LINK:

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No.	**CV 15-01086-BRO (FFMx)**	Date	September 18, 2015
Title	**LENHOFF ENTERPRISES, INC. V. UNITED TALENT AGENCY, INC. ET AL.**		

Present: The Honorable	**BEVERLY REID O'CONNELL, United States District Judge**	
Renee A. Fisher	Not Present	N/A
Deputy Clerk	Court Reporter	Tape No.

Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:
Not Present	Not Present

Proceedings: (IN CHAMBERS)

ORDER GRANTING IN PART AND DENYING IN PART DEFENDANTS' MOTIONS TO DISMISS [16, 18, 21]

I. INTRODUCTION

Pending before the Court are two motions to dismiss filed by Defendants United Talent Agency, Inc. ("UTA"), (Dkt. No. 16), and International Creative Management Partners LLC ("ICM") (collectively, "Defendants"), (Dkt. Nos. 18, 21), against Plaintiff Lenhoff Enterprises, Inc. ("Plaintiff"). In its First Amended Complaint ("FAC"), Plaintiff alleges six causes of action: (1) conspiracy to monopolize, pursuant to 15 U.S.C. § 2 ("Sherman Act"); (2) unfair competition and unlawful and unfair business practices, in violation of California Business and Professions Code sections 17200 *et seq.* (Unfair Competition Law or "UCL"); (3) intentional interference with contract, under California law; (4) intentional interference with prospective economic advantage, under California law; (5) declaratory relief; and (6) injunctive relief. (Dkt. No. 8.) Defendants request that the Court dismiss all of the claims in Plaintiff's FAC pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief may be granted. After considering the papers filed in support of and in opposition to the instant motion, the Court deems this matter appropriate for resolution without oral argument of counsel. *See* Fed. R. Civ. P. 78; C.D. Cal. L.R. 7-15. For the following reasons, Defendants' motions are **GRANTED in part** and **DENIED in part**.

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II. FACTUAL BACKGROUND AND PROCEDURAL BACKGROUND

A. The Parties

Plaintiff and Defendants both are talent agencies doing business in California, providing their agency services to individuals in the entertainment industry. (Pl.'s First Am. Compl. ("FAC") ¶¶ 1–2, 6, 8–10.) Plaintiff is a small boutique agency with only two agents, (FAC ¶¶ 6, 8), while Defendants are large agencies with many more agents and a larger clientele than Plaintiff, (*see* Mot. of Def. ICM ("ICM Mot.") at 3; Mot. of Def. UTA ("UTA Mot.") at 1). Defendants' size and aggregated control over the market underlie Plaintiff's claims.

B. Conspiracy to Monopolize Allegation

The crux of Plaintiff's claim under § 2 of the Sherman Act is that beginning in the late 1990's and continuing to 2002, Defendants and other large talent agencies "conspired and agreed . . . that it was in their best interests to proceed without Rule 16(g)" of the franchise agreement between the Association of Talent Agents ("ATA")[1] and the Screen Actors' Guild ("SAG"), which prevented an agency from possessing a financial interest in a production or distribution company. (FAC ¶¶ 43, 50; *see also* ICM Mot. at 2; Pl.'s Opp'n to UTA Mot. ("Opp'n") at 1.) The SAG/ATA franchise agreement expired under its own terms on or about October 20, 2000, (FAC ¶ 44), and despite negotiations attempting to execute a new franchise agreement, it never came to fruition after SAG members rejected an initial tentative agreement, (FAC ¶¶ 45–48). Plaintiff alleges that Defendants' intent "in bringing about the demise of Rule 16(g) . . . was to destroy competition and to build a monopoly of Uber Agencies."[2] (FAC ¶¶ 50–51.)

Without Rule 16(g)'s restrictions, Plaintiff alleges that Defendants and two competitor agencies, William Morris Endeavor Entertainment ("WME") and Creative Artists Agency ("CAA"), received significant increases in business. (FAC ¶¶ 60, 71, 98.)

[1] All of the named parties in this action are members of the ATA. (ICM Mot. at 5, 13; FAC ¶¶ 41, 49.)

[2] In support of its argument that Defendants did not conspire to "bring about the demise of Rule 16(g)," Defendant ICM points out that it was SAG, not ATA, that rejected the tentative agreement to reinstate Rule 16(g). (ICM Mot. at 15; FAC ¶ 51.)

