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

CHRISTOPHER J. CORDOVA,
 Plaintiff,
 vs.
 JONATHAN HUDON-HUNEALD,
 NNEKA OHIRI, 14693663 CANADA
 INC.,
 Defendants.

Case No. 25-cv-04685-VKD

Hon. Virginia K. DeMarchi

**NOTICE OF MOTION AND
MOTION FOR AN ORDER
GRANTING SPECIAL MOTION TO
STRIKE COUNT THREE OF
DEFENDANTS' COUNTERCLAIMS;
MEMORANDUM OF POINTS AND
AUTHORITIES**

[Cal. Code Civ. Proc. § 425.16]

HEARING:

Date: February 17, 2026
Time: 10:00 a.m.
Place: 280 South 1st St.
Courtroom 2 (5th Floor)
San Jose, CA 95113

NOTICE OF MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on February 17, 2026, at 10:00 a.m., or as soon thereafter as the matter may be heard, in Courtroom 2 (5th Floor) of the Honorable Virginia K. DeMarchi, United States District Judge, at the Robert F. Peckham Federal Courthouse, 280 South First Street, San Jose, California 95113, Plaintiff Christopher J. Cordova (“Plaintiff”) will and hereby does move the Court for an order granting Plaintiff’s Special Motion to Strike pursuant to California Code of Civil Procedure § 425.16, striking Count Three of the Counterclaims (ECF No. 58) asserted by Defendants Jonathan Hudon-Huneault (“Huneault”), Nneka Ohiri (“Ohiri”), and 14693663 Canada Inc. (“Canada Inc.”) (collectively, “Defendants”), namely the claim for Tortious Interference with Existing and Prospective Economic Advantage (the “Tortious Interference Claim”).

Plaintiff further seeks an award of his reasonable attorney’s fees and costs incurred in connection with this Special Motion to Strike, in an amount to be determined upon subsequent application.

This Motion is made on the following grounds:

1. Defendants’ state-law Tortious Interference Claim arises from acts taken by Plaintiff in furtherance of his constitutional right of petition under the United States Constitution and the California Constitution; and
2. Defendants cannot establish a probability of prevailing on their Tortious Interference Claim.

This Motion is based upon this Notice of Motion, the accompanying Memorandum of Points and Authorities, the pleadings and papers on file in this action, and such further evidence and argument as may be presented at or before the hearing.

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2 **STATUTES**

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1 **I. STATEMENT OF ISSUES TO BE DECIDED**

2 1. Whether Defendants' Tortious Interference Claim arises from Plaintiff's acts
3 in furtherance of Plaintiff's constitutional right of petition, where the claim is based solely
4 on Plaintiff's submission of DMCA takedown notices to YouTube.

5 2. Whether Defendants can demonstrate a probability of prevailing on the
6 Tortious Interference Claim, where the alleged conduct is protected petitioning activity
7 under California Code of Civil Procedure § 425.16.

8 3. Whether Plaintiff is entitled to mandatory attorney's fees and costs under
9 California Code of Civil Procedure § 425.16(c)(1) upon granting of the Special Motion to
10 Strike.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **II. INTRODUCTION**

3 This Special Motion to Strike targets a single, narrow claim: Defendants’ state-law
4 Tortious Interference Claim.¹ That claim arises entirely from Plaintiff’s submission of
5 copyright takedown notices under the Digital Millennium Copyright Act (“DMCA”), 17
6 U.S.C. § 512, et seq., core petitioning activity protected by both the United States
7 Constitution and the California Constitution. California’s anti-SLAPP statute exists
8 precisely to prevent claims like this one from proceeding.

9 Defendants’ Tortious Interference Claim does not allege any conduct independent
10 of the DMCA process. Instead, Defendants seek to impose tort liability solely because
11 Plaintiff invoked the statutory mechanism Congress created to enforce his copyrights. That
12 is not merely protected activity; it is activity the law affirmatively encourages by
13 conditioning liability and remedies exclusively under § 512(f). Any claim predicated on
14 such conduct falls squarely within California Code of Civil Procedure § 425.16 and must
15 be stricken unless Defendants can demonstrate a probability of prevailing, which they
16 cannot.

