UNITED STATES OF AMERICA BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Lina M. Khan, Chair

Rebecca Kelly Slaughter

Alvaro Bedoya

FTC Matter No. P246201

ORDER TO FILE A SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission ("FTC" or "the Commission") dated January 24, 2024, entitled "RESOLUTION DIRECTING THE USE OF COMPULSORY PROCESS REGARDING THE INVESTMENTS AND PARTNERSHIPS INVOLVING GENERATIVE AI COMPANIES", a copy of which is enclosed, [COMPANY NAME] is ordered to file with the Commission, no later than 45 days after date of service, a Special Report containing the information and Documents specified herein.

The Commission is seeking information concerning certain investments in or partnerships with Artificial Intelligence developers and the potential impact of such partnerships and investments on competition. The Special Report will assist the Commission in conducting a study of these investments and partnerships.

The Special Report is required to be subscribed and sworn by an official of [COMPANY] who has prepared or supervised the preparation of the report from books, records, correspondence, and other data and material in your possession. Your written report should restate each item of this Order with which the corresponding answer is identified. If any question cannot be answered fully, give the information that is available and explain in what respects and why the answer is incomplete. The Special Report and all accompanying documentary responses must be Bates-stamped.

[COMPANY] is required to respond to this Order using information in [COMPANY's] possession, custody, or control, including information maintained in a central data repository to which [COMPANY] has access. [COMPANY] should not seek any responsive information and data from separately incorporated subsidiaries or affiliates or from individuals (other than in their capacity as [COMPANY's] employee or as [COMPANY's] agent). However, [COMPANY] should provide information relating to separately incorporated subsidiaries or affiliates if [COMPANY] already has possession, custody, or control of such information. No later than 14 days from the date of service, [COMPANY] should contact Commission staff and indicate whether all of the information required to respond to this Order is in [COMPANY's] possession, custody, or control. If certain information is not in [COMPANY's] possession, custody, or control, no later than 14 days from the date of service, [COMPANY] also must: (1) Identify, both orally and in writing, each question or sub-question that [COMPANY] is not able to fully answer because information is not in [COMPANY's] possession, custody, or control, and (2) for each, provide the full names and addresses of all entities or individuals who have possession, custody, or control of such missing information.

The Commission will report any information in a manner consistent with Sections 6(f) and 21(d) of the FTC Act by aggregating or anonymizing as necessary to protect trade secrets and confidential or privileged commercial or financial information. Individual submissions responsive to this Order that are marked "confidential" will not be disclosed without first giving the Company ten (10) days' notice of the Commission's intention to do so, except as provided in Sections 6(f) and 21 of the FTC Act.

