

1 ROBERT C. SCHUBERT (S.B.N. 62684)  
2 WILLEM F. JONCKHEER (S.B.N. 178748)  
3 NOAH M. SCHUBERT (S.B.N. 278696)  
4 SCHUBERT JONCKHEER & KOLBE LLP  
5 Three Embarcadero Center, Suite 1650  
6 San Francisco, CA 94111  
7 Telephone: (415) 788-4220  
8 Facsimile: (415) 788-0161  
9 [rschubert@sjk.law](mailto:rschubert@sjk.law)  
10 [wjonckheer@sjk.law](mailto:wjonckheer@sjk.law)  
11 [nschubert@sjk.law](mailto:nschubert@sjk.law)

12 *Counsel for Plaintiffs*

13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 GREG KNOWLES, MICHAEL PERSON,  
16 BRIAN ALEXANDER, JOSEPH PALMA,  
17 JON WALTON, KELLY SMITH,  
18 CHRISTOPHER STEPHENS, MATTHEW  
19 PENNER, TIMOTHY OEFELEIN, TOM  
20 KISHA, KACI ROAR, TONY ROMEO,  
21 and JOHN MATSAYKO, DAVID EISEN,  
22 WES TILLEY, ANDREW PROWANT and  
23 MARCO FERNANDEZ, Individually and  
24 on Behalf of All Others Similarly Situated,

25 Plaintiffs,

26 v.

27 ARRIS INTERNATIONAL plc,

28 Defendant.

**No. 5:17-cv-02740**

**CLASS ACTION COMPLAINT**

Jury Trial Demanded

1           Upon personal knowledge as to their own acts, and based upon their investigation, their  
2 counsel’s investigation, and information and belief as to all other matters, Plaintiffs, on behalf  
3 of themselves and all others similarly situated, allege:

4  
5           **I.       INTRODUCTION**

6           1.       This is a class action brought on behalf of purchasers of the SURFboard SB6190  
7 cable modem (the “Modem”) sold by Defendant Arris International plc (“Arris”). A cable  
8 modem is a device that allows cable subscribers to connect to broadband Internet service.

9           2.       As alleged herein, since its launch in late 2015, Arris marketed the Modem as a  
10 high-end cable modem delivering “the fastest speeds and most reliable connection to the  
11 Internet.” However, Arris failed to disclose that the Modem contains a serious defect that  
12 prevents it from operating properly. News reports and customer complaints since the release of  
13 the Modem indicate that it suffers from high spikes in network latency—delays in data  
14 communication over the network—that degrade users’ Internet connectivity.

15           3.       Plaintiffs purchased their Modems for personal use and suffered network latency,  
16 an experience shared by many purchasers of the Modem. Despite this widespread defect, Arris  
17 has not announced a recall of the affected model, or otherwise offered to repair or replace it.

18           4.       By shipping Modems with this defect, Arris sold goods that were substantially  
19 below the quality generally available in the market, were not fit for the for the Internet  
20 connectivity for which they were generally used, and were not adequately packaged and labeled.  
21 Arris also concealed the network latency problem with the Modem through its marketing,  
22 advertising, and packaging of the product.

23           5.       Plaintiffs herein seek relief under the consumer protections laws of California,  
24 Arizona, Louisiana, Ohio, Hawaii, Oklahoma, the District of Columbia, Kansas and Illinois.

25  
26           **II.       PARTIES**

27           6.       Plaintiff Greg Knowles (“Knowles”) is a citizen of California. Plaintiff Knowles  
28 purchased a Modem in 2016.

- 1           7.       Plaintiff Michael Person (“Person”) is a citizen of California. Plaintiff Person  
2 purchased a Modem in 2015.
- 3           8.       Plaintiff Brian Alexander (“Alexander”) is a citizen of California. Plaintiff  
4 Alexander purchased a Modem in 2017.
- 5           9.       Plaintiff Joseph Palma (“Palma”) is a citizen of California. Plaintiff Palma  
6 purchased a Modem in 2015.
- 7           10.      Plaintiff Jon Walton (“Walton”) is a citizen of California. Plaintiff Walton  
8 purchased a Modem in or after 2015.
- 9           11.      Plaintiff Kelly Smith (“Smith”) is a citizen of Arizona. Plaintiff Smith purchased  
10 a Modem in 2017.
- 11          12.      Plaintiff Christopher Stephens (“Stephens”) is a citizen of Arizona. Plaintiff  
12 Stephens purchased a Modem in 2016.
- 13          13.      Plaintiff Matthew Penner (“Penner”) is a citizen of Arizona. Plaintiff Penner  
14 purchased a Modem in or after 2015.
- 15          14.      Plaintiff Timothy Oefelein (“Oefelein”) is a citizen of Louisiana. Plaintiff Oefelein  
16 purchased a Modem in or about 2016.
- 17          15.      Plaintiff Tom Kisha (“Kisha”) is a citizen of Ohio. Plaintiff Kisha purchased a  
18 Modem in 2017.
- 19          16.      Plaintiff Kaci Roar (“Roar”) is a citizen of Ohio. Plaintiff Roar purchased a  
20 Modem in or after 2015.
- 21          17.      Plaintiff Tony Romeo (“Romeo”) is a citizen of Hawaii. Plaintiff Romeo  
22 purchased a Modem in 2016.
- 23          18.      Plaintiff John Matsayko (“Matsayko”) is a citizen of Oklahoma. Plaintiff  
24 Matsayko purchased a Modem in 2016.
- 25          19.      Plaintiff David Eisen (“Eisen”) is a citizen of the District of Columbia. Plaintiff  
26 Eisen purchased a Modem in or after 2015.
- 27          20.      Plaintiff Wes Tilley (“Tilley”) is a citizen of Kansas. Plaintiff Tilley purchased a  
28 Modem in or after 2015.

1           21. Plaintiff Andrew Prowant (“Prowant”) is a citizen of Illinois. Plaintiff Prowant  
2 purchased a Modem in 2017.

3           22. Plaintiff Marco Fernandez (“Fernandez”) is a citizen of Illinois. Plaintiff  
4 Fernandez purchased a Modem in 2016.

5           23. Defendant Arris is a corporation organized under the laws of England and Wales  
6 and maintains its headquarters at 3871 Lakefield Drive, Suwanee, Georgia 30024. Defendant  
7 Arris is a citizen of Georgia. In its public statements, Arris describes itself as a “world leader in  
8 entertainment and communications technology” and states that it provides “hardware, software,  
9 and services across the cloud, network, and home to power TV and Internet for millions of people  
10 around the globe.” Arris operates two business segments: Customer Premises Equipment and  
11 Network & Cloud. Arris provides equipment and technology, including cable modems, that is  
12 used by service providers to deliver media, voice, and data services to their subscribers.

13  
14           **III. JURISDICTION AND VENUE**

15           24. This Court has subject matter jurisdiction over this action pursuant to the Class  
16 Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d), because there are more than 100 proposed  
17 Class Members, some members of the proposed class and the Defendant are citizens of different  
18 states, and the amount in controversy exceeds \$5 million.

19           25. This Court has personal jurisdiction over Defendant because Defendant has  
20 sufficient minimum contacts with California such that the exercise of jurisdiction by this Court  
21 over Defendant is consistent with notions of fair play and substantial justice. A substantial portion  
22 of the wrongdoing alleged in this Complaint took place in California; Defendant conducts  
23 business in California and otherwise avails itself of the protections and benefits of California law  
24 through the promotion, marketing, and sale of its Modems in the State; and this action arises out  
25 of or relates to these contacts.

26           26. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Defendant  
27 maintains an office in this District, a substantial part of the events or omissions giving rise to the  
28

1 claims occurred in this District, and a substantial part of the property that is the subject of the  
2 action is situated in this District.

3 27. Intradistrict Assignment: Pursuant to Civil L.R. 3-2(c) and 3-5(b), assignment to  
4 the San Jose Division of the Northern District of California is proper, because a substantial part  
5 of the events or omissions which give rise to the claim occurred in this Division or a substantial  
6 part of the property subject to the action is situated in this Division. Defendant is headquartered  
7 in this Division and engaged in the extensive promotion, marketing, distribution, and sales of the  
8 products at issue in this Division.

9 28.

#### 10 11 **IV. SUBSTANTIVE ALLEGATIONS**

##### 12 **A. The Cable Modem Market.**

13 29. A cable modem is a device that enables a computer to transmit data over a coaxial  
14 cable line. The cable modem is located at the cable subscriber's home, and connects to the cable  
15 network to receive and transmit digital information between subscriber-owned devices (such as  
16 desktop PCs or routers) and the service provider's headend or central office, providing Internet  
17 connectivity for data and/or voice services.

18 30. Cable subscribers generally obtain their cable modem for Internet connectivity in  
19 one of two ways – they either rent a cable modem that is owned by their cable service provider  
20 (for example, Comcast), or they purchase the cable modem at retail. Arris is one of several  
21 manufacturers of cable modem hardware and related equipment for service providers and  
22 consumers. Other large competitors include Cisco Systems, Inc. and Netgear, Inc.

23 31. As of 2016, the cable subscriber base in the United States was approximately 50  
24 million. Due to the size of the cable subscriber base, the market for cable modems is very large.  
25 According to Arris's public statements, the markets in which it participates are "dynamic, highly  
26 competitive and require companies to react quickly and capitalize on change."

27 32. Cable modem capability is measured by a telecommunications standard named  
28 Data Over Cable Service Interface Specification ("DOCSIS"). DOCSIS is administered by Cable

1 Television Laboratories, Inc., known as CableLabs, a not-for-profit research and development  
2 consortium composed of industry participants. DOCSIS provides cable modem manufacturers  
3 and service providers a common method for products to work together in a predictable manner.  
4 DOCSIS has evolved over time to support new capabilities, including higher Internet speeds.  
5 The cable modems at issue in this case used the DOCSIS 3.0 standard.