17 Allowing Defendants’ Tortious Interference Claim to proceed would undermine the
18 DMCA’s carefully balanced enforcement scheme by deterring Plaintiff and other copyright
19 holders from asserting their rights for fear of retaliatory tort liability. Courts routinely reject
20 such end-runs around federal copyright law, and California’s anti-SLAPP statute provides
21 an expedited mechanism to do so at the threshold.

22 Because Defendants’ Tortious Interference Claim arises solely from Plaintiff’s
23 protected petitioning activity it is barred as a matter of law and the Court should strike it in
24 its entirety and award Plaintiff mandatory attorney’s fees and costs pursuant to Cal. Code
25 of Civ. Proc. § 425.16(c)(1).

26 _____
27 ¹ For the avoidance of doubt, Plaintiff intends to separately move to dismiss Counts One and Two
28 of Defendants’ Counterclaims (ECF No. 58) pursuant to Rule 12 within the time allowed by Rule
12(a)(1)(B), as extended if applicable.

1 III. FACTUAL AND PROCEDURAL BACKGROUND

2 Plaintiff is a Colorado-based constitutional auditor and the creator of the Denver
3 Metro Audits YouTube channel, where he publishes original audiovisual works
4 documenting interactions with government officials, law enforcement, and public
5 employees. (First Amended Complaint, ECF No. 39 (“FAC”) ¶¶ 17, 29–31). His works
6 form part of a broader movement of citizen-journalist creators (“Auditors”) who film
7 public-interest encounters and disseminate them through YouTube. (*Id.*)

8 Huneault, Ohiri, and Canada Inc. jointly operate the “Frauditor Troll” YouTube
9 channel, which publishes reaction-style and commentary videos that incorporate
10 substantial portions of Plaintiff’s publicly available content. (FAC ¶¶ 19-22, 32-34;
11 Counterclaim ¶¶ 1–8.)

12 Plaintiff alleges that Defendants unlawfully reproduced, displayed, and monetized
13 portions of his copyrighted videos and asserts claims for copyright infringement,
14 misrepresentation under 17 U.S.C. § 512(f), circumvention of technological measures, and
15 declaratory relief. (FAC ¶¶ 85–123). Defendants deny liability and contend that their
16 videos were authorized and/or are protected by fair use, 17 U.S.C. § 107. (Answer to FAC,
17 ECF No. 57).

18 According to the FAC, Plaintiff submitted multiple DMCA takedown notices to
19 YouTube in 2023 identifying videos uploaded by Defendants that allegedly infringed
20 Plaintiff’s copyrighted works. (FAC ¶ 58). Defendants responded by submitting DMCA
21 counter-notifications pursuant to 17 U.S.C. § 512(g), asserting that the challenged videos
22 were non-infringing and requesting reinstatement of the removed content. (FAC ¶¶ 59-61;
23 Counterclaim ¶¶ 21, 27).

24 In response to the FAC, Defendants filed counterclaims and asserted a claim for
25 tortious interference with contractual and prospective economic relations. (Counterclaim
26 ¶¶ 62–72). Defendants allege that Plaintiff interfered with Defendants’ relationship with
27 YouTube and their economic interests by submitting DMCA takedown notices that resulted
28 in the removal or temporary disabling of Defendants’ videos. (*Id.*)

1 The Counterclaim identifies no conduct by Plaintiff other than the submission of
2 DMCA takedown notices to YouTube. It does not allege threats, harassment, false
3 statements outside the DMCA process, or any conduct independent of Plaintiff’s exercise
4 of rights under the DMCA. (*Id.*) Defendants’ tortious interference theory is expressly
5 premised on the allegation that Plaintiff’s DMCA takedowns to YouTube were improper
6 and caused economic harm through interruption of monetization, viewership, and channel
7 performance. (*Id.*)

