

TENTH DEFENSE

The Commission's claims under Section 5 of the Federal Trade Commission Act are nonactionable to the extent the Commission purports to apply Section 5 beyond the boundaries of the Clayton Act.

ELEVENTH DEFENSE

The Commission fails to allege a time frame for the alleged anticompetitive effects.

TWELFTH DEFENSE

The structure of these administrative proceedings, in which the Commission both initiates and finally adjudicates the Complaint against Capri, having prejudged the merits of the action, violates Capri's Fifth Amendment Due Process right to adjudication before a neutral arbiter.

THIRTEENTH DEFENSE

The Commission's procedures violate Capri's right to procedural due process under the Due Process Clause of the Fifth Amendment.

FOURTEENTH DEFENSE

The Commission's procedures arbitrarily subject Capri to administrative proceedings rather than to proceedings before an Article III judge in violation of Capri's right to Equal Protection under the Fifth Amendment.

FIFTEENTH DEFENSE

These proceedings are invalid because the structure of the Commission as an independent agency that wields significant executive power and the associated constraints on removal of the Commissioners and the Administrative Law Judge violate Article II of the Constitution and the separation of powers.

SIXTEENTH DEFENSE

These administrative proceedings are invalid because Congress unconstitutionally delegated legislative power to the Commission by failing to provide an intelligible principle by

which the Commission would decide between bringing administrative enforcement proceedings and bringing enforcement proceedings in court.

SEVENTEENTH DEFENSE

The adjudication of the Complaint against Capri through these administrative proceedings violates Capri's Seventh Amendment right to a jury trial.

EIGHTEENTH DEFENSE

Granting the relief sought would constitute a taking of Capri's property in violation of the Fifth Amendment to the Constitution.

NINETEENTH DEFENSE

These proceedings are invalid because adjudication of the Complaint by the Administrative Law Judge and the Commission in turn violates Article III of the Constitution and the separation of powers.

TWENTIETH DEFENSE

The Complaint fails to state a claim against Capri because Section 7 of the Clayton Act, 15 U.S.C. § 18, applies only to acquirers in a transaction and cannot give rise to liability against sellers.

NOTICE

Capri states that the Notice of the Complaint is a restatement of the rules of the FTC to which no response is required. To the extent a response is required, Capri denies the allegations in the Notice of the Complaint except states that the FTC has provided notice of a hearing date on September 25, 2024.

NOTICE OF CONTEMPLATED RELIEF

Capri states that the Notice of Contemplated Relief is a restatement of the rules of the FTC to which no response is required. To the extent a response is required, Capri denies the allegations in the Notice of Contemplated Relief.

WHEREFORE, Capri requests that the Commission enter judgment in its favor as follows:

1. That the Complaint be dismissed with prejudice;
2. That none of the requested relief issue to the Commission;
3. That costs incurred in defending this action be awarded to Capri; and
4. That the Commission grant Capri any and all further relief that is just and proper.

Respectfully submitted,

May 6, 2024

By: s/ Jonathan M. Moses

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Counsel for Capri Holdings Limited

CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2024, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

April Tabor
Acting Secretary Federal Trade Commission
600 Pennsylvania Avenue, NW, Room H-113
Washington, DC 20580
ElectronicFilings@ftc.gov

The Honorable Dania L. Ayoubi
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW, Room H-110
Washington, DC 20580

I also certify that I caused the foregoing document to be served via email to:

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