6 33. Cable modems may be differentiated based on the “bits per second” or “bps” they  
7 can process. A “bit” is a basic unit of information in computing and digital communications. The  
8 term “Gbps” is a measurement in billions of bits per second, “Mbps” is a measurement in  
9 millions of bits per second, and “Kbps” is a measurement in thousands of bits per second.  
10 Generally speaking, larger bps units denote higher data speed capability. Similarly, cable  
11 modems are equipped with “upload” and “download” channels for data. The more channels a  
12 cable modem has, the more bps the it can handle, improving capability.

13 **B. Arris Markets the Modem as “Delivering the Fastest Speeds” and the “Most**  
14 **Reliable” Connection to the Internet.**

15 34. On its website, Arris describes its SURFboard line of cable modems as follows:

16 The Internet brings us together. It lets us experience the wealth of our  
17 global community with friends, family, and the entire world. If you want  
18 an unmatched Internet experience, look no further than ARRIS  
19 SURFboard modems. We’re the industry standard and the world’s  
20 standard—with over 175 million ARRIS modems sold.

21 ARRIS continuously evolves the SURFboard product line to deliver the  
22 fastest download speeds available.

23 When you choose an ARRIS SURFboard, you’re joining a 60-year legacy  
24 of innovation from the company that invented digital TV and brought  
25 wireless Internet into the home with the first cable modem gateway. The  
26 same company that the world’s leading service providers choose to  
27 connect millions of people around the world to the Internet.

28 35. During the Class Period, Arris prominently marketed and advertised the Modem  
based on its purported speed and reliability. For example, on its website and on the Amazon e-  
commerce platform, Arris included the following representation:

1 Introducing the first Gigabit+ Cable Modem available in retail. The  
2 SURFboard SB6190 is a DOCSIS 3.0 modem [and] is capable of  
3 download speeds up to 1.4 Gbps! That’s fast enough to download  
4 multiple HD movies in one minute! Power your home network with the  
SB6190 to deliver the fastest speeds and most reliable connection to the  
Internet. Own yours today and stop paying rental.

5 36. In addition, on its website, Arris touted the Modem as “the First Gigabit Cable  
6 Modem” able to achieve “download speeds up to 1.4 Gbps.” Arris further touted the Modem as  
7 a “DOCSIS 3.0 Cable Modem” with “32 download and 8 upload channels.” Arris stated that the  
8 Modem supported the Internet Protocols “IPv4 and IPv6 – the latest Internet standard.”

9 37. The packaging for the Modem repeated these claims and representations: (a) “32  
10 Downstream Channels, Speeds up to 1.4 Gbps”; (b) “DOCSIS 3.0 Cable Modem”; (c) “32  
11 Download and 8 Upload Channels”; and (d) “Get what you pay for – supports gigabit service  
12 tiers.” The packaging further contains the statement “First Gigabit+ Cable Modem” and is  
13 emblazoned with a seal stating “over 135 million sold” and “#1 selling modem.”

14 **C. High Network Latency Results in Connection Delays and Prevents Cable Modems**  
15 **from Utilizing their Maximum Advertised Bandwidth.**

16 38. In the context of computer networking, network latency refers to delays that occur  
17 in data communication over a network. Internet connections with low latency experience only  
18 small delay times, while Internet connections with high latency suffer from long delays.

19 39. Although network speed is frequently only discussed in terms of bandwidth—the  
20 data rate supported by a network interface (e.g., 1.4 Gbps)—network latency matters equally to  
21 the end user’s ability to make use of a device’s advertised speeds. Excessive latency creates  
22 bottlenecks that prevent data from filling the network pipe, thus decreasing the effective  
23 throughput and limiting the maximum effective bandwidth of the connection.

24 40. Network latency is measured in milliseconds (“ms”), where the number of  
25 milliseconds represents the amount of time each packet of data is delayed by. Smaller numbers  
26 indicate smaller delays, and larger numbers indicate substantial delays in the connection and a  
27 potential problem with the network device.  
28

1           41.     For a cable modem, typical network latency between a computer and the cable  
2 modem ranges from approximately 5ms to 40ms. Latency above this range results in connection  
3 delays and prevents a cable modem from utilizing its maximum advertised bandwidth.

4  
5           **D. Reports Surface that the Modem Suffers “Severe Latency Spikes.”**

6           42.     In late 2016, reports surfaced regarding network latency experienced by Modem  
7 users. These reports attributed the problem to the Puma 6 Chipset made by Intel Corporation,  
8 which is a component of the Modem. According to an article on *DSLreports* dated November  
9 29, 2016 entitled “The Arris SB6190 Modem & Puma 6 Chipset Have Some Major Issues”:

10                   An electrical engineer and Cox broadband subscriber in  
11 our forums recently purchased the Arris SB6190, thinking it would be a  
12 notable upgrade from the Arris SB6183 and prepare him for the likely  
13 future launch of Cox gigabit broadband service in Arizona. The device,  
14 which features the Intel Puma 6 chipset, supports 32 x 8 channel bonding  
and is supposed to be relatively cutting edge -- at least among DOCSIS  
3.0 devices.

15                   Unfortunately for xymox1 [the user], he discovered that this supposed  
16 upgrade is in fact a downgrade; one that results in notable connectivity  
issues and consistently severe latency spikes.

17                   The user, who has been charting home network performance for the better  
18 part of eight years, documented . . . just how well this new device  
19 performs. As in: it doesn't.

20                   “The problem is extreme and, frankly, horrific,” notes the user. “Arris  
21 and Intel Puma6/MaxLinear traded off speed for latency thinking no one  
22 would notice. They tossed latency out the window to get 32 bonded  
23 channels of speed. They tossed users under the bus as no user is really  
gonna use 1 Gbps, but they will feel the latency and latency jitter in DNS  
[domain name system] lookups.”

24                   In fact, the new modem appears to have doubled his latency before the  
25 first packet even leaves his house. The user contacted Cox, but even after  
26 ensuring the modem was running the latest firmware the problem  
persisted.

27                   Curious as to why this problem exists at all, the user opened the device  
28 and discovered that Arris appears to have replaced the Broadcom chipset  
common to the more recent Surfboard modems, with an Intel Puma 6



1 chipset. There appear to have been more than a few complaints about this  
2 particular chipset floating around the internet across North America, most  
3 of them regarding the same severe latency and jitter issues xymox1 has  
4 so carefully documented. Curiously, only some reviewers appear to have  
5 even noticed the device's performance issues.

6 It's unclear why such a problem wasn't caught earlier by CableLabs  
7 during product certification. Whatever the cause, posts to  
8 our forum appear to indicate that Arris is aware of the problem and  
9 currently working on a firmware update. When that updated firmware  
10 will arrive in the wild isn't clear.

11 43. Arris acknowledged the latency problem with the Modems discussed in the  
12 November 29, 2016 article. A follow-up article in *DSLreports* dated December 1, 2016 entitled  
13 "Arris tells us it's working with Intel on SB6190, Puma 6 Problems" reported as follows:

14 Arris tells DSLreports the company is working closely with Intel on a  
15 problem in their SB6190 modem (more specifically the Intel Puma 6  
16 Chipset) that causes owners to suffer significant jitter and latency on their  
17 connections. As we noted earlier this week the problem results in users  
18 seeing significant (250ms+) latency spikes and troubling DNS lookup  
19 delays when browsing the internet or gaming. The problem was examined  
20 in great detail in our forums by DSLreports regular xymox1.

21 Arris' statement makes it clear that Intel's Puma 6 chipset does appear to  
22 be the culprit in the jitter and latency problem.

23 "ARRIS has been working actively with Intel to address the issue, which  
24 resulted in some SURFboard SB6190 users reporting latency while  
25 running high-performance apps," a company spokesperson tells me.

26 "Intel is providing a firmware fix to correct the condition, and we will  
27 issue it as soon as it is available," the company added. "We remain  
28 committed to providing the best broadband experience for all users of  
ARRIS devices and regret any inconvenience this issue caused."

Granted the Puma 6 chipset isn't just embedded in the Arris SB6190, but  
a wide variety of modems from an assortment of different vendors. Our  
forums are filled with complaints from users on various ISPs all with one  
thing in common: they're using a modem with the Intel Puma 6 chipset  
as its CPU. For example users in our Cox forum note the same problem  
is impacting users that bought the Netgear CM700 cable modem as well.

How this large of a problem escaped multiple vendors and CableLabs for  
so long remains unclear. In a statement to DSLreports, CableLabs

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

indicated that the performance issues inherent in the Puma 6 chipset effectively falls outside of its jurisdiction.

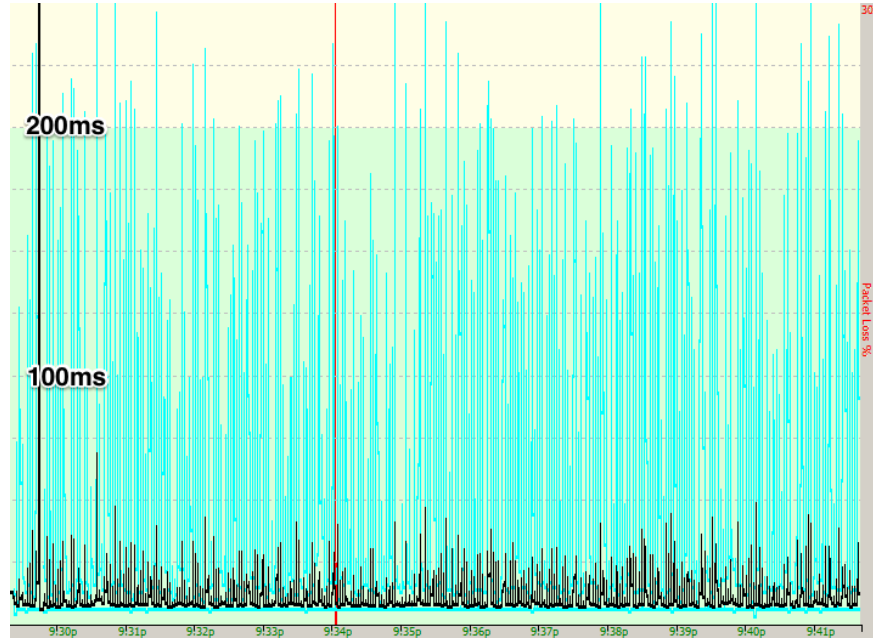
“Products submitted for CableLabs certification are tested for compliance with the DOCSIS specifications, which define the interface requirements that allow devices from different manufacturers to interoperate with each other,” the organization said. “The specifications specifically do not address performance requirements, so that manufacturers can differentiate their products through performance and additional features. As a result, CableLabs certification does not include performance testing.”