8 **IV. LEGAL STANDARD GOVERNING ANTI-SLAPP MOTIONS**

9 **A. California’s Anti-SLAPP Statute Applies in Federal Court and Is** 10 **Construed Broadly**

11 “When exercising supplemental jurisdiction over state law claims, the Court applies
12 California substantive law.” *TP Link USA Corporation v. Careful Shopper LLC*, 19-cv-82-
13 JLS-KES, 2020 WL 3063956 at *3 (C.D. Cal. Mar. 23, 2020), *reconsideration denied*,
14 2020 WL 4353678 (C.D. Cal. June 30, 2020), citing *Mason and Dixon Intermodal, Inc. v.*
15 *Lapmaster Int’l LLC*, 632 F.3d 1056, 1060 (9th Cir. 2011). “In California, ‘[a] cause of
16 action against a person arising from any act of that person in furtherance of the person’s
17 right of petition or free speech under the United States Constitution or the California
18 Constitution in connection with a public issue shall be subject to a special motion to strike,
19 unless the court determines that the [party] has established that there is a probability that
20 [they] will prevail on the claim.’” *Planned Parenthood Federation of America, Inc. v.*
21 *Center for Medical Progress*, 890 F.3d 828, 832-33 (9th Cir. 2018), *cert. denied*, 139 S.Ct.
22 1446 (2019), quoting Cal. Code Civ. Proc. § 425.16(b)(1).

23 A motion to strike a state law claim under California’s anti-SLAPP statute may be
24 brought in federal court. *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1109 (9th Cir.
25 2003). The Ninth Circuit has held that “Anti-SLAPP motions are hybrids of motions to
26 dismiss and motions for summary judgment.” *Planned Parenthood*, 890 F.3d at 836.
27 “[W]hen an anti-SLAPP motion to strike challenges only the legal sufficiency of a claim,
28 a district court should apply the Federal Rule of Civil Procedure 12(b)(6) standard and

1 consider whether a claim is properly stated.” *Id.* at 834. “And, on the other hand, when an
2 anti-SLAPP motion to strike challenges the factual sufficiency of a claim, then the Federal
3 Rule of Civil Procedure 56 standard [applies].” *Id.*

4 **B. California’s Anti-SLAPP Statute Applies to Counterclaims**

5 California’s anti-SLAPP statute applies to counterclaims as well as complaints. The
6 statute authorizes a special motion to strike “any cause of action” arising from protected
7 petitioning activity, Cal. Code Civ. Proc. § 425.16(b)(1), and courts construe this language
8 broadly. *Navellier v. Sletten*, 29 Cal. 4th 82, 92 (2002). Therefore, the Tortious Interference
9 Claim’s procedural posture as a counterclaim does not exempt that claim from anti-SLAPP
10 scrutiny.

11 **C. The Two-Prong Framework Under California Code of Civil Procedure §** 12 **425.16**

13 California’s anti-SLAPP statute was enacted as an attempt to curb the increasing
14 number of lawsuits being “brought primarily to chill the valid exercise of the constitutional
15 rights of freedom of speech and petition for the redress of grievances.” Cal. Code. Civ.
16 Proc. § 425.16(a). Courts evaluating an anti-SLAPP motion must engage in a two-step,
17 burden shifting analysis. *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1110 (9th Cir.
18 2003). First, the moving party must make a prima facie showing that the challenged claim
19 arises from an act in furtherance of the moving party’s right of petition or free speech. *Id.*
20 (citations omitted). If that showing is made, the burden shifts to the non-moving party to
21 demonstrate a probability of prevailing on the claim. *Id.* (citations omitted). Courts in the
22 Ninth Circuit have emphasized that the moving party’s burden at the first step “is not an
23 onerous one.” *Tensor Law P.C. v. Rubin*, 18-cv-1490-SVW-SK, 2019 WL 3249595, at *4
24 (C.D. Cal. Apr. 10, 2019). (citations omitted).

