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4   UNITED STATES DISTRICT COURT

5   NORTHERN DISTRICT OF CALIFORNIA

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7   HANSON DAI, et al.,   Case No. 24-cv-02537-JSW

8   Plaintiffs,
                                            ORDER GRANTING SAS INSTITUTE,
9   v.   **INC.'S MOTION TO DISMISS**

10   SAS INSTITUTE INC., et al.,   Re: Dkt. No. 101

11   Defendants.

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13   This matter comes before the Court upon consideration of the motion to dismiss filed by

14   SAS Institute, Inc. ("SAS").[1] The Court has considered the parties' papers, relevant legal

15   authority, the record in this case, and it GRANTS SAS's motion.

16   **BACKGROUND**

17   Plaintiffs allege that SAS, IDeaS, Inc. ("IDeaS") and five Hotel Defendants conspired to

18   fix hotel prices. According to Plaintiffs the Hotel Defendants use a revenue management system

19   ("RMS") created by IDeaS, which in turn uses analytics software developed by SAS.[2] (Compl. ¶¶

20   20-21, 49-50.) Plaintiffs further allege the Hotel Defendants send "their confidential pricing and

21   occupancy information to [Ideas] to process, analyze, and develop supra-competitive prices,"

22   know that the other defendants are doing the same, and set prices accordingly. (*Id.* ¶¶ 3, 64-79.)

23   By doing so, the Hotel Defendants "are able to achieve the same result as if they secretly met in a

24   back room and exchanged their information and agreed to a supra-competitive price." (*Id.* ¶ 3.) In

25   _____

26   [1]   SAS also is party to a joint motion to dismiss that the Court will address in a separate
     Order.

27   [2]   The named Plaintiffs are Hanson Dai, Max Chiswick, Adolph Robles, Steven Stack,
28   Matthew Gilbert, Michael Molinaro, Tony Qian, Mark Lester, Steven Shattuck, and Joel
     Kamisher.

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1   brief, Plaintiffs contend the Defendants, including SAS, engaged in hub-and-spoke conspiracy to

2   fix prices and violated Section 1 of the Sherman Act.

3   The Court will address additional facts as necessary in the analysis.

ANALYSIS

5   On a Rule 12(b)(6) motion, the Court assumes "that all the allegations in the complaint are

6   true[.]" *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). A plaintiff's obligation to

7   provide the "grounds" of their "entitle[ment] to relief" requires more than labels and conclusions,

8   and a formulaic recitation of the elements of a cause of action will not do[.] … Factual allegations

9   must be enough to raise a right to relief above the speculative level[.]" *Id.* "A claim has facial

10   plausibility when the Plaintiff pleads factual content that allows the court to draw the reasonable

11   inference that the Defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662,

12   678 (2009) (citing *Twombly*, 550 U.S. at 556).

13   Section 1 of the Sherman Act prohibits any "contract, combination in the form of trust or

14   otherwise, or conspiracy, in restraint of trade or commerce among the several States." 15 U.S.C. §

15   1. In order to state a claim, Plaintiffs must allege facts that show (1) a contract, combination or

16   conspiracy among two or more persons or distinct business entities; (2) by which the persons or

17   entities intended to harm or restrain trade or commerce among the several States, … (3) which

18   actually injures competition." *Kendall v. Visa U.S.A., Inc.*, 518 F.3d 1042, 1047 (9th Cir. 2008).

19   Pursuant to *Twombly,* a plaintiff must include "enough factual matter (taken as true) to suggest

20   that an agreement was made. Asking for plausible grounds to infer an agreement does not impose

21   a probability requirement at the pleading stage," but allegations "of parallel conduct and a bare

22   assertion of conspiracy will not suffice." *Twombly*, 550 U.S. at 556. "Hence, when allegations of

23   parallel conduct are set out in order to make a § 1 claim, they must be placed in a context that

24   raises a suggestion of a preceding agreement, not merely parallel conduct that could just as well be

25   independent action." *Id.* at 557.

26   Plaintiffs allege that SAS that IDeaS's RMS products are "powered by" SAS analytics.

27   (Compl. ¶¶ 50, 61; *see also id.* ¶ 20 (alleging SAS developed analytics used by IDeaS's RMS).)

28   SAS argues that these allegations are insufficient to state a claim. The Court agrees. Plaintiffs do

1   not include allegations that SAS did more than provide one aspect of the RMS product and do not

2   suggest it has continued involvement with providing the Hotel Defendants the RMS products.

3   Plaintiffs also do not include allegations from which one could reasonably infer SAS had any

4   other connection or contact with the Hotel Defendants. Plaintiffs also allege that IDeaS is a

5   subsidiary of SAS. In general, a corporate parent is not liable for the acts of its subsidiaries. *See*

6   *United States v. Best Foods, Inc.*, 524 U.S. 51, 61 (1998). Plaintiffs have not made any allegations

7   that the corporate form should be ignored.

8   Accordingly, the Court GRANTS SAS's motion to dismiss. Because the Court cannot say

9   it would be futile, it will grant Plaintiffs leave to amend and will set the deadline to do so when it

10   resolves the joint motion to dismiss.

11   **IT IS SO ORDERED**.

12   Dated: March 21, 2025

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14   JEFFREY S. WHITE
     United States District Judge

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