44. In a December 3, 2016 article posted to *The Register* entitled “Why Your Gigabit Broadband Lags Like Hell – Blame Intel’s Chipset,” the Modem’s network latency problem was further discussed. The article stated in part:

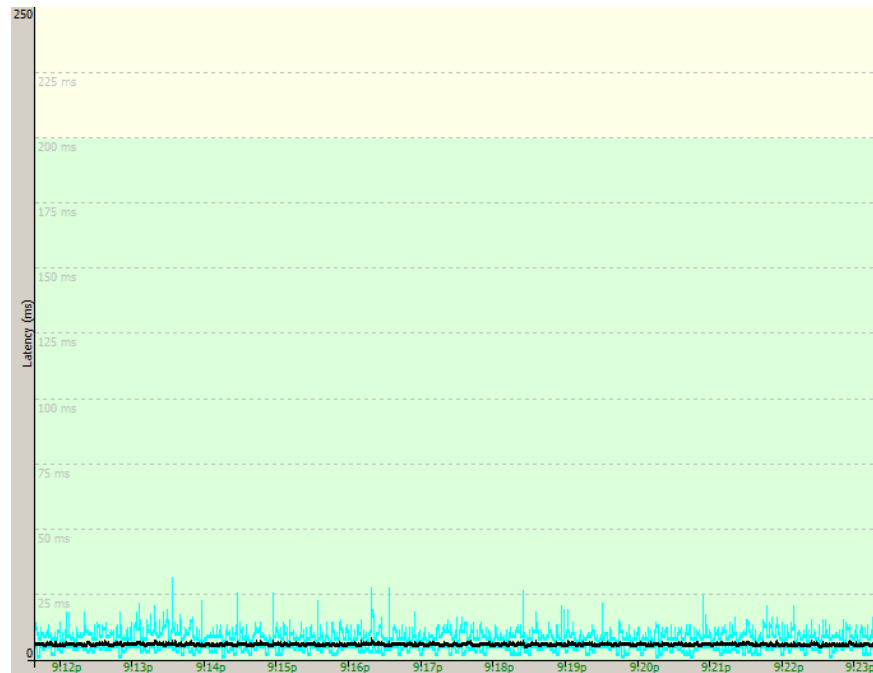
Modems powered by Intel’s Puma 6 chipset that suffer from bursts of game-killing latency include the Arris Surfboard SB6190, the Hitron CGNV4, and the Compal CH7465-LG, and Puma 6-based modems rebadged by ISPs, such as Virgin Media’s Hub 3 and Comcast’s top-end Xfinity boxes. There are other brands, such as Linksys and Cisco, that use the system-on-chip that may also be affected.

The surges in lag are experienced by subscribers on various big ISPs, from Comcast, Charter and Cox in the US to Rogers in Canada and Virgin Media in the UK. You don’t need a full 1Gbps connection to trigger the latency spikes – just at least a super-fast package and a buggy modem.

1           45.     The *Register* article reproduced a graph created by “xymox1,” the same Modem  
2 user quoted in the November 29, 2016 *DSLreports* article, which demonstrated the Modem’s  
3 latency spikes:



14           46.     By contrast, a similar cable modem, also manufactured by Arris but using a  
15 Broadcom chipset, the SB6183, exhibited no similar latency issues in the test:  
16



27           47.     The *Register* article quoted “xymox1” as follows:  
28

1 “I excitedly swapped out my Arris SB1683 Broadcom modem for the  
2 new SB6190 Intel one expecting gigabit performance and immediately  
3 noticed slower webpage loads,” he told *The Register*. “During first-  
4 person gaming, I was getting killed way more often for no apparent  
5 reason. I looked at an eight-year graph of latency from my home logs,  
6 and was horrified. Swapping back to my SB6183 solved all the issues.”

7 48. Finally, the *Register* article stated that Arris was aware of and acknowledged the  
8 network latency problems suffered by Modem users:

9 “Arris has been working actively with Intel to address the issue, which  
10 resulted in some SURFboard SB6190 users reporting latency concerns,”  
11 a spokeswoman for Arris said.

12 “We plan to quickly issue Intel’s firmware updates to resolve any latency.  
13 We remain committed to providing the best broadband experience for all  
14 users of Arris devices and regret any inconvenience this issue caused.”

15 49. Notwithstanding Arris’s awareness and acknowledgement of the Modem’s  
16 network latency problems and customer complaints, Arris continues to fail to disclose the defect  
17 in its marketing of the Modem, and continues to refuse to repair or replace the Modems.

18 **E. Plaintiffs Experience Network Latency Caused by the Modem.**

19 50. Plaintiffs each purchased a Modem for personal use, which they used to connect  
20 their devices to the Internet.

21 51. Plaintiffs’ Modems were new and in their original packaging when they each  
22 received their Modems.

23 52. Plaintiff Knowles purchased a Modem in 2016. Plaintiff Knowles experienced  
24 Internet connectivity issues, including fluctuation in Internet speed.

25 53. Plaintiff Person purchased a Modem in 2015. Plaintiff Person is a gamer and  
26 experienced high network latency when gaming and web browsing. Plaintiff Person contacted  
27 Arris when he encountered network latency issues. At first, Arris claimed there was no problem  
28 and then later blamed the Internet service provider and claimed there would be a firmware  
update.

54. Plaintiff Alexander purchased a Modem in 2017. Plaintiff Alexander experienced  
high network latency issues and packet errors.

1           55.     Plaintiff Palma purchased a Modem in 2015. Plaintiff Palma experienced  
2 intermittent packet loss and network latency.

3           56.     Plaintiff Walton purchased a Modem in or after 2015. Plaintiff Walton  
4 experienced slow Internet connection and packet loss.

5           57.     Plaintiff Smith purchased a Modem in 2017. Plaintiff Smith experienced  
6 intermittent packet loss.

7           58.     Plaintiff Stephens purchased a Modem in 2016. Plaintiff Stephens noticed high  
8 network latency while gaming.

9           59.     Plaintiff Penner purchased a Modem in or after 2015. Plaintiff Penner  
10 experienced slow Internet connection and needs to reboot his Modem multiple times per day.

11          60.     Plaintiff Oefelein purchased a Modem in or about 2016. Plaintiff Oefelein  
12 experienced high network latency and recurring failures to maintain Internet connection. When  
13 Plaintiff Oefelein reported the issues to Arris, Arris would blame the Internet service provider.  
14 Arris provided Plaintiff Oefelein with a replacement Modem, which had the exact same  
15 problems as the original.

16          61.     Plaintiff Kisha purchased a Modem in 2017. Plaintiff Kisha experienced  
17 occasional packet loss and problems using Virtual Private Network (VPN) services.

18          62.     Plaintiff Roar purchased a Modem in or after 2015. Plaintiff Roar experienced  
19 Internet connection cutting in and out and would frequently need to restart the Modem. Plaintiff  
20 Roar is a gamer and experienced poor Internet performance.

21          63.     Plaintiff Romeo purchased a Modem in 2016. Plaintiff Romeo experienced  
22 constant network latency issues.

23          64.     Plaintiff Matsayko purchased a Modem in 2016. Plaintiff Matsayko experienced  
24 slow Internet connection speeds and dropped Internet connections.

25          65.     Plaintiff Eisen purchased a Modem in or after 2015. Plaintiff Eisen experienced  
26 random high network latency while gaming.

27          66.     Plaintiff Tilley purchased a Modem in or after 2015. Plaintiff Tilley experienced  
28 constant network latency issues.

1           67.     Plaintiff Prowant purchased a Modem in 2017. Plaintiff Prowant experienced  
2 interrupted network service, random high network latency and sluggishness.

3           68.     Plaintiff Fernandez purchased a Modem in 2016. Plaintiff Fernandez experienced  
4 massive latency spikes which interfere with his gaming.

5           69.     Plaintiffs relied on the statements that Arris made about the Modem, and based  
6 on those statements, believed that the Modem was a reliable cable modem that would perform  
7 as represented, including that it provided the “fastest speeds” and the “most reliable connection”  
8 to the Internet. Plaintiffs did not know that the Modem suffered from abnormally high network  
9 latency and unreliable Internet connectivity.

10          70.     As alleged herein, since their purchases of the Modem, Plaintiffs have repeatedly  
11 suffered abnormally high network latency and unreliable Internet connectivity, and continue to  
12 do so. Had Plaintiffs known that the Modem was defective, they would not have purchased the  
13 Modem.

14  
15           **V.     CLASS ACTION ALLEGATIONS**

16          71.     Plaintiffs brings this action as a class action pursuant to Rules 23(a) and 23(b)(3)  
17 of the Federal Rules of Civil Procedure, on behalf of themselves and proposed Classes defined  
18 as follows:

19                   All persons in the State of California who purchased an Arris SB6190  
20 Cable Modem (the “California Class”).

21                   All persons in the State of Arizona who purchased an Arris SB6190 Cable  
22 Modem (the “Arizona Class”).

23                   All persons in the state of Louisiana who purchased an Arris SB6190  
24 Cable Modem (the “Louisiana Class”).

25                   All persons in the state of Ohio who purchased an Arris SB6190 Cable  
26 Modem (the “Ohio Class”).

27                   All persons in the state of Hawaii who purchased an Arris SB6190 Cable  
28 Modem (the “Hawaii Class”).

                  All persons in the state of Oklahoma who purchased an Arris SB6190  
Cable Modem (the “Oklahoma Class”).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

All persons in the District of Columbia who purchased an Arris SB6190 Cable Modem (the “D.C. Class”).