25 At the second prong, the non-moving party must demonstrate that the challenged
26 claim is legally sufficient and supported by a prima facie showing of facts that, if credited,
27 would sustain a favorable judgment. *Hilton v. Hallmark Cards*, 599 F.3d 894, 903 (9th Cir.
28 2010). The Court does not weigh evidence or resolve credibility disputes, but it must strike

1 the claim where the non-moving party fails to establish a legally viable theory of liability.
2 *Id.*

3 Because the anti-SLAPP statute is intended to prevent the chilling of constitutionally
4 protected petitioning activity, it “shall be construed broadly.” Cal. Code Civ. Proc. §
5 425.16(a). Its purpose is to protect litigants’ “utmost freedom of access to the courts
6 without [the] fear of being harassed subsequently by derivative tort actions.” *Thimes*
7 *Solutions Inc. v. TP Link USA Corp.*, 19-cv-10374-PA (Ex), 2020 WL 4353681, at *5 (C.D.
8 Cal. June 8, 2020) (internal quotation marks and citations omitted).

9 **V. DEFENDANTS’ TORTIOUS INTERFERENCE CLAIM ARISES FROM**
10 **PROTECTED ACTIVITY**

11 Defendants’ Tortious Interference Claim is subject to an anti-SLAPP motion if it
12 arises from any act taken by Plaintiff in furtherance of his constitutional right of petition
13 or free speech. Cal. Code Civ. Proc. § 425.16(b)(1). Here, Defendants’ Tortious
14 Interference Claim is based exclusively on Plaintiff’s submission of DMCA takedown
15 notices to YouTube.

16 At the first step of the anti-SLAPP analysis, the moving party need only make a
17 prima facie showing that the challenged conduct falls within the statute’s definition of
18 protected petitioning or speech activity. *Vess v. Ciba-Geigy Corp.USA*, 317 F.3d at 1110.
19 Section 425.16 expressly protects written statements made before or in connection with
20 judicial proceedings, as well as other conduct in furtherance of the constitutional right of
21 petition. Cal. Code Civ. Proc. § 425.16(e). Courts applying the statute have consistently
22 held that communications preparatory to, or in anticipation of, litigation qualify as
23 protected petitioning activity, including pre-suit enforcement communications directed to
24 interested parties. *Tensor Law P.C.*, 2019 WL 3249595, at *6. The anti-SLAPP statute is
25 construed broadly to protect access to courts and to prevent derivative tort claims based on
26 the exercise of petitioning rights and the “abuse of the judicial process.” Cal. Code Civ.
27 Proc. § 425.16(a).

28 Applying these principles, Plaintiff’s submission of DMCA takedown notices to

1 YouTube constitutes protected petitioning activity under Section 425.16. A DMCA notice
2 invokes a congressionally created statutory enforcement mechanism designed to resolve
3 copyright disputes and expressly contemplates federal litigation as the consequence of a
4 counter-notification. *See* 17 U.S.C. § 512(g)(2)(C). Courts therefore treat DMCA
5 takedown notices as communications made in anticipation of litigation and in connection
6 with judicial proceedings. *See Complex Media, Inc. v. X17, Inc.*, 18-cv-07588-SJO (AGRx),
7 2019 WL 2896117, at *3 (C.D. Cal. Mar. 4, 2019); *Shande v. Zoox, Inc.*, 22-cv-05821-
8 BFL, 2024 WL 2306284, at *6–7 (N.D. Cal. May 21, 2024); *Ningbo Yituo Enters. Mgmt.*
9 *Co. LTD v. GoPlus Corp.* 24-cv-02548-SHK, 2025 WL 1421394 at *4 (C.D. Cal. Apr. 10,
10 2025).