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Specifically, Plaintiff claims that the four "Uber Agencies"—comprised of ICM, UTA, WMA, and CAA (collectively, the "Agencies")—now control 79% of the scripted series staffing market, 91% of the scripted series term deal market, and 93% of the scripted series market. (FAC ¶¶ 71–73.) Plaintiff further alleges that the Agencies split packaging fees among each other, but they do not split with any other firms, thereby forming a "cartel" which controls the market. (FAC ¶¶ 73, 84.)

Plaintiff goes on to allege that the increase in the Agencies' business results from their ability to provide "packaging" arrangements to clients that allow larger agencies, like Defendants, not to charge the standard 10% commission typically charged by smaller agencies, such as Plaintiff. (UTA Mot. at 3; FAC ¶¶ 82–83.) In lieu of the 10% fee, Plaintiff alleges that the Agencies earn "packaging fees" from the studios or production companies based on the underlying work's success. (FAC ¶ 24.) The rights are allegedly for the "life of the work," and the total payments to the Agencies end up exceeding the total payments to the client, in some circumstances. (FAC ¶ 24.)

C. Client-Poaching Allegation

Plaintiff alleges that around May 2012, an agent from Defendant UTA contacted one of Plaintiff's clients, Client #1, to persuade the client to leave Plaintiff's agency for UTA. (FAC ¶ 11.) On November 4, 2014, Client #1 allegedly informed Plaintiff that the client was terminating Plaintiff's representation, and about one month later Plaintiff learned that the Director's Guild website listed a UTA agent as Client #1's new agent. (FAC ¶¶ 21, 23.) Plaintiff maintains that UTA induced Client #1 to leave Plaintiff with the "package" option that would allow the client to avoid paying the customary 10% commission. (FAC ¶ 24.) Plaintiff similarly alleges that ICM "poached" another of Plaintiff's clients, Client #2, by inducing the client with the promise that ICM would waive the customary 10% fee. (FAC ¶¶ 25–28.) Plaintiff does not provide specific details of this alleged conduct, omitting dates and agents involved in the wrongdoing. (*See* FAC ¶¶ 25–28.)

D. Procedural Background

On February 13, 2015, Plaintiff filed its original Complaint, (Dkt. No. 3), but never served it on Defendants, (ICM Mot. at 4). Instead, Plaintiff filed a FAC on June 15,

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2015, (Dkt. No. 8), and served it on UTA and ICM on June 16 and June 17, respectively, (Dkt. Nos. 12, 13). Following the Court's Order granting the parties' stipulation to extend Defendants' time to answer, (Dkt. No. 15), Defendants filed the present motions on August 10, 2015, seeking to dismiss all claims in Plaintiff's FAC, (Dkt. Nos. 16, 18, 21). On August 24, 2015, Plaintiff filed its oppositions to each motion. (Dkt. Nos. 24, 25.) Defendants timely replied on September 4, 2015. (Dkt. Nos. 26, 27.)

III. LEGAL STANDARD

Under Rule 8(a), a complaint must contain a "short and plain statement of the claim showing that the [plaintiff] is entitled to relief." Fed. R. Civ. P. 8(a). If a complaint fails to do this, the defendant may move to dismiss it under Rule 12(b)(6). Fed. R. Civ. P. 12(b)(6). "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is plausible on its face "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* "Factual allegations must be enough to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555. Thus, there must be "more than a sheer possibility that a defendant has acted unlawfully." *Iqbal*, 556 U.S. at 678. "Where a complaint pleads facts that are 'merely consistent with' a defendant's liability, it 'stops short of the line between possibility and plausibility'" that the plaintiff is entitled to relief. *Id.*

Where a district court grants a motion to dismiss, it should provide leave to amend unless it is clear that the complaint could not be saved by any amendment. *Manzarek v. St. Paul Fire & Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008) ("Dismissal without leave to amend is improper unless it is clear, upon de novo review, that the complaint could not be saved by any amendment."). Leave to amend, however, "is properly denied . . . if amendment would be futile." *Carrico v. City & Cty. of S.F.*, 656 F.3d 1002, 1008 (9th Cir. 2011).