All persons in the state of Kansas who purchased an Arris SB6190 Cable Modem (the “Kansas Class”).

All persons in the state of Illinois who purchased an Arris SB6190 Cable Modem (the “Illinois Class”).

72. Within the California Class, there is one subclass for purposes of Plaintiffs’ claims under the Song-Beverly Consumer Warranty Act and the Consumer Legal Remedies Act (the “Subclass”). The proposed Subclass is defined as follows:

All persons in the State of California who purchased an Arris SB6190 Cable Modem for personal, family or household purposes.

73. Excluded from the Classes are governmental entities, Defendant, any entity in which Defendant has a controlling interest, and Defendant’s officers, directors, affiliates, legal representatives, employees, coconspirators, successors, subsidiaries, and assigns. Also excluded from the Classes are any judges, justices, or judicial officers presiding over this matter and the members of their immediate families and judicial staff.

74. This action is brought and may be properly maintained as a class action pursuant to Rule 23. This action satisfies the requirements of Rule 23, including numerosity, commonality, typicality, adequacy, predominance, and superiority.

75. **Numerosity.** The Classes and Subclass are so numerous that the individual joinder of all members is impracticable. While the Classes’s and Subclass’s exact number are currently unknown and can only be ascertained through appropriate discovery, Plaintiffs, on information and belief, allege that the Classes and Subclass include at least thousands of persons.

76. **Commonality.** Common legal and factual questions exist that predominate over any questions affecting only individual Class or Subclass Members. These common questions, which do not vary among Class Members and which may be determined without reference to any Class Member’s individual circumstances, include, but are not limited to:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- a. Whether the Modem contains a defect that causes abnormally high network latency;
- b. Whether the Modem is of the same quality as those generally acceptable in the market;
- c. Whether the Modem is fit for the ordinary purposes for which the goods are used;
- d. Whether the Modem was adequately contained, packaged, and labeled;
- e. Whether Arris breached its implied warranty of merchantability;
- f. Whether Arris represented that the Modem has characteristics, uses, or benefits that it does not have;
- g. Whether Arris represented that the Modem is of a particular standard, quality, or grade when it is of another;
- h. Whether Arris’s representations and omissions regarding the Modem were false and misleading and constitute false advertising;
- i. Whether Arris engaged in unlawful, fraudulent, or unfair business practices;
- j. Whether Plaintiffs and the Class have been damaged by the wrongs alleged and are entitled to compensatory or punitive damages;
- k. Whether Plaintiffs and the Class are entitled to injunctive or other equitable relief, including restitution.

77. Each of these common questions is also susceptible to a common answer that is capable of classwide resolution and will resolve an issue central to the validity of the claims.

78. ***Adequacy of Representation.*** Plaintiffs are adequate Class and Subclass representatives because they are Class and Subclass Members, and their interests do not conflict with the Classes’s or Subclass’s interests. Plaintiffs retained counsel who are competent and experienced in consumer-protection class actions. Plaintiffs and their counsel intend to prosecute



1 this action vigorously for the Classes's and Subclass's benefit and will fairly and adequately  
2 protect their interests.

3         79.     ***Predominance and Superiority.*** The Classes and Subclass can be properly  
4 maintained because the above common questions of law and fact predominate over any questions  
5 affecting individual Class or Subclass Members. A class action is also superior to other available  
6 methods for the fair and efficient adjudication of this litigation because individual litigation of  
7 each Class and Subclass Member's claim is impracticable. Even if each Class Member could  
8 afford individual litigation, the court system could not. It would be unduly burdensome  
9 if thousands of individual cases proceed. Individual litigation also presents the potential  
10 for inconsistent or contradictory judgments, the prospect of a race to the courthouse, and the risk  
11 of an inequitable allocation of recovery among those with equally meritorious claims. Individual  
12 litigation would increase the expense and delay to all parties and the courts because it requires  
13 individual resolution of common legal and factual questions. By contrast, the class-action device  
14 presents far fewer management difficulties and provides the benefit of a single adjudication,  
15 economies of scale, and comprehensive supervision by a single court.

16  
17         **VI. CLAIMS FOR RELIEF**

18                                 **First Claim for Relief**

19                                 **Violation of California Song-Beverly Consumer Warranty Act,**

20                                 **Cal. Civ. Code §§ 1790 *et seq.***

21         80.     Plaintiffs Knowles, Person, Alexander, Palma and Walton individually and on  
22 behalf of the Subclass, incorporate by reference all of the allegations contained in the preceding  
23 paragraphs of this Complaint.

24         81.     Plaintiffs Knowles, Person, Alexander, Palma and Walton bring this claim  
25 individually and on behalf of the Subclass against Defendant.

26         82.     Plaintiffs and the Subclass purchased the SB6190 Modem manufactured by  
27 Defendant that was marketed for fast and reliable Internet connectivity.

1           83.     Plaintiffs and the Subclass purchased the SB6190 Modem new and in its original  
2 packaging and did not alter their Modems.

3           84.     At the time of purchase, Defendant was in the business of manufacturing and  
4 selling cable modems, including the SB6190 Modem.

5           85.     The SB6190 Modems were used and bought primarily for personal, family, or  
6 household purposes and are therefore consumer goods.

7           86.     Arris's SB6190 Modem contained a defect that causes severe network latency.  
8 This defect was present in Arris's SB6190 Modems when they left the exclusive control of  
9 Defendant and therefore existed during the duration of the warranty period.

10          87.     Arris's SB6190 Modems were not of the same quality as those generally  
11 acceptable in the trade; were not fit for the ordinary purposes of fast and reliable Internet  
12 connectivity for which the goods are used; were not adequately contained, packaged, and  
13 labeled; and did not conform to the promises and facts stated on the container and label.

14          88.     Defendant, therefore, breached the implied warranty of merchantability, which  
15 by law is provided in every consumer agreement for the sale of goods, including for the sale of  
16 Arris's SB6190 Modem.

17          89.     As a direct and proximate cause of Defendant's breach of the implied warranty  
18 of merchantability, Plaintiffs and the Subclass have been damaged by receiving an inferior  
19 product from that which they were promised. Plaintiffs and the Subclass, therefore, have the  
20 right to cancel and recover the purchase price of their SB6190 Modem.

21

22

**Second Claim for Relief**

23

**Violation of California Consumer Legal Remedies Act,**

24

**Cal. Civ. Code §§ 1750 *et seq.***

25

26

27

28

90.     Plaintiffs Knowles, Person, Alexander, Palma and Walton individually and on  
behalf of the Subclass, incorporate by reference all of the allegations contained in the preceding  
paragraphs of this Complaint.

1           91.     Plaintiffs Knowles, Person, Alexander Palma and Walton bring this claim  
2 individually and on behalf of the Subclass against Defendant.

3           92.     Defendant is a “person” as defined in CAL. CIV. CODE § 1761(c).

4           93.     Plaintiffs and the Subclass acquired and purchased the SB6190 Modem for  
5 personal, family, or household purposes and are therefore “consumers” as defined in CAL. CIV.  
6 CODE § 1761(d).

7           94.     The SB6190 Modems that Plaintiffs and the Subclass purchased from Defendant  
8 are “goods” as defined by CAL. CIV. CODE § 1761(a).

9           95.     The purchases by Plaintiffs and the Subclass of the goods sold by Defendant  
10 constitute “transactions” as defined by CAL. CIV. CODE §§ 1761(e) and 1770.

11          96.     In connection with its sale of goods to Plaintiffs and the Subclass, Defendant  
12 violated the CLRA by:

- 13           a.     Misrepresenting to Plaintiffs and the Subclass that the SB6190 Modems were  
14                 reliable cable modems, when in fact, they have a defect that causes severe  
15                 network latency, in violation of CAL. CIV. CODE §§ 1770(a)(5), (7), (9), and (16);
- 16           b.     Misrepresenting to Plaintiffs and the Subclass that Defendant’s goods had  
17                 characteristics, uses, and benefits that they did not have, in violation of CAL. CIV.  
18                 CODE § 1770(a)(5);
- 19           c.     Representing to Plaintiffs and the Subclass that Defendant’s goods were of a  
20                 particular standard, quality, or grade, when they were of another in violation of  
21                 CAL. CIV. CODE § 1770(a)(7);
- 22           d.     Advertising goods to Plaintiffs and the Subclass with the intent not to sell them  
23                 as advertised, in violation of CAL. CIV. CODE § 1770(a)(9); and
- 24           e.     Misrepresenting to Plaintiffs and the Subclass that the subject of a transaction has  
25                 been supplied in accordance with a previous representation when it had not, in  
26                 violation of CAL. CIV. CODE § 1770(a)(16).

27          97.     In addition, under California law, a duty to disclose arises in four circumstances:  
28 (1) when the defendant is in a fiduciary relationship with the plaintiff; (2) when the defendant

1 has exclusive knowledge of material facts not known to the plaintiff; (3) when the defendant  
2 actively conceals a material fact from the plaintiff; and (4) when the defendant makes partial  
3 representations but also suppresses some material facts.

4 98. Defendant had a duty to disclose to Plaintiffs and the Subclass that the SB6190  
5 Modem contains a defect that causes it to fail for the following three independent reasons: (a)  
6 Defendant had exclusive knowledge of the information at the time of sale; (b) Defendant actively  
7 concealed from Plaintiffs and the Subclass this defect, which causes substantial Internet  
8 connectivity failures and is important to customers; and (c) Defendant made partial  
9 representations to Plaintiffs and the Subclass regarding the speed and reliability of the Modem.

10 99. Defendant violated the CLRA by supplying defective Modems and by further  
11 concealing this defect from Plaintiffs and the Subclass.

12 100. Defendant's misrepresentations and omissions in violation of the CLRA were  
13 likely to mislead an ordinary consumer. Plaintiffs and the Subclass reasonably understood  
14 Defendant's representations and omissions to mean that the SB6190 Modems were reliable for  
15 typical consumer use and did not contain a defect that would hamper their performance.