11 Measured against these standards, Defendants’ own allegations confirm that prong
12 one is satisfied. Here, Defendants’ Tortious Interference Claim itself leaves no room for
13 dispute as it is based exclusively on Plaintiff’s submission of DMCA takedown notices to
14 YouTube. Defendants expressly allege that Plaintiff “intentionally engaged in conduct
15 designed to interfere with Counterclaimant’s economic relationships by submitting
16 multiple copyright takedown notices and causing copyright strikes to be issued against
17 Counterclaimant’s channel.” (Counterclaim ¶ 66). Defendants further allege that the
18 asserted interference consisted of “knowing and material misrepresentations in copyright
19 takedown notices,” “submission of takedowns without a good-faith fair use analysis,” and
20 “misuse of the copyright enforcement process.” (Counterclaim ¶ 67). Critically,
21 Defendants’ Counterclaim does not allege any independent wrongful conduct separate
22 from Plaintiff’s submission of DMCA takedown notices to YouTube. Every alleged act of
23 interference is expressly tied to Plaintiff’s DMCA takedown notices and the resulting
24 strikes. (Counterclaim ¶¶ 66–69).

25 Because the alleged economic harm is claimed to have resulted directly from
26 Plaintiff’s DMCA takedown notices, conduct that constitutes protected petitioning activity,
27 the tortious interference claim “arises from” protected activity within the meaning of
28 California Code of Civil Procedure § 425.16(b)(1). In fact, Courts routinely find prong one

1 satisfied where, as here, a tortious interference claim is entirely predicated on DMCA
2 takedowns submitted to YouTube and other online platforms. *See Complex Media, Inc. v.*
3 *X17, Inc.*, 18-cv-07588-SJO (AGR_x), 2019 WL 2896117, at *3 (C.D. Cal. Mar. 4, 2019);
4 *Shande v. Zoon, Inc.*, 22-cv-05821-BFL, 2024 WL 2306284, at *6–7 (N.D. Cal. May 21,
5 2024); *Ningbo Yituo Enters. Mgmt. Co. LTD v. GoPlus Corp.* 24-cv-02548-SHK, 2025 WL
6 1421394 at *4 (C.D. Cal. Apr. 10, 2025). Accordingly, based on Defendants’ allegations
7 in the Tortious Interference Claim, the first prong of the anti-SLAPP analysis is satisfied
8 as a matter of law.

9 **VI. DEFENDANTS CANNOT ESTABLISH A PROBABILITY OF PREVAILING**
10 **ON THE MERITS**

11 **A. The Tortious Interference Claim is Preempted by Federal Copyright**
12 **Law**

13 Defendants cannot demonstrate a probability of prevailing on the Tortious
14 Interference Claim because that claim is preempted by the Copyright Act as a matter of
15 law. Where a state-law claim is premised entirely on alleged misuse of the DMCA
16 takedown process, Congress has provided an exclusive federal remedy: 17 U.S.C. § 512(f).
17 State-law tort claims may not be used to circumvent that statutory scheme.

18 Courts applying California law have consistently held that tortious interference
19 claims predicated on copyright enforcement activity, particularly DMCA takedown
20 notices, are preempted and fail at the second prong of the anti-SLAPP analysis. *See, e.g.,*
21 *Complex Media, Inc. v. X17, Inc.*, 2019 WL 2896117, at *3–4 (C.D. Cal. Mar. 4, 2019)
22 (striking tortious interference claim based on DMCA notices and holding that § 512(f)
23 provides the exclusive remedy); *Shande v. Zoon, Inc.*, 2024 WL 2306284, at *6–7 (N.D.
24 Cal. May 21, 2024) (same); *Ningbo Yituo Enter. Mgmt. Co. LTD v. GoPlus Corp.* 24-cv-
25 02548-SHK, 2025 WL 1421394 at *4 (C.D. Cal. Apr. 10, 2025) (§ 512(f) preempts state
26 law claims based on DMCA takedowns).

27 The Copyright Act expressly preempts state-law claims that seek to impose liability
28 for conduct governed by federal copyright law. 17 U.S.C. § 301(a). A state-law claim is

1 preempted where (1) the work at issue falls within the subject matter of copyright, and (2)
2 the rights asserted are equivalent to rights protected by the Copyright Act. *Laws v. Sony*
3 *Music Ent., Inc.*, 448 F.3d 1134, 1137–38 (9th Cir. 2006).