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V. DISCUSSION

A. Sherman Act Claim

Plaintiff argues that it alleges sufficient facts in its FAC to establish the existence of a conspiracy to monopolize under the Sherman Act. (*See* Opp'n at 8–15.) To state a claim for conspiracy to monopolize in violation of § 2, Plaintiff must sufficiently plead the following: "(1) the existence of a combination or conspiracy to monopolize; (2) an overt act in furtherance of the conspiracy; (3) the specific intent to monopolize; and (4) causal antitrust injury." *Paladin Assocs., Inc. v. Montana Power Co.*, 328 F.3d 1145, 1158 (9th Cir. 2003). In addition to arguing that Plaintiff fails to plead the requisite elements to sufficiently state a claim for conspiracy to monopolize, Defendants also contend that the law does not support Plaintiff's claim given that Plaintiff fails to assert that the monopoly power is being conferred on a single entity, as is required by the Ninth Circuit. (*See* ICM Mot. at 10–11; UTA Mot. at 7–9.) Rather, Plaintiff alleges that the Agencies share the monopoly power—an assertion that suggests Defendants' power is better construed as an oligopoly. (FAC ¶ 51.) Defendants argue that the Ninth Circuit does not recognize a "shared monopoly" or "joint monopolization" theory. (*See* ICM Mot. at 10–11; UTA Mot. at 7–9.) The Court agrees with Defendants.

Defendants rely on *Rebel Oil Co. v. Atlantic Richfield Co.*, 51 F.3d 1421, 1442–43 (9th Cir. 1995) to support their position. *Rebel Oil* involved an attempt-to-monopolize claim stemming from alleged predatory pricing in the retail gasoline market in Las Vegas, Nevada. *Id.* at 1430–31. After holding that the plaintiff's § 2 claim failed, the court explained:

> To pose a threat of monopolization, one firm *alone* must have the power to control market output and exclude competition. An oligopolist lacks this unilateral power. By definition, oligopolists are interdependent. An oligopolist can increase market price, but only if the others go along.

Id. at 1443 (emphasis in original) (citations omitted). Thus, the Ninth Circuit has specifically emphasized that a claim under § 2 requires the power to be in one entity rather than shared among multiple entities. District courts in the Ninth Circuit routinely apply this concept. *See, e.g.*, *Int'l Longshore & Warehouse Union v. ICTSI Oregon, Inc.*,

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15 F. Supp. 3d 1075, 1096–97 (D. Ore. 2014) (holding that the plaintiff's failure to allege that the two defendants conspired to create a monopoly for a single entity failed to state a claim under § 2 because claims of a "shared monopoly" do not give rise to a claim under § 2); *Terminalift LLC v. Int'l Longshore & Warehouse Union Local 29*, No. 11-CV-1999, 2013 WL 2154793, at *4 (S.D. Cal. May 17, 2013) ("Because PMA members compete against each other, the alleged conspiracy would create a 'shared monopoly' or oligopoly. Such conduct is not a violation of section 2."); *Standfacts Credit Servs., Inc. v. Experian Info. Sols., Inc.*, 405 F. Supp. 2d 1141, 1152 (C.D. Cal. 2005) ("[A]n allegation of conspiracy to create a shared monopoly does not plead a claim of conspiracy under section 2."). Case law outside of the Ninth Circuit also supports Defendants' position. *See, e.g., Oxbow Carbon & Minerals LLC v. Union Pac. R.R. Co.*, 926 F. Supp. 2d 36, 46 (D.D.C. 2013) ("The very phrase 'shared monopoly' is paradoxical; when a small number of large sellers dominates a market, this typically is described as an oligopoly. In enacting the prohibitions on monopolies, Congress was concerned about the complete domination of a market by a *single* economic entity, and therefore did not include "shared monopolies" or oligopolies within the purview of Section 2. As a result, oligopoly can, in some cases, violate Sections 1 and/or 3 of the Sherman Act, but *competitors,* by conspiring to maintain or create an oligopoly, do not run afoul of the Section 2 prohibitions against monopoly.") (citations omitted).