16 101. Defendant's misrepresentations and omissions alleged herein were material in  
17 that a reasonable person would attach importance to the information and would be induced to  
18 act upon the information in making purchase decisions.

19 102. Plaintiffs and the Subclass relied to their detriment on Defendant's  
20 misrepresentations and omissions in purchasing the Modems.

21 103. Plaintiffs, on behalf of themselves and the Subclass, demand judgment against  
22 Defendant under the CLRA for injunctive relief.

23 104. Plaintiffs, on behalf of themselves and the Subclass, further intend to seek  
24 compensatory and punitive damages. Pursuant to CAL. CIV. CODE § 1782(a), Plaintiffs will serve  
25 Defendant with notice of its alleged violations of the CLRA by certified mail return receipt  
26 requested. If, within thirty days after the date of such notification, Defendant fails to provide  
27 appropriate relief for its violations of the CLRA, Plaintiffs will amend this Complaint to seek  
28 monetary damages.



1 113. Defendant's misrepresentations and omissions alleged herein are objectively  
2 material to a reasonable consumer, and therefore reliance upon such misrepresentations may be  
3 presumed as a matter of law.

4 114. At the time Defendant made the misrepresentations and omissions alleged herein,  
5 Defendant knew or should have known that they were untrue or misleading and acted in violation  
6 of CAL. BUS. & PROF. CODE §§ 17500 *et seq.*

7 115. Unless restrained by this Court, Defendant will continue to engage in untrue and  
8 misleading advertising in violation of CAL. BUS. & PROF. CODE §§ 17500 *et seq.*

9 116. As a result, Plaintiffs and each member of the California Class have been injured,  
10 have lost money or property, and are entitled to relief. Plaintiffs and the California Class seek  
11 restitution, injunctive relief, and all other relief permitted under CAL. BUS. & PROF. CODE  
12 §§ 17500 *et seq.*

13  
14 **Fourth Claim for Relief**

15 **Violation of California Unfair Competition Law,**

16 **Cal. Bus. & Prof. §§ 17200 *et seq.***

17 117. Plaintiffs Knowles, Person, Alexander, Palma and Walton individually and on  
18 behalf of the California Class, incorporate by reference all of the allegations contained in the  
19 preceding paragraphs of this Complaint.

20 118. Plaintiffs Knowles, Person, Alexander, Palma and Walton bring this claim  
21 individually and on behalf of the California Class against Defendant.

22 119. Plaintiffs have standing to pursue this claim because they have suffered injury in  
23 fact and have lost money or property as a result of Defendant's actions as described *supra*. All  
24 Class Members overpaid for the SB6190 Modem due to Defendant's concealment of a defect  
25 with the SB6190 Modem.

26 120. Defendant's actions as alleged herein constitute an "unlawful" practice as  
27 encompassed by CAL. BUS. & PROF. CODE §§ 17200 *et seq.* because Defendant breached the  
28 implied warranty of merchantability in violation of the California Song-Beverly Consumer

1 Warranty Act, CAL. CIV. CODE §§ 1790 *et seq.* and further violated the CLRA, CAL. CIV. CODE  
2 §§ 1750 *et seq.* and the FAL, CAL. BUS. & PROF. CODE §§ 17500 *et seq.*

3 121. Defendant’s actions as alleged herein constitute a “fraudulent” practice because,  
4 by representing that the SB6190 Modems were reliable for ordinary consumer use but concealing  
5 that the cable modems actually contained a defect, Defendant’s conduct was likely to deceive  
6 consumers. Defendant’s failure to disclose this defect, especially in light of its claims about  
7 speed and reliability, constitute a material omission in violation of the UCL.

8 122. Defendant’s actions as alleged in this Complaint constitute an “unfair” practice,  
9 because they offend established public policy and are immoral, unethical, oppressive,  
10 unscrupulous, and substantially injurious to Arris’s customers. The harm caused by Arris’s  
11 wrongful conduct outweighs any utility of such conduct and has caused—and will continue to  
12 cause—substantial injury to Plaintiffs and the California Class. Arris could and should have  
13 chosen one of many reasonably available alternatives, including not selling cable modems that  
14 contained a defect, disclosing the defect to prospective purchasers, and/or not representing that  
15 its cable modems were suitable for consumer use. Additionally, Defendant’s conduct was  
16 “unfair,” because it violated the legislatively declared policies reflected by California’s strong  
17 consumer protection, consumer warranty, and false advertising laws, including the California  
18 Song-Beverly Consumer Warranty Act, CAL. CIV. CODE §§ 1790 *et seq.*, the CLRA, CAL. CIV.  
19 CODE §§ 1750 *et seq.*, and the FAL, CAL. BUS. & PROF. CODE §§ 17500 *et seq.*

20 123. As a result of Defendant’s unlawful, fraudulent, and unfair conduct, Plaintiffs and  
21 the California Class were damaged. Plaintiffs and the California Class received an inferior  
22 product from that which they were promised. Had Defendant disclosed the defect with the  
23 SB6190 Modems, Plaintiffs and the California Class would not have purchased the cable  
24 modems or would have paid substantially less.

25 124. Defendant’s wrongful business practices constitute a continuing course of unfair  
26 competition because it continues to represent that the SB6190 is reliable, continues to fail to  
27 disclose the defect, and continues to refuse to repair or replace the modems. Plaintiffs and the  
28

1 California Class, therefore, seek equitable relief to remedy Arris's deceptive marketing,  
2 advertising, and packaging and to recall all affected cable modems.

3 125. Plaintiffs and the California Class also seek an order requiring Defendant to make  
4 full restitution of all monies they have wrongfully obtained from Class Members, as well as all  
5 other relief permitted under CAL. BUS. & PROF. CODE §§ 17200 *et seq.*

6  
7 **Fifth Claim for Relief**

8 **Violation of Arizona Consumer Fraud Act,**

9 **Ariz. Rev. Stat § 44-1521 *et seq.***

10 126. Plaintiffs Smith, Stephens and Penner, individually and on behalf of the Arizona  
11 Class, incorporate by reference all of the allegations contained in the preceding paragraphs of  
12 this Complaint.

13 127. Plaintiffs Smith, Stephens and Penner bring this claim individually and on behalf  
14 of the Arizona Class against Defendant.

15 128. Plaintiffs and the Arizona Class purchased the SB6190 Modem manufactured by  
16 Defendant that was marketed for fast and reliable Internet connectivity.

17 129. Plaintiffs and the Arizona Class purchased the SB6190 Modem new and in its  
18 original packaging and did not alter their Modems.

19 130. Arris and Plaintiffs are "persons" within the meaning of the Arizona Consumer  
20 Fraud Act ("CFA"), ARIZ. REV. STAT. § 44-1521(6). The Modems are "merchandise" within  
21 the meaning of ARIZ. REV. STAT. § 44-1521(5).

22 131. The Arizona CFA provides that "[t]he act, use or employment by any person of  
23 any deception, deceptive act or practice, fraud, ... misrepresentation, or concealment, suppression  
24 or omission of any material fact with intent that others rely upon such concealment, suppression  
25 or omission, in connection with the sale ... of any merchandise whether or not any person has in  
26 fact been misled, deceived or damaged thereby, is declared to be an unlawful practice." ARIZ.  
27 REV. STAT. § 44-1522(A).



1           132. Arris's actions occurred in the conduct of trade or commerce. In the course of its  
2 business, Arris concealed the defects in the Modems and otherwise engaged in activities with a  
3 tendency or capacity to deceive. Arris also engaged in unlawful trade practices by employing  
4 deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or  
5 omission of a material fact with intent that others rely upon such concealment, suppression or  
6 omission, in connection with the sale of the Modems. The suppressed or omitted information  
7 would be material to a reasonable consumer.

8           133. Arris knew about the Modems's defects. Arris acquired additional information  
9 concerning the defects after the Modems were sold, but concealed all of that information until it  
10 was revealed by Modem purchasers. By failing to disclose and by actively concealing the defects  
11 in the Modems, Arris engaged in unfair and deceptive business practices in violation of the  
12 Arizona CFA.

13           134. Arris's unfair or deceptive acts or practices were likely to and did in fact deceive  
14 reasonable consumers, including Plaintiffs Smith, Stephens and Penner, about the true reliability  
15 of their Modems. Arris intentionally and knowingly misrepresented material facts regarding the  
16 defective Modems with the intent to mislead Plaintiffs Smith, Stephens and Penner.

17           135. Arris knew or should have known that its conduct violated the Arizona CFA. As  
18 alleged above, Arris made material statements about the reliability of the Modems that were  
19 either false or misleading.

20           136. Arris owed Plaintiffs a duty to disclose the true reliability of the Modems because  
21 Arris: (a) possessed exclusive knowledge about the defects in the Modems; (b) intentionally  
22 concealed the foregoing from Plaintiffs; and (c) made incomplete representations about the  
23 reliability of the Modems, while purposefully withholding material facts from Plaintiffs that  
24 contradicted these representations.

25           137. Because Arris fraudulently concealed the defects in the Modems, purchasers of  
26 the Modem were deprived of the benefit of their bargain since the cable modems they purchased  
27 were worth less than they would have been if they were free from defects. Furthermore, Plaintiffs  
28 and the Arizona Class had to spend their time and/or money to resolve their problems with the

1 Modems. Had purchasers of the Modem been aware of the defects in their cable modems, they  
2 would have either not have bought the Modems or would have paid less for them.

3 138. As a direct and proximate result of Arris’s violations of the Arizona CFA,  
4 Plaintiffs have suffered injury-in-fact and/or actual damage. Plaintiffs seek monetary relief  
5 against Arris in an amount to be determined at trial. Plaintiffs also seek an order enjoining Arris  
6 unfair, unlawful, and/or deceptive practices, attorneys’ fees, and any other just and proper relief  
7 available under the Arizona CFA.

8  
9 **Sixth Claim for Relief**

10 **Violation of the Louisiana Unfair Trade Practices**

11 **and Consumer Protection Law**

12 **La. Rev. Stat. § 51.1401 et seq.**

13 139. Plaintiff Oefelein, individually and on behalf of the Louisiana Class, incorporates  
14 by reference all of the allegations contained in the preceding paragraphs of this Complaint.

