

**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 MOTION FOR LEAVE TO FILE SECOND AMENDED  
COMPLAINT**

Plaintiff Joseph Dean ("Plaintiff"), proceeding pro se, hereby moves for leave to file a Second Amended Complaint pursuant to Federal Rule of Civil Procedure 15(a)(2). In support of this Motion, Plaintiff states as follows:

**I. INTRODUCTION**

Under Federal Rule of Civil Procedure 15(a)(2), a party may amend its pleading with the court's leave, which "should freely give leave when justice so requires." The Supreme Court has emphasized that Rule 15's mandate that leave to amend

be "freely given" is a "policy of the Federal Rules." *Foman v. Davis*, 371 U.S. 178, 182 (1962).

## **II. GROUNDS FOR AMENDMENT**

Plaintiff seeks leave to amend his complaint for several compelling reasons:

1. To address the alleged deficiencies raised in Defendant's Motion to Dismiss (ECF No. 19);
2. To incorporate significant new evidence obtained since the filing of the Amended Complaint, including: a. Roku's February 6, 2025 developer communication acknowledging its retroactive removal of search functionality; b. Roku's implementation of contradictory technical requirements for API access that create impossible compliance scenarios for competitors; c. Roku's announcement of reaching 90 million streaming households, demonstrating increased market power;
3. To more precisely define the relevant markets and Roku's monopoly power therein;
4. To clarify Plaintiff's standing and the nature of his injuries resulting from Defendant's anticompetitive conduct;
5. To add a demand for jury trial, which was inadvertently omitted from the Amended Complaint.

6. To better conform with this Court's Local Rules by incorporating a clearer organizational structure, more precise legal citations, and improving the overall formatting and presentation of the complaint.

The proposed Second Amended Complaint (attached) addresses these issues while maintaining the substance of Plaintiff's antitrust claims against Roku.

### **III. ARGUMENT**

#### **A. Amendment Should Be Freely Granted**

The standard for granting leave to amend is liberal. The Supreme Court has identified several factors that might justify denying leave to amend, including "undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc." *Foman*, 371 U.S. at 182. None of these factors is present here.

#### **B. The Amendment Is Timely**

This motion is timely, as discovery has not yet begun and no scheduling order has been entered. Courts routinely grant leave to amend at this early stage of litigation. Additionally, the Court's recent order striking Plaintiff's Opposition to Defendant's Motion to Dismiss demonstrates that the case remains in its preliminary stages.

### **C. The Amendment Is Not Futile**

The proposed Second Amended Complaint is not futile, as it addresses the alleged deficiencies raised in Defendant's Motion to Dismiss by:

1. More precisely defining the relevant markets and Roku's monopoly power;
2. Clarifying Plaintiff's standing by detailing his personal injuries resulting from Defendant's anticompetitive conduct;
3. Incorporating new evidence of Roku's anticompetitive conduct that directly impacts Plaintiff's applications;
4. Organizing the allegations in a manner that clearly connects factual allegations to specific claims;

### **D. New Evidence Warrants Amendment**

The February 6, 2025 developer email from Roku (Exhibit A1 to the proposed Second Amended Complaint) represents significant new evidence that became available after the filing of the Amended Complaint. This email:

1. Finally acknowledges the retroactive removal of search functionality that had been disabled since August 2023 without documentation;
2. Announces contradictory technical requirements that create an impossible compliance scenario for third-party applications;

3. Uses deceptive tactics to minimize attention to these significant API changes, including referencing a non-existent "Tax Withholding report" in the subject line; and
4. Confirms Roku's reach of 90 million streaming households, further demonstrating its market power.

Courts routinely permit amendments to incorporate newly discovered evidence that strengthens a plaintiff's claims.

#### **E. The Amendment Will Not Prejudice Defendant**

Allowing the proposed amendment will not prejudice Defendant, as:

1. The case is in its early stages;
2. No discovery has begun;
3. The amendments primarily clarify existing claims rather than adding entirely new theories of liability; and
4. Defendant will have a full opportunity to respond to the Second Amended Complaint.

#### **F. Amendment Will Better Comply with Local Rules**

The proposed Second Amended Complaint has been structured to better comply with the Local Rules of the Middle District of Florida. The improved formatting while maintaining evidence structure will help better facilitate the Court's review of Plaintiff's claims and Defendant's responses.

#### IV. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court grant leave to file the attached Second Amended Complaint.

Respectfully submitted,

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

MAY 1, 2025

PETITIONER, FILING PRO SE  
JOSEPH DEAN  
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310-593-4485

Pursuant to Local Rule 3.01(g), I certify that on April 30, 2025, I conferred with counsel for Defendant regarding this motion. Counsel for Defendant (Norman Aspis) stated via email that Defendant opposes the relief requested in this motion.

#### **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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