Plaintiff argues *Rebel Oil* is distinguishable because it involved an attempted monopoly claim and not conspiracy to monopolize claims. (Opp'n at 9.) However, Plaintiff fails to explain the subsequent cases in the Ninth Circuit, some of which are cited above, consistently rejecting a "shared monopoly" theory in conspiracy to monopolize cases under § 2. Instead, Plaintiff argues that the Ninth Circuit "left open the door" for a shared or joint monopoly theory in *Harkins Amusement Enterprises, Inc. v. General Cinema Corp.*, 850 F.2d 477, 490 (9th Cir. 1988). (Opp'n at 9.) Plaintiff's argument hinges on the *Harkins* court's following statement: "We need not decide whether the shared monopoly theory may be viable under some circumstances. Suffice it to say that in this case, involving a small market with numerous sellers, no claim is stated under section 2." *Harkins Amusement Enters., Inc.*, 850 F.2d at 490. Defendants argue that whatever door the Ninth Circuit left open in 1988 in *Harkins* it closed in *Rebel Oil* in 1995 when it emphasized that a § 2 claim only applies where the party alleges that one entity alone has the market power. (UTA Reply at 4.)

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The Court agrees with Defendants. Ninth Circuit case law holds that to sufficiently state a claim under § 2 for conspiracy to monopolize, the plaintiff must allege facts indicating that a conspiracy exists to create a monopoly in a single entity. The Ninth Circuit does not recognize a "shared monopoly" or "joint monopoly" theory. Given that Plaintiff does not allege in its FAC that Defendants intended to create a monopoly in a single entity, and instead argue that the four Agencies share market power, Plaintiff fails to state a claim under § 2 of the Sherman Act for conspiracy to monopolize. Accordingly, Defendants' motions are **GRANTED with leave to amend** for Plaintiff's Sherman Act claim.[3]

B. Unfair Business Practices Claim

The UCL defines "unfair competition" as "any unlawful, unfair or fraudulent business act or practice." Cal. Bus. & Prof. Code § 17200. Plaintiff may therefore base its claim on "'acts or practices which are unlawful, or unfair, or fraudulent.'" *Shvarts v. Budget Grp., Inc.*, 81 Cal. App. 4th 1153, 1157 (Cal. Ct. App. 2000) (quoting *Podolsky v. First Healthcare Corp.*, 50 Cal. App. 4th 632, 647 (Cal. Ct. App. 1996)). Here, Plaintiff alleges that Defendants violated the "unfairness" prong of the UCL. (*See* Opp'n at 17.)

In *Cel-Tech Commc'ns, Inc. v. L.A. Cellular Telephone Co.*, 20 Cal. 4th 163 (Cal. 1999), the California Supreme Court defined the meaning of an "unfair" act under the UCL as it applies in the antitrust context:

> When a plaintiff who claims to have suffered injury from a direct competitor's "unfair" act or practice invokes section 17200, the word "unfair" in that section means conduct that threatens an incipient violation of an antitrust law, or violates the policy or spirit of one of those laws because its effects are comparable to or the same as a violation of the law, or otherwise significantly threatens or harms competition.

Id. at 187. Here, Plaintiff alleges that by conspiring to eliminate Rule 16(g), the Agencies applied the "packaging fee" option for their clients, thereby eliminating the conventional 10% agency fee and inducing potential clients to join their agencies. (FAC

[3] Given that Plaintiff's Sherman Act claim fails because it does not allege that Defendants intended to create a monopoly in a single entity, the Court need not address the elements of a Sherman Act claim.

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¶¶ 11–21, 23–28.) Plaintiff also avers that such a reduction in client fees constitutes "predatory pricing." (FAC ¶ 83.) Further, according to Plaintiff, these packaging deals significantly increased business for the Agencies, providing the Agencies with 79% of the scripted series staffing market, 91% of the scripted series term deal market, and 93% of the scripted series market. (FAC ¶¶ 71–73.) Plaintiff asserts that these results harm competition, given that a significant increase in the business of four agencies necessarily results in decreased competition by other agencies. (FAC ¶¶ 119–120.)

These allegations, taken as true, sufficiently state a claim under the UCL. At a minimum, allegations that four mega-agencies acting in concert to control the vast majority of the scripted series market "significantly threatens competition". In addition, Plaintiff's statistical information alleges that actual harm to competition presently exists. (*See* FAC ¶¶ 71–73.) As a result, Plaintiff sufficiently pleaded that Defendants' conduct either significantly threatens or actually harms competition. Accordingly, the Court **DENIES** Defendants' motions with respect to Plaintiff's UCL claim.

C. Intentional Interference with Contract

Plaintiff argues that Defendants interfered with its contractual relationships with Clients #1 and #2 by contacting the clients and inducing them to breach their contract with Plaintiff by use of a promise that the client would be included in a "package" and a promise that Defendants would waive the 10% agency fee. (FAC ¶¶ 21, 27, 128–132.) Defendants argue that Plaintiff fails to plead intentional interference with contract given that Plaintiff provides insufficient facts to support the claim, including its failure to plead whether the contracts with the clients were at-will or term contracts. (ICM Mot. at 23–24.)