15 140. Plaintiff Oefelein brings this claim individually and on behalf of the Louisiana  
16 Class against Defendant.

17 141. Plaintiff and the Louisiana Class purchased the SB6190 Modem manufactured by  
18 Defendant that was marketed for fast and reliable Internet connectivity.

19 142. Plaintiff and the Louisiana Class purchased the SB6190 Modem new and in its  
20 original packaging and did not alter their Modems.

21 143. Arris and Plaintiff and the Louisiana Class are “persons” within the meaning of  
22 the LA. REV. STAT. § 51:1402(8). Plaintiff and the Louisiana Class are “consumers” within the  
23 meaning of LA. REV. STAT. § 51:1402(1). Arris engaged in “trade” or “commerce” within the  
24 meaning of LA. REV. STAT. § 51:1402(9).

25 144. The Louisiana Unfair Trade Practices and Consumer Protection Law (“CPL”)  
26 makes unlawful “deceptive acts or practices in the conduct of any trade or commerce.” LA. REV.  
27 STAT. § 51:1405(A). Arris participated in misleading, false, or deceptive acts that violated the  
28 Louisiana CPL. By systematically concealing the defects in Modems, Arris engaged in deceptive

1 business practices prohibited by the Louisiana CPL. The suppressed or omitted information  
2 would be material to a reasonable consumer.

3 145. In the course of its business, Arris concealed the defects in the Modems and  
4 otherwise engaged in activities with a tendency or capacity to deceive. Arris also engaged in  
5 unlawful trade practices by employing deception, deceptive acts or practices, fraud,  
6 misrepresentations, or concealment, suppression or omission of a material fact with intent that  
7 others rely upon such concealment, suppression or omission, in connection with the sale of the  
8 Modems.

9 146. Arris knew about the Modems's defects. Arris acquired additional information  
10 concerning the defects after the Modems were sold, but concealed all of that information until it  
11 was revealed by Modem purchasers. By failing to disclose and by actively concealing the defects  
12 in the Modems, Arris engaged in unfair and deceptive business practices in violation of the  
13 Louisiana CPL.

14 147. Arris's unfair or deceptive acts or practices were likely to and did in fact deceive  
15 reasonable consumers, including Plaintiff, about the true reliability of their Modems.

16 148. Arris intentionally and knowingly misrepresented material facts regarding the  
17 Modems with the intent to mislead Plaintiff and the Louisiana Class.

18 149. Arris knew or should have known that its conduct violated the Louisiana CPL.

19 150. As alleged above, Arris made material statements about the reliability of the  
20 Modems that were either false or misleading. Arris owed Plaintiff a duty to disclose the true  
21 reliability of the Modems because Arris: (a) possessed exclusive knowledge about the defects in  
22 the Modems; (b) intentionally concealed the foregoing from Plaintiff; and (c) made incomplete  
23 representations about the reliability of the Modems, while purposefully withholding material  
24 facts from Plaintiff that contradicted these representations.

25 151. Because Arris fraudulently concealed the defects in the Modems, purchasers of  
26 the Modems were deprived of the benefit of their bargain since the cable modems they purchased  
27 were worth less than they would have been if they were free from defects. Furthermore, Plaintiff  
28 and the Louisiana Class had to spend their time and/or money to resolve their problems with the

1 Modems. Had purchasers of the Modem been aware of the defects in their cable modems, they  
2 would have either not have bought the Modems or would have paid less for them.

3 152. As a direct and proximate result of Arris's violations of the Louisiana CPL,  
4 Plaintiff and the Louisiana Class have suffered injury-in-fact and/or actual damage. Pursuant to  
5 LA. REV. STAT. § 51:1409, Plaintiff seeks to recover actual damages in an amount to be  
6 determined at trial; treble damages for Arris's knowing violations of the Louisiana CPL; an order  
7 enjoining Arris's unfair, unlawful, and/or deceptive practices; declaratory relief; attorneys' fees;  
8 and any other just and proper relief available under LA. REV. STAT. § 51:1409.

9  
10 **Seventh Claim for Relief**

11 **Violation of the Ohio Consumer Sales Practice Act**

12 **Ohio Rev. Code Ann. § 1345.01 *et seq.***

13 153. Plaintiffs Kisha and Roar, individually and on behalf of the Ohio Class,  
14 incorporate by reference all of the allegations contained in the preceding paragraphs of this  
15 Complaint.

16 154. Plaintiffs Kisha and Roar bring this claim individually and on behalf of the Ohio  
17 Class against Defendant.

18 155. Plaintiffs and the Ohio Class purchased the SB6190 Modem manufactured by  
19 Defendant that was marketed for fast and reliable Internet connectivity.

20 156. Plaintiffs and the Ohio Class purchased the SB6190 Modem new and in its  
21 original packaging and did not alter their Modems.

22 157. Arris is a "supplier" as that term is defined in OHIO REV. CODE § 1345.01(C).  
23 Plaintiffs and the Ohio Class are "consumers" as that term is defined in OHIO REV. CODE §  
24 1345.01(D), and their purchases of Modems are "consumer transactions" within the meaning of  
25 OHIO REV. CODE § 1345.01(A).

26 158. The Ohio Consumer Sales Practices Act ("CSPA"), OHIO REV. CODE  
27 §1345.02, prohibits unfair or deceptive acts or practices in connection with a consumer  
28 transaction. Specifically, and without limitation, the Act prohibits suppliers from representing

1 (a) that goods have characteristics or uses or benefits which they do not have; (b) that their goods  
2 are of a particular quality or grade they are not; and (c) the subject of a consumer transaction has  
3 been supplied in accordance with a previous representation, if it has not.

4 159. Arris's conduct as alleged above constitutes unfair and/or deceptive consumer  
5 sales practices in violation of OHIO REV. CODE § 1345.02.

6 160. By concealing defects in the Modems, Arris engaged in deceptive business  
7 practices prohibited by the Ohio CSPA, including: representing that the Modems have  
8 characteristics, uses, benefits, and qualities which they do not have; representing that the  
9 Modems are of a particular standard, quality, and grade when they are not; representing that the  
10 subject of a transaction involving Modems has been supplied in accordance with a previous  
11 representation when it has not; and engaging in other unfair or deceptive acts or practices. The  
12 suppressed or omitted information would be material to a reasonable consumer.

13 161. Arris's actions occurred in the conduct of trade or commerce.

14 162. In the course of its business, Arris concealed the defects in the Modems and  
15 otherwise engaged in activities with a tendency or capacity to deceive. Arris engaged in unlawful  
16 trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations,  
17 or concealment, suppression or omission of a material fact with intent that others rely upon such  
18 concealment, suppression or omission, in connection with the sale of Modems.

19 163. Arris knew about the Modems's defects at the time of sale. Arris acquired  
20 additional information concerning the defects after the Modems were sold, but concealed all of  
21 that information until it was revealed by Modem purchasers. By failing to disclose and by  
22 actively concealing the defects in the Modems, Arris engaged in unfair and deceptive business  
23 practices in violation of the Ohio CSPA.

24 164. By failing to disclose and by actively concealing the defects in the Modems,  
25 which it marketed as reliable and of high quality, Arris engaged in unfair and deceptive business  
26 practices in violation of the Ohio CSPA.

27 165. Arris's unfair or deceptive acts or practices were likely to and did in fact deceive  
28 reasonable consumers, including Plaintiffs, about the true reliability of their Modems. Arris

1 intentionally and knowingly misrepresented material facts regarding the Modems with the intent  
2 to mislead Plaintiffs and the Ohio Class.

3 166. Arris knew or should have known that its conduct violated the Ohio CSPA.

4 167. As alleged above, Arris made material statements about the reliability of the  
5 Modems that were either false or misleading. Arris owed Plaintiffs and the Ohio Class a duty to  
6 disclose the true safety and reliability of the Modems, because Arris: (a) possessed exclusive  
7 knowledge about the defects in the Modems; (b) intentionally concealed the foregoing from  
8 Plaintiff; and (c) made incomplete representations about the reliability of the Modems, while  
9 purposefully withholding material facts from Plaintiffs that contradicted these representations.

10 168. Because Arris fraudulently concealed the defects in the Modems, purchasers of  
11 the Modems were deprived of the benefit of their bargain since the cable modems they purchased  
12 were worth less than they would have been if they were free from defects. Furthermore, Plaintiffs  
13 and the Ohio Class had to spend their time and money to resolve their problems with the  
14 Modems. Had purchasers of the Modem been aware of the defects in their cable modems, they  
15 would have either not have bought the Modems or would have paid less for them.

16 169. As a direct and proximate result of Arris's violations of the Ohio CSPA, Plaintiffs  
17 and the Ohio Class have suffered injury-in-fact and/or actual damage, as alleged above. As a  
18 result of the foregoing wrongful conduct of Arris, Plaintiffs and the Ohio Class have been  
19 damaged in an amount to be proven at trial, and seek all just and proper remedies, including, but  
20 not limited to, actual and statutory damages, an order enjoining Arris's deceptive and unfair  
21 conduct, treble damages, court costs and reasonable attorneys' fees, pursuant to OHIO REV.  
22 CODE § 1345.09, et seq.

23  
24 **Eighth Claim for Relief**

25 **Unfair and Deceptive Acts in Violation of Hawaii Law**

26 **Haw. Rev. Stat. § 480 et seq.**

27 170. Plaintiff Romeo, individually and on behalf of the Hawaii Class, incorporates by  
28 reference all of the allegations contained in the preceding paragraphs of this Complaint.

1           171. Plaintiff Romeo brings this claim individually and on behalf of the Hawaii Class  
2 against Defendant.

3           172. Plaintiff and the Hawaii Class purchased the SB6190 Modem manufactured by  
4 Defendant that was marketed for fast and reliable Internet connectivity.

5           173. Plaintiff and the Hawaii Class purchased the SB6190 Modem new and in its  
6 original packaging and did not alter their Modems.