4 Both elements are satisfied here. Defendants’ Tortious Interference Claim alleges
5 interference based on Plaintiff’s assertion of copyright rights through DMCA takedown
6 notices directed at audiovisual works protected under the Copyright Act. (Counterclaim ¶¶
7 62–72). The alleged “wrongful conduct” is nothing more than Plaintiff’s purportedly
8 improper assertion of those rights. That theory falls squarely within the scope of copyright
9 law and cannot be recast as a state-law tort.

10 Congress specifically addressed alleged abuse of the DMCA takedown process by
11 enacting 17 U.S.C. § 512(f), which provides a narrow cause of action for knowing and
12 material misrepresentations in takedown notices. Allowing a tortious interference claim
13 based on the same conduct would nullify Congress’s deliberate choice to impose a
14 heightened scienter requirement and limited remedies. Courts therefore routinely reject
15 attempts to plead around § 512(f) through state-law tort theories. *See Ningbo Yituo Enter.*
16 *Mgmt. Co., Ltd. v. GoPlus Corp.*, 24-cv-2548-SHK, 2025 WL1421394, at *4 (C.D. Cal.
17 Apr. 10 2025) (holding that tortious interference claims based on DMCA takedowns are
18 preempted and barred).

19 Here, the Tortious Interference Claim is entirely derivative of the alleged DMCA
20 misconduct. Because federal law occupies the field and supplies the exclusive remedy,
21 Defendants cannot establish a legally viable claim. Defendants’ Tortious Interference
22 Claim therefore fails as a matter of law and must be stricken pursuant to California Code
23 of Civil Procedure § 425.16.

24 **B. The Tortious Interference Claim is Barred by the Litigation Privilege**

25 Even if Defendants’ Tortious Interference Claim was not preempted by the
26 Copyright Act, it independently fails because it is barred by California’s litigation
27 privilege. California Civil Code § 47(b) provides an absolute privilege for communications
28 made in connection with judicial proceedings, including communications made in

1 anticipation of litigation. The privilege is broad, applies regardless of malice, and bars all
2 tort claims other than malicious prosecution. *Rusheen v. Cohen*, 37 Cal. 4th 1048, 1057
3 (2006).

4 The litigation privilege applies where a communication is: (1) made in a judicial or
5 quasi-judicial proceeding; (2) by litigants or other participants authorized by law; (3) to
6 achieve the objects of the litigation; and (4) has some connection or logical relation to the
7 action. *Silberg v. Anderson*, 50 Cal. 3d 205, 212 (1990) (citations omitted). Courts construe
8 these elements broadly in favor of applying the privilege. *Id.* at 211.

9 Communications made prior to the filing of a lawsuit are covered by the privilege so
10 long as they are made in contemplation of litigation even though the publication is made
11 outside of a courtroom and no court is involved. *Id.* at 212. Federal courts applying
12 California law routinely hold that statutory enforcement communications, such as cease-
13 and-desist letters and intellectual property enforcement notices, are privileged pre-
14 litigation communications. *See Thimes Solutions, Inc. v. TP Link USA Corp.*, 2020 WL
15 4353681, at *7 (C.D. Cal. June 8, 2020).

16 DMCA takedown notices fall squarely within the scope of the litigation privilege. A
17 DMCA notice is a formal legal communication invoking a federal statutory enforcement
18 scheme and expressly contemplates litigation as the next step if a counter-notification is
19 filed. 17 U.S.C. § 512(g)(2)(C). Here, Defendants' Tortious Interference Claim is based
20 entirely on Plaintiff's submission of DMCA takedown notices to YouTube. (Counterclaim
21 ¶¶ 62–72). Those DMCA takedown notices were submitted for the purpose of asserting
22 Plaintiff's claimed copyright rights, triggering YouTube's statutory enforcement process,
23 and preserving Plaintiff's ability to file suit if Defendants submitted counter-notifications.
24 Such conduct is paradigmatic petitioning activity protected by the litigation privilege.