To state a claim for intentional interference with contract, Plaintiff must sufficiently plead the following: "(1) a valid contract between plaintiff and a third party; (2) defendant's knowledge of this contract; (3) defendant's intentional acts designed to induce a breach or disruption of the contractual relationship; (4) actual breach or disruption of the contractual relationship; and (5) resulting damage." *Pac. Gas & Elec. Co. v. Bear Stearns & Co.*, 50 Cal. 3d 1118, 1126 (Cal. 1990). "'A plaintiff need not allege an actual or inevitable *breach* of contract in order to state a claim for disruption of contractual relations'; rather, unlike the tort of inducing breach of contract, intentional

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interference with contractual relations requires only proof of *interference*." *RealPage, Inc. v. Yardi Sys., Inc.*, 852 F. Supp. 2d 1215, 1230 (C.D. Cal. 2012) (quoting *Pac. Gas & Electric Co.*, 50 Cal. 3d at 1129). However, where contracts are terminable at will, the competitor's privilege applies. *See, e.g., Pac. Exp., Inc. v. United Airlines, Inc.*, 959 F.2d 814, 819 (9th Cir. 1992). If the competitor's privilege applies, "a plaintiff must also plead and prove that the defendant engaged in an independently wrongful act" which induced the party to leave the plaintiff. *Reeves v. Hanlon*, 33 Cal. 4th 1140, 1152 (Cal. 2004). "[A]n act is independently wrongful if it is unlawful, that is, if it is proscribed by some constitutional, statutory, regulatory, common law, or other determinable legal standard." *Id.*

Here, Plaintiff alleges that it had "valid, exclusive contracts" with Clients #1 and #2. (Dkt. No. 129.) Plaintiff further asserts that Defendants "had knowledge of such contracts" because UTA "had been given notice of Plaintiff's complete exclusive client list" and "ICM had unabated access to Plaintiff's complete exclusive client list." (Dkt. No. 129.) Also, Plaintiff maintains that Defendants "committed intentional acts designed to induce a breach" of those contracts, including contacting Plaintiff's Clients #1 and #2 to inform them of Defendants' offers to waive the 10% agent fees to encourage the client to switch to Defendants' agencies. (FAC ¶¶ 21, 27, 130.) Finally, Plaintiff claims that Defendant actually caused a breach of the contractual relationships with Clients #1 and #2, which caused Plaintiff damages. (FAC ¶¶131–132.)

While Plaintiff sufficiently pleads elements two through five, Plaintiff fails to plead whether the contractual relationships were at will or for a specified term. Plaintiff only alleges that the contracts were valid and exclusive. (FAC ¶ 128.) As such, Plaintiff fails to sufficiently plead enough of the agreement's details to establish whether the competitor's privilege applies. This omission is dispositive because, as discussed in Section V.A., *supra*, Plaintiff fails to sufficiently plead a violation of the Sherman Act under § 2—the independent act upon which Plaintiff relies to satisfy the competitor's privilege. Given the inadequate facts in Plaintiff's FAC relating to the contractual relationships with its clients, Defendants' motions with respect to this claim are **GRANTED with leave to amend**.

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D. Intentional Interference with Prospective Economic Advantage

To plead a claim for intentional interference with prospective business advantage, Plaintiff must sufficiently allege the following:

> (1) [A]n economic relationship between the plaintiff and some third party, with the probability of future economic benefit to the plaintiff; (2) the defendant's knowledge of the relationship; (3) intentional acts on the part of the defendant designed to disrupt the relationship; (4) actual disruption of the relationship; and (5) economic harm to the plaintiff proximately caused by the acts of the defendant.

Korea Supply Co. v. Lockheed Martin Corp., 29 Cal. 4th 1134, 1153 (Cal. 2003). Further, a plaintiff must plead and prove "that the defendant's interference was wrongful by some measure beyond the fact of the interference itself." *Della Penna v. Toyota Motor Sales, U.S.A., Inc.*, 11 Cal. 4th 376, 392–93 (Cal. 1995) (internal quotation marks omitted).