7           174. Arris is a “person” under HAW. REV. STAT. § 480-1. Plaintiff and the Hawaii  
8 Class are “consumer[s]” as defined by HAW. REV. STAT. § 480-1, who purchased a Modem.

9           175. Arris’s acts or practices as set forth above occurred in the conduct of trade or  
10 commerce. The Hawaii Act § 480-2(a) prohibits “unfair methods of competition and unfair or  
11 deceptive acts or practices in the conduct of any trade or commerce....”

12           176. In the course of its business, Arris concealed the defects in the Modems and  
13 otherwise engaged in activities with a tendency or capacity to deceive. Arris also engaged in  
14 unlawful trade practices by employing deception, deceptive acts or practices, fraud,  
15 misrepresentations, or concealment, suppression or omission of any material fact with intent that  
16 others rely upon such concealment, suppression or omission, in connection with the sale of the  
17 Modems.

18           177. Arris knew about the Modems’s defects at the time of sale. Arris acquired  
19 additional information concerning the defects after the Modems were sold, but concealed all of  
20 that information until it was revealed by Modem purchasers. By failing to disclose and by  
21 actively concealing the defects in the Modems, Arris engaged in unfair and deceptive business  
22 practices in violation of the Hawaii Act.

23           178. By failing to disclose and by actively concealing the defects in the Modems,  
24 which it marketed as reliable and of high quality, Arris engaged in unfair and deceptive business  
25 practices in violation of the Hawaii Act. Arris’s unfair or deceptive acts or practices were likely  
26 to and did in fact deceive reasonable consumers, including Plaintiff, about the true reliability of  
27 their Modems.

28

1 179. Arris intentionally and knowingly misrepresented material facts regarding the  
2 Modems with the intent to mislead Plaintiff and the Hawaii Class. Arris knew or should have  
3 known that its conduct violated the Hawaii Act.

4 180. As alleged above, Arris made material statements about the reliability of the  
5 Modems that were either false or misleading. Arris owed Plaintiff a duty to disclose the true  
6 safety and reliability of the Modems, because Arris: (a) possessed exclusive knowledge about  
7 the defects in the Modems; (b) intentionally concealed the foregoing from Plaintiff; and (c) made  
8 incomplete representations about the reliability of the Modems, while purposefully withholding  
9 material facts from Plaintiff that contradicted these representations.

10 181. Because Arris fraudulently concealed the defects in the Modems, purchasers of  
11 the Modems were deprived of the benefit of their bargain since the cable modems they purchased  
12 were worth less than they would have been if they were free from defects. Furthermore, Plaintiff  
13 and the Hawaii Class had to spend their time and money to resolve their problems with the  
14 Modems. Had purchasers of the Modem been aware of the defects in their cable modems, they  
15 would have either not have bought the Modems or would have paid less for them.

16 182. As a direct and proximate result of Arris's violations of the Hawaii Act, Plaintiff  
17 and the Hawaii Class have suffered injury-in-fact and/or actual damage as alleged above.  
18 Pursuant to HAW. REV. STAT. § 480-13, Plaintiff seeks monetary relief against Arris measured  
19 as the greater of (a) \$1,000 and (b) threefold actual damages in an amount to be determined at  
20 trial.

21  
22 **Ninth Claim for Relief**

23 **Violation of Oklahoma Consumer Protection Act**

24 **Okla. Stat. Tit. 15 § 751 *et seq.***

25 183. Plaintiff Matsayko, individually and on behalf of the Oklahoma Class,  
26 incorporates by reference all of the allegations contained in the preceding paragraphs of this  
27 Complaint.  
28



1           184. Plaintiff Matsayko brings this claim individually and on behalf of the Oklahoma  
2 Class against Defendant.

3           185. Plaintiff and the Oklahoma Class purchased the SB6190 Modem manufactured  
4 by Defendant that was marketed for fast and reliable Internet connectivity.

5           186. Plaintiff and the Oklahoma Class purchased the SB6190 Modem new and in its  
6 original packaging and did not alter their Modems.

7           187. Plaintiff and the Oklahoma Class are “persons” under the Oklahoma Consumer  
8 Protection Act (“CPA”), OKLA. STAT. TIT. 15 § 752. Arris is a “person,” “corporation,” or  
9 “association” within the meaning of OKLA. STAT. TIT. 15 § 15-751(1).

10           188. The sales of the defective Modems to Plaintiff and the Oklahoma Class were  
11 “consumer transactions” within the meaning of OKLA. STAT. TIT. 15 § 752, and Arris’s actions  
12 as set forth herein occurred in the conduct of trade or commerce.

13           189. The Oklahoma CPA declares unlawful, inter alia, the following acts or practices  
14 when committed in the course of business: “mak[ing] a false or misleading representation,  
15 knowingly or with reason to know, as to the characteristics..., uses, [or] benefits, of the subject  
16 of a consumer transaction,” or making a false representation, “knowingly or with reason to know,  
17 that the subject of a consumer transaction is of a particular standard, style or model, if it is of  
18 another or “[a]dvertis[ing], knowingly or with reason to know, the subject of a consumer  
19 transaction with intent not to sell it as advertised;” and otherwise committing “an unfair or  
20 deceptive trade practice.” See OKLA. STAT. TIT. 15, § 753.

21           190. In the course of its business, Arris concealed the defects in the Modems and  
22 otherwise engaged in activities with a tendency or capacity to deceive. Arris also engaged in  
23 unlawful trade practices by employing deception, deceptive acts or practices, fraud,  
24 misrepresentations, or concealment, suppression or omission of any material fact with intent that  
25 others rely upon such concealment, suppression or omission, in connection with the sale of the  
26 Modems.

27           191. Arris knew about the Modems’s defects at the time of sale. Arris acquired  
28 additional information concerning the defects after the Modems were sold, but concealed all of

1 that information until it was revealed by Modem purchasers. By failing to disclose and by  
2 actively concealing the defects in the Modems, Arris engaged in unfair and deceptive business  
3 practices in violation of the Oklahoma CPA.

4 192. By failing to disclose and by actively concealing the defects in the Modems,  
5 which it marketed as reliable and of high quality, Arris engaged in unfair and deceptive business  
6 practices in violation of the Oklahoma CPA. Arris's unfair or deceptive acts or practices were  
7 likely to and did in fact deceive reasonable consumers, including Plaintiff and the Oklahoma  
8 Class, about the true reliability of their Modems.

9 193. Arris intentionally and knowingly misrepresented material facts regarding the  
10 Modems with the intent to mislead Plaintiff and the Oklahoma Class. Arris knew or should have  
11 known that its conduct violated the Oklahoma CPA.

12 194. As alleged above, Arris made material statements about the reliability of the  
13 Modems that were either false or misleading. Arris owed Plaintiff a duty to disclose the true  
14 safety and reliability of the Modems, because Arris: (a) possessed exclusive knowledge about  
15 the defects in the Modems; (b) intentionally concealed the foregoing from Plaintiff; and (c) made  
16 incomplete representations about the reliability of the Modems, while purposefully withholding  
17 material facts from Plaintiff that contradicted these representations.

18 195. Because Arris fraudulently concealed the defects in the Modems, purchasers of  
19 the Modems were deprived of the benefit of their bargain since the cable modems they purchased  
20 were worth less than they would have been if they were free from defects. Furthermore, Plaintiff  
21 and the Oklahoma Class had to spend their time and money to resolve their problems with the  
22 Modems. Had purchasers of the Modem been aware of the defects in their cable modems, they  
23 would have either not have bought the Modems or would have paid less for them.

24 196. As a direct and proximate result of Arris's violations of the Oklahoma CPA,  
25 Plaintiff and the Oklahoma Class have suffered injury-in-fact and/or actual damage as alleged  
26 above. Plaintiff further seeks an order enjoining Arris's unfair and/or deceptive acts or practices,  
27 and any other just and proper relief available under the Oklahoma CPA and OKLA. STAT. TIT.  
28 15 § 15-761.1.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Tenth Claim for Relief**  
**Violation of Consumer Protection Procedures Act**  
**D.C. Code § 28-3901 *et seq.***

197. Plaintiff Eisen, individually and on behalf of the D.C. Class, incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint.

198. Plaintiff Eisen brings this claim individually and on behalf of the D.C. Class against Defendant.

199. Plaintiff and the D.C. Class purchased the SB6190 Modem manufactured by Defendant that was marketed for fast and reliable Internet connectivity.

200. Plaintiff and the D.C. Class purchased the SB6190 Modem new and in its original packaging and did not alter their Modems.

201. Arris is a “person” under the Consumer Protection Procedures Act (“CPPA”), D.C. CODE § 28-3901(a)(1).

202. Plaintiff and the D.C. Class are “consumers,” as defined by D.C. CODE § 28-3901(1)(2), who purchased Modems.

203. Arris’s actions as set forth herein constitute “trade practices” under D.C. CODE § 28-3901.

204. Arris participated in unfair or deceptive acts or practices that violated the D.C. CPPA. By systematically concealing the defects in the Modems, Arris engaged in unfair or deceptive practices prohibited by the D.C. CPPA, D.C. CODE § 28-3901, *et seq.*,

205. In the course of its business, Arris concealed the defects in the Modems and otherwise engaged in activities with a tendency or capacity to deceive. Arris also engaged in unlawful trade practices by employing deception, deceptive acts or practices, fraud, misrepresentations, or concealment, suppression or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale of the Modems.

1           206. Arris knew about the Modems’s defects at the time of sale. Arris acquired  
2 additional information concerning the defects after the Modems were sold, but concealed all of  
3 that information until it was revealed by Modem purchasers. By failing to disclose and by  
4 actively concealing the defects in the Modems, Arris engaged in unfair and deceptive business  
5 practices in violation of the D.C. CPPA.

6           207. By failing to disclose and by actively concealing the defects in the Modems,  
7 which it marketed as reliable and of high quality, Arris engaged in unfair and deceptive business  
8 practices in violation of the D.C. CPPA. Arris’s unfair or deceptive acts or practices were likely  
9 to and did in fact deceive reasonable consumers, including Plaintiff and the D.C. Class, about  
10 the true reliability of their Modems.