Specifications

- 1. Provide all agreements and related documents (e.g., term sheet, schedules, attachments, side letters) for the Company's investment in or partnership with [PARTNER COMPANY] (the "transaction"). Identify and explain each strategic rationale for the transaction discussed or contemplated by the Company, or any of its officers, directors, or employees.
- 2. Identify, explain, and provide documents sufficient to show: (i) the nature and extent of Your interaction with and influence over [PARTNER COMPANY]; (ii) the engagement and interaction between You and [PARTNER COMPANY] as it concerns business operations and strategic decision-making (including, but not limited to, decisions around the initiation, launch, road-mapping, development, and discontinuation of products and services; decisions around the pricing of products and services; decisions around the granting of access to products and services; and decisions around personnel, including the hiring and allocation of staff (iii) the subject, personnel, and dates of any regular meetings between you and [PARTNER COMPANY]; and (iv) any governance or oversight rights or options (e.g., Board seats) that You have or may exercise with respect to [PARTNER COMPANY].
- 3. Provide all analyses, reports, studies, and surveys prepared by or for any senior management for the purpose of evaluating or analyzing the transaction with respect to its impact or potential impact (including but not limited to the impact or potential impact on competition; on other market participants; on Your market position across lines of business; and on Your plans with regards to investment, expansion, retrenchment, or allocation of resources across markets and lines of business). For avoidance of doubt, this includes all analyses, reports, studies, and surveys by You or [PARTNER COMPANY] or prepared by a third party on Your or [PARTNER COMPANY'S] behalf.
- 4. Provide, from January 1, 2022 to the present, all documents prepared by or for any senior management related to: (i) any agreement or expectation of exclusivity between You and [PARTNER COMPANY] across any line of business; (ii) any agreement or expectation of Your Company receiving privileged access to products or services provided by [PARTNER COMPANY] or of [PARTNER COMPANY] receiving privileged access to products or services provided by Your Company; (iii) any restrictions or conditions placed on [PARTNER COMPANY'S] ability to set pricing, set terms, or grant access to its products or services, or to make any other decision regarding business operations or strategy; (iv) competitive conditions for any cloud computing or generative AI products or services (including, but not limited to, cloud computing infrastructure, microchips, training data, models, and products or services that incorporate generative AI); (v) the use of cloud computing in generative AI products or services; and (vi) your willingness or ability to provide, supply, or offer cloud computing services or generative AI products, services, or capabilities to other companies (including, but not limited, to any discussions of pricing and service levels, supply limitations, technological constraints, or contractual restrictions).
- 5. Provide all materials, including any communications, responses, analyses, reports, studies, surveys, and any other documents, that You have provided to any government entity, including

foreign government entities, in connection with any investigation, request for information or other inquiry related to Specifications 1-4, above.

Definitions

For the purposes of this Order, the following Definitions apply:

- D1. The terms "You," "Your," and "the Company" mean [Company Name]; its domestic and foreign parents, predecessors, divisions, subsidiaries, affiliates, partnerships, and joint ventures; and all directors, officers, employees, agents, and representatives of the foregoing. The terms "parent," "subsidiary," "affiliate," and "joint venture" refer to any person in which there is partial (25 percent or more) or total ownership or control between the Company and any other person.
- D2. The term "senior management" refers to the Company's Board of Directors, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief Technology Officer, Chief Security Officer, Chief Information Officer, Chief Data Scientist, Chief Science Officer, Chief Neural Network Officer, Head of Policy and/or Chief Policy Officer, Head of Government Affairs, any other officer or director, or equivalent positions, as well as the most senior individuals with direct responsibility for each of the following: pricing strategy, competition strategy, product development strategy, product deployment strategy, security strategy, marketing strategy, and supplier relationships.
- D3. The term "identify," when used with reference to a company, means to provide the name and address of that company, along with the name and contact information for your principal contact at that company.
- D4. The term "Partner Company" means [the counterparty to the transaction].
- D5. The term "transaction" means any investment by [Company in Partner Company] or partnership between Company and Partner Company. This includes, but is not limited to, [specific investments by Company in Partner Company on X Date(s)].
- D6. The terms "and" and "or" have both conjunctive and disjunctive meanings.
- D7. The terms "each," "any," and "all" mean "each and every."
- D8. The term "relating to" means in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, or stating.
- D9. Any word or term that the Company considers vague or insufficiently defined has the meaning most frequently assigned to it by the Company in the ordinary course of business.

Instructions

For the purposes of this Order, the following Instructions apply:

- 1. Unless otherwise specified, all requests seek information and documents covering the period from January 1, 2017 to the date of this Order.
- 2. Unless otherwise specified, this Order requires the production of all responsive documents, data, and other information in your possession, custody, or control on the date that this Order was issued.
- 3. In order to comply in a manner consistent with the Commission's Rules of Practice, 16 C.F.R. § 2.7(k), the Company shall schedule a teleconference, within 14 days after receiving this Order, with the Commission representative identified in Instruction 9 of this Order to confer regarding your response. Upon request, an extension of no more than 30 days for the teleconference may be granted in writing by a Commission official.
- 4. Do not produce any Sensitive Personally Identifiable Information ("Sensitive PII") or Sensitive Health Information ("SHI") prior to discussing the information with a Commission representative. If any document responsive to a particular Specification contains unresponsive Sensitive PII or SHI, redact the unresponsive Sensitive PII or SHI prior to producing the document.

