are "central to the plaintiff's claim").

Additionally, courts may take judicial notice of facts that are "not subject to reasonable dispute" because they "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b).

Plaintiff respectfully submits the following supplemental evidence that directly responds to assertions in Defendant's Motion and is appropriate for the Court's consideration:

1. Exhibit A1: Email from Roku to developers dated February 6, 2025, announcing "Roku crosses 90M streaming households, new Tax Withholding report, new requirements for ECP commands, and more!"

2. Exhibit A2: Roku's official press release about reaching 90 million streaming households.
3. Exhibit A3: Roku documentation dated February 2025 regarding ECP command restrictions.
4. Exhibit B: Forum post from Roku moderator "RokuBen" confirming the deliberate replacement of "the search system with a new implementation."

This evidence is appropriate for the Court's consideration for several reasons:

First, these exhibits directly rebut Defendant's assertions in its Motion that Plaintiff's claims about Roku's market power and API restrictions are speculative. The February 6, 2025, email was sent just one day before Defendant filed its Motion to Dismiss, suggesting Defendant knew of this evidence when preparing its Motion.

Second, these exhibits are central to Plaintiff's claims regarding Roku's anticompetitive conduct and market power, as they provide direct evidence of both (1) Roku's market dominance (90 million streaming households) and (2) ongoing pattern of API restrictions targeting competitive functionality.

Third, these corporate communications from Roku are appropriate for judicial notice as they "can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b). They are official company communications whose authenticity is not in dispute.

B. Relevance to Plaintiff's Claims

This new evidence strengthens Plaintiff's claims in several key ways:

1. **Market Power:** Roku's announcement of 90 million streaming households directly refutes Defendant's claim that Plaintiff has not adequately alleged monopoly power. This represents nearly half of all U.S. broadband households, significantly exceeding the market share threshold typically required to establish monopoly power.
2. **Pattern of Anticompetitive Conduct:** The exhibits demonstrate an ongoing pattern of API restrictions specifically targeting competitive functionality. The February 2025 documentation introducing contradictory requirements for ECP commands (requiring both that "the Control by mobile apps setting must be Enabled" while simultaneously prohibiting third-party apps from using this functionality) creates technical barriers that maintain Roku's exclusive control.
3. **Retroactive API Changes:** The confirmation that "As of Roku OS 12.0, the 'search' command is no longer available" demonstrates Roku's pattern of retroactively removing API functionality without notice, precisely as alleged in the Amended Complaint. This directly impacts Plaintiff's applications and shows how Roku "placed an oppressive thumb on the scale of competitive fortune," similar to Microsoft's conduct found illegal in *United States v. Microsoft Corp.*

See Judge Jackson's ruling (finding Microsoft "placed an oppressive thumb on the scale of competitive fortune" to guarantee its continued dominance).

4. Contradictory Messaging: The contrast between Roku's email to developers claiming growth is "largely due to our amazing developers" and its public press release attributing success solely to Roku's "laser focus" demonstrates the manipulative nature of Roku's communications – praising developers privately while undermining them technically.

These exhibits provide concrete evidence of the allegations in the Amended Complaint and demonstrate that Roku's Motion to Dismiss is based on factual assertions contradicted by Roku's own communications. The evidence shows that, rather than being a "shotgun pleading" based on speculation, the Amended Complaint presents a carefully documented pattern of anticompetitive conduct supported by Roku's own statements and actions.

V. CONCLUSION

For the foregoing reasons, Roku's Motion to Dismiss should be denied.

Alternatively, if the Court identifies any technical deficiencies in the Amended Complaint, Plaintiff respectfully requests that the Court grant Plaintiff's concurrently filed Motion for Leave to File a Second Amended Complaint, which addresses the issues raised in Defendant's Motion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joe Dean', with a stylized, cursive script.

MAY 1, 2025

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I filed the foregoing with the Clerk of the Court using the CM/ECF system and served it via email on counsel for Defendant:

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