11           208. Arris intentionally and knowingly misrepresented material facts regarding the  
12 Modems with the intent to mislead Plaintiff and the D.C. Class. Arris knew or should have  
13 known that its conduct violated the D.C. CPPA.

14           209. As alleged above, Arris made material statements about the reliability of the  
15 Modems that were either false or misleading. Arris owed Plaintiff a duty to disclose the true  
16 safety and reliability of the Modems, because Arris: (a) possessed exclusive knowledge about  
17 the defects in the Modems; (b) intentionally concealed the foregoing from Plaintiff; and (c) made  
18 incomplete representations about the reliability of the Modems, while purposefully withholding  
19 material facts from Plaintiff that contradicted these representations.

20           210. Because Arris fraudulently concealed the defects in the Modems, purchasers of  
21 the Modems were deprived of the benefit of their bargain since the cable modems they purchased  
22 were worth less than they would have been if they were free from defects. Furthermore, Plaintiff  
23 and the D.C. Class had to spend their time and money to resolve their problems with the Modems.  
24 Had purchasers of the Modem been aware of the defects in their cable modems, they would  
25 have either not have bought the Modems or would have paid less for them.

26           211. Plaintiff is entitled to recover treble damages or \$1,500, whichever is greater,  
27 reasonable attorneys’ fees, and any other relief the Court deems proper, under D.C. CODE § 28-  
28 3901.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Eleventh Claim for Relief**  
**Violations of the Kansas Consumer Protection Act**  
**Kan. Stat. Ann. § 50-623 et seq.**

212. Plaintiff Tilley, individually and on behalf of the Kansas Class, incorporates by reference all of the allegations contained in the preceding paragraphs of this Complaint.

213. Plaintiff Tilley brings this claim individually and on behalf of the Kansas Class against Defendant.

214. Plaintiff and the Kansas Class purchased the SB6190 Modem manufactured by Defendant that was marketed for fast and reliable Internet connectivity.

215. Plaintiff and the Kansas Class purchased the SB6190 Modem new and in its original packaging and did not alter their Modems.

216. Arris is a “supplier” under the Kansas Consumer Protection Act (“CPA”), KAN. STAT. ANN. § 50-624(1).

217. Plaintiff and the Kansas Class are “consumers,” within the meaning of KAN. STAT. ANN. § 50-624(b), who purchased Modems.

218. The sales of the Modems to Plaintiff and the Kansas Class were a “consumer transactions” within the meaning of KAN. STAT. ANN. § 50-624(c).

219. The CPA states “[n]o supplier shall engage in any deceptive act or practice in connection with a consumer transaction,” KAN. STAT. ANN. § 50-626(a), and that deceptive acts or practices include: (1) knowingly making representations or with reason to know that “(A) Property or services have sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have;” and “(D) property or services are of particular standard, quality, grade, style or model, if they are of another which differs materially from the representation;”“(2) the willful use, in any oral or written representation, of exaggeration, falsehood, innuendo or ambiguity as to a material fact;” and “(3) the willful failure to state a material fact, or the willful concealment, suppression or omission of a material fact.” The CPA

1 also provides that “[n]o supplier shall engage in any unconscionable act or practice in connection  
2 with a consumer transaction.” KAN. STAT. ANN. § 50-627(a).

3         220. In the course of its business, Arris concealed the defects in the Modems and  
4 otherwise engaged in activities with a tendency or capacity to deceive. Arris also engaged in  
5 unlawful trade practices by employing deception, deceptive acts or practices, fraud,  
6 misrepresentations, or concealment, suppression or omission of any material fact with intent that  
7 others rely upon such concealment, suppression or omission, in connection with the sale of the  
8 Modems.

9         221. Arris knew about the Modems’s defects at the time of sale. Arris acquired  
10 additional information concerning the defects after the Modems were sold, but concealed all of  
11 that information until it was revealed by Modem purchasers. By failing to disclose and by  
12 actively concealing the defects in the Modems, Arris engaged in unfair and deceptive business  
13 practices in violation of the Kansas CPA.

14         222. By failing to disclose and by actively concealing the defects in the Modems,  
15 which it marketed as reliable and of high quality, Arris engaged in unfair and deceptive business  
16 practices in violation of the Kansas CPA. Arris’s unfair or deceptive acts or practices were likely  
17 to and did in fact deceive reasonable consumers, including Plaintiff and the Kansas Class, about  
18 the true reliability of their Modems.

19         223. Arris intentionally and knowingly misrepresented material facts regarding the  
20 Modems with the intent to mislead Plaintiff and the Kansas Class. Arris knew or should have  
21 known that its conduct violated the Kansas CPA.

22         224. As alleged above, Arris made material statements about the reliability of the  
23 Modems that were either false or misleading. Arris owed Plaintiff a duty to disclose the true  
24 safety and reliability of the Modems, because Arris: (a) possessed exclusive knowledge about  
25 the defects in the Modems; (b) intentionally concealed the foregoing from Plaintiff; and (c) made  
26 incomplete representations about the reliability of the Modems, while purposefully withholding  
27 material facts from Plaintiff that contradicted these representations.  
28



1           234. The Illinois Consumer Fraud and Deceptive Business Practices Act (“CFA”)  
2 prohibits “unfair or deceptive acts or practices, including, but not limited to, the use or  
3 employment of any deception, fraud, false pretense, false promise, misrepresentation or the  
4 concealment, suppression or omission of any material fact, with intent that others rely upon the  
5 concealment, suppression or omission of such material fact ... in the conduct of trade or  
6 commerce ... whether any person has in fact been misled, deceived or damaged thereby.” 815  
7 ILCS 505/2.

8           235. In the course of its business, Arris concealed the defects in the Modems and  
9 otherwise engaged in activities with a tendency or capacity to deceive. Arris also engaged in  
10 unlawful trade practices by employing deception, deceptive acts or practices, fraud,  
11 misrepresentations, or concealment, suppression or omission of any material fact with intent that  
12 others rely upon such concealment, suppression or omission, in connection with the sale of the  
13 Modems.

14           236. Arris knew about the Modems’s defects at the time of sale. Arris acquired  
15 additional information concerning the defects after the Modems were sold, but concealed all of  
16 that information until it was revealed by Modem purchasers. By failing to disclose and by  
17 actively concealing the defects in the Modems, Arris engaged in unfair and deceptive business  
18 practices in violation of the Illinois CFA.

19           237. By failing to disclose and by actively concealing the defects in the Modems,  
20 which it marketed as reliable and of high quality, Arris engaged in unfair and deceptive business  
21 practices in violation of the Illinois CFA. Arris’s unfair or deceptive acts or practices were likely  
22 to and did in fact deceive reasonable consumers, including Plaintiffs and the Illinois Class, about  
23 the true reliability of their Modems.

24           238. Arris intentionally and knowingly misrepresented material facts regarding the  
25 Modems with the intent to mislead Plaintiffs and the Illinois Class. Arris knew or should have  
26 known that its conduct violated the Illinois CFA.

27           239. As alleged above, Arris made material statements about the reliability of the  
28 Modems that were either false or misleading. Arris owed Plaintiffs a duty to disclose the true



1 safety and reliability of the Modems, because Arris: (a) possessed exclusive knowledge about  
2 the defects in the Modems; (b) intentionally concealed the foregoing from Plaintiffs; and (c)  
3 made incomplete representations about the reliability of the Modems, while purposefully  
4 withholding material facts from Plaintiffs that contradicted these representations.

5 240. Because Arris fraudulently concealed the defects in the Modems, purchasers of  
6 the Modems were deprived of the benefit of their bargain since the cable modems they purchased  
7 were worth less than they would have been if they were free from defects. Furthermore, Plaintiffs  
8 and the Illinois Class had to spend their time and money to resolve their problems with the  
9 Modems. Had purchasers of the Modem been aware of the defects in their cable modems, they  
10 would have either not have bought the Modems or would have paid less for them.

11 241. Pursuant to 815 ILCS 505/10a(a), Plaintiffs seek monetary relief against Arris in  
12 the amount of actual damages, as well as punitive damages because Arris acted with fraud and/or  
13 malice and/or was grossly negligent.

14 242. Plaintiffs also seek an order enjoining Arris's unfair and/or deceptive acts or  
15 practices, punitive damages, and attorneys' fees, and any other just and proper relief available  
16 under 815 ILCS § 505/1 et seq.

17  
18 **PRAYER FOR RELIEF**

19 Plaintiffs, on behalf of themselves and the Classes, request that the Court order the  
20 following relief and enter judgment against Defendant as follows:

- 21 A. An order certifying the proposed Classes and Subclass under Rule 23;  
22 B. An order appointing Plaintiffs and their counsel to represent the Classes and  
23 Subclass;  
24 C. A declaration that Defendant has engaged in the illegal conduct alleged;  
25 D. An order that Defendant be permanently enjoined from its improper conduct;  
26 E. A judgment awarding Plaintiffs and the Classes restitution and disgorgement of  
27 all compensation obtained by Defendant from its wrongful conduct;  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- F. A judgment awarding Plaintiffs and the Classes compensatory damages pursuant in an amount to be proven at trial;
- G. Prejudgment and postjudgment interest at the maximum allowable rate;
- H. Attorneys’ fees and expenses and the costs of this action; and
- I. All other relief that the Court deems necessary, just, and proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury on all claims so triable.

Dated: May 11, 2017

By: /s/ Noah M. Schubert  
ROBERT C. SCHUBERT (S.B.N. 62684)  
WILLEM F. JONCKHEER (S.B.N. 178748)  
NOAH M. SCHUBERT (S.B.N. 278696)  
SCHUBERT JONCKHEER & KOLBE LLP  
Three Embarcadero Center, Suite 1650  
San Francisco, CA 94111  
Telephone: (415) 788-4220  
Facsimile: (415) 788-0161  
rschubert@sjk.law  
wjonckheer@sjk.law  
nschubert@sjk.law

*Counsel for Plaintiff*