The term "Sensitive Personally Identifiable Information" means an individual's Social Security Number alone; or an individual's name, address, or phone number in combination with one or more of the following:

- date of birth
- driver's license number or other state identification number, or a foreign country equivalent
- passport number
- financial account number
- credit or debit card number

The term "Sensitive Health Information" includes medical records and other individually identifiable health information, whether on paper, in electronic form, or communicated orally. Sensitive Health Information relates to the past, present, or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual.

- 5. Form of Production: You must submit documents as instructed below absent written modification.
 - a. Documents stored in electronic or hard copy formats in the ordinary course of business shall be submitted in the following electronic format provided that such copies are true, correct, and complete copies of the original documents:
 - i. Submit Microsoft Excel, Access, and PowerPoint files in native format with extracted text and metadata.
 - ii. Submit emails in TIFF (Group IV) format with extracted text and the following metadata and information:

Metadata/Document Information	Description
Alternative Custodian	List of custodians where the document has been removed as a duplicate.
Bates Begin	Beginning Bates number of the email.
Bates End	Bates number of the last page of the email.
Beg Attach	First Bates number of attachment range.
End Attach	Ending Bates number of attachment range.
Custodian	Name of the person from whom the email was obtained.
Email BCC	Names of person(s) blind copied on the email.
Email CC	Names of person(s) copied on the email.
Email Date Received	Date the email was received. [MM/DD/YYYY]
Email Date Sent	Date the email was sent. [MM/DD/YYYY]
Email From	Names of the person who authored the email.
Email Message ID	Microsoft Outlook Message ID or similar value in other message systems.
Email Subject	Subject line of the email.
Email Time Received	Time email was received. [HH:MM:SS AM/PM]
Email To	Recipients(s) of the email.
Email Time Sent	Time email was sent. [HH:MM:SS AM/PM]
Page count	Number of pages in record.
File size	Size of document in KB.
File Extension	File extension type (e.g., docx, xlsx).
Folder	File path/folder location of email.

Hash	Identifying value used for deduplication – typically SHA1 or MD5.
Text Link	Relative path to submitted text file. Example: \TEXT\001\FTC0003090.txt

iii. Submit email attachments other than those described in subpart (a)(i) in TIFF (Group IV) format. For all email attachments, provide extracted text and the following metadata and information as applicable:

Metadata/Document Information	Description
Alternative Custodian	List of custodians where the document has been removed as a duplicate.
Bates Begin	Beginning Bates number of the document.
Bates End	Last Bates number of the document.
Beg Attach	First Bates number of attachment range.
End Attach	Ending Bates number of attachment range.
Custodian	Name of person from whom the file was obtained.
Date Created	Date the file was created. [MM/DD/YYY]
Date Modified	Date the file was last changed and saved. [MM/DD/YYYY]
Page count	Number of pages in record.
File size	Size of document in KB.
File Extension	File extension type (e.g., docx, xlsx).
Filename with extension	Name of the original native file with file extension.
Hash	Identifying value used for deduplication – typically SHA1 or MD5.
Native Link	Relative file path to submitted native or near native files. Example: \NATIVES\001\FTC0003090.xls

Parent ID	Document ID or beginning Bates number of the parent email.
Text Link	Relative path to submitted text file. Example: \TEXT\001\FTC0003090.txt
Time Created	Time file was created. [HH:MM:SS AM/PM]
Time Modified	Time file was saved. [HH:MM:SS AM/PM]

iv. Submit all other electronic documents, other than those described in subpart (a)(i), in TIFF (Group IV) format accompanied by extracted text and the following metadata and information:

Metadata/Document Information	Description
Alternative Custodian	List of custodians where the document has been removed as a duplicate.
Bates Begin	Beginning Bates number of the document.
Bates End	Last Bates number of the document.
Beg Attach	First Bates number of attachment range.
End Attach	Ending Bates number of attachment range.
Custodian	Name of the original custodian of the file.
Date Created	Date the file was created. [MM/DD/YYY]
Date Modified	Date the file was last changed and saved. [MM/DD/YYYY HH:MM:SS AM/PM]
Page count	Number of pages in record.
File size	Size of document in KB.
File Extension	File extension type (e.g., docx, xlsx).
Filename with extension	Name of the original native file with file extension.
Hash	Identifying value used for deduplication – typically SHA1 or MD5.

Originating Path	File path of the file as it resided in its original environment.
Production Link	Relative path to submitted native or near native files. Example: \NATIVES\001\FTC0003090.xls
Text Link	Relative path to submitted text file. Example: \TEXT\001\FTC-0003090.txt
Time Created	Time file was created. [HH:MM:SS AM/PM]
Time Modified	Time file was saved. [HH:MM:SS AM/PM]

v. Submit documents stored in hard copy in TIFF (Group IV) format accomplished by OCR with the following information:

Metadata/Document Information	Description
Bates Begin	Beginning Bates number of the document.
Bates End	Bates number of the last page of the document.
Custodian	Name of person from whom the file was obtained.

- vi. Submit redacted documents in TIFF (Group IV) format accompanied by OCR with the metadata and information required by relevant document type in subparts (a)(i) through (a)(v) above. For example, if the redacted file was originally an attachment to an email, provide the metadata and information specified in subpart (a)(iii) above. Additionally, please provide a basis for each privilege claim as detailed in Instruction 5.
- b. Submit data compilations in electronic format, specifically Microsoft Excel spreadsheets or delimited text formats, with all underlying data un-redacted and all underlying formulas and algorithms intact. Submit data separately from document productions.
- c. Produce electronic file and TIFF submissions as follows:
 - i. For productions over 10 gigabytes, use hard disk drives, formatted in Microsoft Windows-compatible, uncompressed data in USB 2.0 or 3.0 external enclosure.

- ii. For productions under 10 gigabytes, CD-ROM (CD-R, CD-RW) optical disks and DVD-ROM (DVD+R, DVD+RW) optical disks for Windows-compatible personal computers, and USB 2.0 Flash Drives are acceptable storage formats.
- iii. All documents produced in electronic format shall be scanned for and free of viruses prior to submission. The Commission will return any infected media for replacement, which may affect the timing of your compliance with this Order.
- iv. Encryption of productions using NIST FIPS-Compliant cryptographic hardware or software modules, with passwords sent under separate cover, is strongly encouraged.
- d. Each production shall be submitted with a transmittal letter that includes the FTC matter number; production volume name; encryption method/software used; list of custodians and document identification number range for each; total number of documents; and a list of load file fields in the order in which they are organized in the load file.
- 6. Before using software or technology (including search terms, predictive coding, deduplication, email threading or similar technologies) to identify or eliminate documents, data, or information potentially responsive to this Order you must submit a written description of such software or technology and any related processes and workflows. In addition:
 - a. if you use Technology Assisted Review to identify documents and information responsive to this Order or to exclude documents and information from further review describe your collection and review methodology, including: (a) how any software is used to identify responsive documents or exclude nonresponsive documents; (b) the process to identify and validate any seed set documents, if applicable; (c) the process to determine and validate accuracy of the automatic determinations of responsiveness and nonresponsiveness; and (d) the collection and review process for foreign language documents, whether reviewed manually or by some technology-assisted method;
 - b. if you use search terms to identify documents and information responsive to this Order or to exclude documents and information from further review: for each custodian, search location, or document population provide (a) a list of proposed terms; (b) a tally of all the terms that appear in the collection and the number of documents containing each term; (c) a list of stop words and operators for the platform being used; and (d) a glossary of industry and company acronyms and terminology;
 - c. provide prevalence, recall, precision, validation, and confidence-level statistics;
 - d. provide access to randomized, statistically-significant samples of non-privileged documents excluded from review or production by use of keyword search terms, Technology Assisted Review software, or any other means;

e. identify the person(s) able to testify on your behalf about information known or reasonably available to the organization relating to your use of software or technology in responding to this Order.