25 Because the litigation privilege is absolute, it bars Defendants' Tortious Interference
26 Claim regardless of whether Plaintiff acted with alleged bad faith or improper motive.
27 *Silberg*, 50 Cal. 3d at 215–16. The privilege exists precisely to prevent litigants from
28 recasting enforcement communications as derivative tort claims and thereby chilling access

1 to the courts. Accordingly, Defendants cannot establish a probability of prevailing on the
2 Tortious Interference Claim, which is independently barred by the litigation privilege and
3 must be stricken pursuant to California Code of Civil Procedure § 425.16.

4 **C. Even Accepting Defendants’ Allegations as True, Defendants Cannot**
5 **Establish the “Independently Wrongful Act” Required for Tortious**
6 **Interference**

7 Even if the Court were to ignore copyright preemption and the litigation privilege,
8 Defendants’ do not state claim for tortious interference with prospective economic
9 advantage under California law. The elements of a tortious interference with contract
10 claim are: “(1) a valid contract between plaintiff and a third party; (2) defendant's
11 knowledge of the contract; (3) defendant's intentional acts designed to induce breach or
12 disruption of the contract; (4) actual breach or disruption; and (5) resulting
13 damage.” *Family Home & Fin. Ctr., Inc. v. Fed. Home Loan Mortg. Corp.*, 525 F.3d 822,
14 825 (9th Cir. 2008) (citations omitted). A tortious interference with prospective economic
15 advantage claim has the same elements (focusing instead on the existence and knowledge
16 of a prospective economic relationship) but also requires that the defendant's conduct be
17 “wrongful by some legal measure other than the fact of interference itself.” *Korea Supply*
18 *Co. v. Lockheed Martin Corp.*, 29 Cal. 4th 1134, 1153 (2003) (internal quotation marks
19 omitted).

20 In other words, to establish a tortious interference claim, Defendants must plead that
21 Plaintiff engaged in an independently wrongful act, separate from the alleged interference
22 itself. *Id.* at 1153-54. An act is independently wrongful only if it is “unlawful, that is, if it
23 is proscribed by some constitutional, statutory, regulatory, common law, or other
24 determinable legal standard.” *Id.* at 1159.

25 Here, Defendants expressly identify the alleged “wrongful” conduct underlying the
26 Tortious Interference Claim as Plaintiff’s submission of DMCA takedown notices to
27 YouTube. (Counterclaim ¶¶ 62–72). Defendants do not allege any conduct independent of
28 the DMCA enforcement process; rather, they assert that the DMCA takedowns were

1 “wrongful” because they were allegedly made in bad faith, without a proper fair use
2 analysis, and for improper purposes. (Counterclaim ¶ 67). That theory fails as a matter of
3 law.

4 Where the allegedly wrongful conduct consists solely of invoking a statutory
5 enforcement mechanism, California courts require a party to identify a legal violation
6 independent of the enforcement activity itself. Allegations that a defendant misused a legal
7 process, asserted rights aggressively, or acted with improper motive do not suffice. *Korea*
8 *Supply*, 29 Cal. 4th at 1159.

9 Defendants’ Tortious Interference Claim attempts to satisfy this requirement by
10 pointing to alleged misrepresentations in Plaintiff’s DMCA takedown notices. But
11 Congress has already defined the exclusive legal standard governing such conduct in 17
12 U.S.C. § 512(f). As a result, any alleged “wrongfulness” arising from DMCA takedown
13 notices must be adjudicated under that statute and cannot independently support a state-
14 law tort claim. *See Complex Media, Inc. v. X17, Inc.*, 2019 WL 2896117, at *5 (C.D. Cal.
15 Mar. 4, 2019).

16 Indeed, the Counterclaim itself confirms that the alleged wrongdoing is not
17 independent of copyright law, but derivative of it. The Tortious Interference Claim
18 incorporates by reference the same factual allegations underlying the § 512(f) claim,
19 including alleged misrepresentations in takedown notices and misuse of the DMCA
20 process. (Counterclaim ¶ 62).

21 That pleading choice is fatal because the Tortious Interference Claim does not, and
22 cannot, identify any independently wrongful conduct separate from Plaintiff’s protected
23 and statutorily governed DMCA enforcement activity. Therefore, Defendants cannot
24 establish a probability of prevailing on the Tortious Interference Claim. The claim therefore
25 also fails at prong two of the anti-SLAPP analysis and must be stricken pursuant to
26 California Code of Civil Procedure § 425.16.