Plaintiff relies on Defendants' acts that allegedly violated the Sherman Act as the independent wrongful acts to support this claim. (*See* FAC ¶ 138.) However, as discussed above, Plaintiff fails to sufficiently plead a violation of the Sherman Act. *See supra* Section V.A. Thus, Plaintiff fails to plead that Defendants' conduct was "wrongful by some measure beyond the fact of the interference itself," as required under *Della Penna*. *See Della Penna*, 11 Cal. 4th at 393. Defendants' motions are therefore **GRANTED with leave to amend** with respect to this claim.

E. Declaratory and Injunctive Relief Claims

In addition to the causes of action discussed above, Plaintiff includes separate causes of action for declaratory and injunctive relief. (FAC ¶¶ 145, 148.) Defendants argue that Plaintiff's claim for declaratory relief is duplicative of its other claims and thus should be dismissed. (ICM Mot. at 21–22; UTA Mot. at 24.) Further, Defendants argue that injunctive relief is a remedy and not an independent cause of action, thus the Court should dismiss Plaintiff's injunctive relief claim. (ICM Mot. at 25; UTA Mot at 20–21.)

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1. Declaratory Relief

The Declaratory Judgment Act provides that "any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought." 28 U.S.C. § 2201. Further, "[a]ny such declaration shall have the force and effect of a final judgment or decree and shall be reviewable as such." *Id.* However, a declaratory relief claim fails when it is a duplicate of other claims. *Kimball v. Flagstar Bank F.S.B.*, 881 F. Supp. 2d 1209, 1219–20 (S.D. Cal. 2012) (dismissing the declaratory relief claim with prejudice and holding that where the plaintiffs' claims for declaratory relief were based on the same allegations supporting their other causes of action, the claim for declaratory relief failed as a matter of law) (citing *Permpoon v. Wells Fargo Bank Nat'l Ass'n*, 2009 WL 3214321, at *5 (S.D. Cal. Sept. 29, 2009) (citing the Declaratory Relief Act, but dismissing the declaratory judgment claim because the declaratory relief the plaintiffs sought was "entirely commensurate with the relief sought through their other causes of action").

Here, Plaintiff's request for declaratory relief is duplicative because it seeks to determine the same issues as its other claims, specifically whether Defendants have committed violations of § 2 of the Sherman Act, and whether Defendants violated the UCL. (*See* FAC ¶ 143.) The Court will necessarily decide those issues if and/or when it addresses Plaintiff's Sherman Act and UCL causes of action and need not also declare that Defendants have violated those laws. As such, Defendants' motions are **GRANTED without leave to amend** with respect to Plaintiff's declaratory relief claim.

2. Injunctive Relief

"[A] claim for injunctive relief is not an independent cause of action." *Hollins v. Recontrust, N.A.*, CV 11-945 PSG PLAX, 2011 WL 1743291, at *5 (C.D. Cal. May 6, 2011) (citing *McDowell v. Watson*, 59 Cal. App. 4th 1155, 1159 (Cal. Ct. App. 1997) ("Injunctive relief is a remedy and not, in itself, a cause of action.")). However, "[i]njunctive relief may be available if Plaintiff[] [is] entitled to such a remedy on an independent cause of action." *Ramos v. Chase Home Fin.*, 810 F. Supp. 1125, 1132 (D. Haw. 2011). Here, Plaintiff improperly asserts injunctive relief as an independent cause of action. (*See* FAC at 32.) While Plaintiff may be entitled to injunctive relief if it

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prevails on an independent cause of action, it cannot separately state injunctive relief as its own cause of action. Accordingly, Defendants' motions are **GRANTED without leave to amend** with respect to Plaintiff's independent claim for injunctive relief.

VI. CONCLUSION

For the foregoing reasons, Defendants' motions are **GRANTED with leave to amend** with respect to Plaintiff's Sherman Act claim, intentional interference with contract claim, and intentional interference with prospective economic advantages claim. Defendants' motions are **GRANTED without leave to amend** with respect to Plaintiff's declaratory and injunctive relief claims because Plaintiff's declaratory relief claim is duplicative of its other claims, and injunctive relief is a remedy and not an independent cause of action. Finally, Defendants' motions are **DENIED** with respect to Plaintiff's UCL claim. Any amended complaint shall be filed no later than October 2, 2015, and the hearing on the motion set for September 21, 2015 is VACATED.

IT IS SO ORDERED.

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