

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Lina M. Khan, Chair
Rebecca Kelly Slaughter
Christine S. Wilson
Alvaro M. Bedoya

In the matter of:

Intuit Inc.,
a corporation,

Respondent.

Docket No. 9408

**OBJECTION TO RESPONDENT INTUIT’S
“SUPPLEMENTAL FILING CONCERNING ORAL ARGUMENT”**

On November 2, 2022, Respondent Intuit filed an unauthorized surreply in opposition to summary decision labeled a “Supplemental Filing Concerning Oral Argument.” As no Rule or order gave leave for such a filing, it should be disregarded.¹ Complaint Counsel does not object to Intuit’s lodging of exhibits RX 200, 201, and 202 on the record, which are high resolution versions of the three video advertisements that Complaint Counsel played at oral argument on October 31, 2022. *Compare* RX 200, 201, and 202 *with* GX 321, 300, and 200, respectively.² But the rest of Intuit’s filing is

¹ Intuit is aware that leave is required to make additional filings under Rule 3.22(d), as it sought such leave as recently as October 26, 2022. See [ftc.gov/system/files/ftc_gov/pdf/D09408%20-%20RESPONDENT_S%20REQUEST%20FOR%20LEAVE%20TO%20FILE%20REPLY%20IN%20SUPPORT%20OF%20MOTION%20FOR%20DISCOVERY%20PURSUANT%20TO_RULE_3_36.pdf](https://www.ftc.gov/system/files/ftc_gov/pdf/D09408%20-%20RESPONDENT_S%20REQUEST%20FOR%20LEAVE%20TO%20FILE%20REPLY%20IN%20SUPPORT%20OF%20MOTION%20FOR%20DISCOVERY%20PURSUANT%20TO_RULE_3_36.pdf). Though in doing so, Intuit did fail to meet and confer with Complaint Counsel before filing, in contravention of paragraph 4 of the Scheduling Order. (Captioning that particular filing as a “Request” rather than a “Motion” does not allow Intuit to elide the requirements of the Scheduling Order, just as captioning the instant filing as a “Supplemental Filing” rather than a “Surreply” does not allow Intuit to elide the requirements of the Rules of Practice.)

² In its “Supplemental Filing,” Intuit misrepresents to the Commission that all three videos shown at oral argument were “taken from third-party websites” – the “Lawyer” ad, GX 300, was produced by Intuit, INTUIT-FFA-FTC-000528222, as noted on the presentation slide (a copy of which Intuit first received on October 24, 2022). And though the “Auctioneer” ad, GX 200, came from YouTube, it was from the official TurboTax YouTube channel, where Intuit posted it.

Public

unsolicited and unauthorized substantive argument that exceeds the bounds of Rules 3.22(d) and 3.24.

Respectfully submitted,

Dated: November 4, 2022

/s/ James Evans

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Counsel Supporting the Complaint
Federal Trade Commission

CERTIFICATE OF SERVICE

I hereby certify that on November 4, 2022, I electronically filed the foregoing Objection to Respondent Intuit’s “Supplemental Filing Concerning Oral Argument” electronically using the FTC’s E-Filing system, which will send notification of such filing to:

April Tabor
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*Secretary of the Commission
Clerk of the Court*

Hon. D. Michael Chappell
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, NW
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Washington, DC 20580

Administrative Law Judge

I further certify that on November 4, 2022, I caused the foregoing document to be served via email on:

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