1 **VII. PLAINTIFF IS ENTITLED TO MANDATORY ATTORNEY’S FEES AND**
2 **COSTS**

3 California’s anti-SLAPP statute mandates an award of attorney’s fees and costs to a
4 prevailing defendant. Cal. Code Civ. Proc. § 425.16(c)(1). The statute provides that “a
5 prevailing defendant on a special motion to strike *shall be* entitled to recover his or her
6 attorney’s fees and costs.” *Id.* (emphasis added). The fee-shifting provision is mandatory,
7 not discretionary. *Ketchum v. Moses*, 24 Cal. 4th 1122, 1131 (2001); *Ningbo Yituo Enter.*
8 *Mgmt. Co., LTD. v GoPlus Corp.*, 24-cv-02548-SHK, 2025 WL 1421394 at *5 (C.D. Cal.
9 Apr. 10, 2025).

10 A defendant “prevails” for purposes of California Code of Civil Procedure §
11 425.16(c)(1) when a special motion to strike is granted. Courts consistently award fees
12 where an anti-SLAPP motion succeeds as a matter of law. *See Complex Media, Inc. v. X17,*
13 *Inc.*, 2019 WL 2896117, at *6 (C.D. Cal. Mar. 4, 2019). The dispositive question is not
14 how the claim is resolved, but whether the defendant has obtained the relief the statute is
15 designed to provide: dismissal of a claim arising from protected petitioning activity.
16 *Ketchum v. Moses*, 24 Cal. 4th 1122, 1131 (2001). Where, as here, the anti-SLAPP motion
17 eliminates such a claim, an award of attorney’s fees and costs is mandatory. *Id.* (“Any
18 SLAPP defendant who brings a successful motion to strike is entitled to mandatory attorney
19 fees.”).

20 Here, Plaintiff’s Special Motion to Strike targets Defendants’ Tortious Interference
21 Claim, which arises entirely from Plaintiff’s protected petitioning activity, namely, the
22 submission of DMCA takedown notices to YouTube. As discussed above, that claim is
23 barred by federal copyright preemption and the litigation privilege, and therefore cannot
24 survive anti-SLAPP scrutiny as a matter of law. Because Defendants’ Tortious Interference
25 Claim is subject to being stricken under § 425.16, Plaintiff is entitled to recover all
26 reasonable attorney’s fees and costs incurred in bringing this Special Motion to Strike.

27 Fee-shifting is especially appropriate where, as here, Defendants seek to impose tort
28 liability based solely on statutory copyright enforcement activity. Allowing that claim to

1 proceed without consequence would undermine the anti-SLAPP statute’s core purpose:
2 preventing litigants from chilling the constitutional right of petition through meritless
3 derivative tort claims.

4 Accordingly, Plaintiff respectfully request that the Court award his reasonable
5 attorney’s fees and costs incurred in connection with this Special Motion to Strike pursuant
6 to California Code of Civil Procedure § 425.16(c)(1), in an amount to be determined upon
7 submission of a subsequent motion for attorney’s fees and costs.

8 **VIII. CONCLUSION**

9 Defendants’ Tortious Interference Claim is precisely the type of derivative state-law
10 claim California’s anti-SLAPP statute was enacted to eliminate. The claim arises solely
11 from Plaintiff’s protected petitioning activity, namely, the submission of DMCA takedown
12 notices to YouTube and is barred as a matter of law by federal copyright preemption and
13 California’s litigation privilege. Defendants therefore cannot establish a probability of
14 prevailing on the claim.

15 Accordingly, Plaintiff respectfully requests that the Court grant this Special Motion
16 to Strike, strike Defendants’ Tortious Interference Claim in its entirety and award Plaintiff
17 his mandatory attorney’s fees and costs pursuant to California Code of Civil Procedure §
18 425.16(c)(1), in an amount to be determined upon further submission.

19
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