7. All documents responsive to this Order:

- a. shall be produced in complete form, un-redacted unless privileged, and in the order in which they appear in your files;
- b. shall be marked on each page with corporate identification and consecutive document control numbers when produced in TIFF format (e.g., ABC-00000001);
- c. if written in a language other than English, shall be translated into English, with the English translation attached to the foreign language document;
- d. shall be produced in color;
- e. shall be accompanied by an index that identifies: (i) the name of each Person from whom responsive documents are submitted; and (ii) the corresponding consecutive document control number(s) used to identify that Person's documents. If the index exists as a computer file(s), provide the index both as a printed hard copy and in machine-readable form (provided that, Commission representatives determine prior to submission that the machine-readable form would be in a format that allows the agency to use the computer files). The Commission representative will provide a sample index upon request; and
- f. shall be accompanied by an affidavit of a [COMPANY] officer stating that the copies are true, correct, and complete copies of the original documents.
- 8. If any material called for by this Order is withheld based on a claim of protected status, 16 C.F.R. § 2.7(a)(4), the claim must be asserted no later than the return date of this Order. In addition, pursuant to 16 C.F.R. § 2.11(a)(1), submit, together with the claim, a detailed log of the items withheld. The information in the log shall be of sufficient detail to enable the Commission staff to assess the validity of the claim for each document, including attachments, without disclosing the protected information. Unless modified by the Commission representative identified on the last page of this Order, submit the log in a searchable and sortable electronic format, and, for each document, including attachments, provide:
 - a. Document control number(s);
 - b. The full title (if the withheld material is a document) and the full file name (if the withheld material is in electronic form);
 - c. A description of the material withheld (for example, a letter, memorandum, or email), including any attachments;
 - d. The date the material was created;

- e. The date the material was sent to each recipient (if different from the date the material was created);
- f. The email addresses, if any, or other electronic contact information to the extent used in the document, from which and to which each document was sent;
- g. The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all authors;
- h. The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all recipients of the material;
- i. The names, titles, business addresses, email addresses or other electronic contact information, and relevant affiliations of all persons copied on the material;
- j. The factual basis supporting the claim that the material is protected; and
- k. Any other pertinent information necessary to support the assertion of protected status by operation of law.

In the log, identify by an asterisk each attorney who is an author, recipient, or person copied on the material. The titles, business addresses, email addresses, and relevant affiliations of all authors, recipients, and persons copied on the material may be provided in a legend appended to the log. However, provide in the log the information required by Instruction 6(f). The lead attorney or attorney responsible for supervising the review of the material and who made the determination to assert the claim of protected status must attest, in writing, to the log.

A document, including all attachments, may be withheld or redacted only to the extent necessary to preserve any claim of protected status. Unless otherwise provided in the instructions accompanying this Order, and except for information and material subject to a valid claim of protected status, all responsive information and material shall be produced without redaction.

9. Any questions that you have relating to the scope or meaning of anything in this Order or suggestions for possible modifications to it should be directed to Helder Agostinho at hagostinho@ftc.gov or (202) 326-3415. Please notify Mr. Agostinho by email in advance of each production. Any password(s) necessary to access the response to the Order shall be emailed to Mr. Agostinho.

By the direction of the Commission.		
	Lina M. Khan, Chair	
DATED: January 24, 2024		

UNITED STATES OF AMERICA BEFORE THE FEDERAL TRADE COMMISSION

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

FTC Matter No. P246201

RESOLUTION DIRECTING THE USE OF COMPULSORY PROCESS REGARDING THE INVESTMENTS AND PARTNERSHIPS INVOLVING GENERATIVE AI COMPANIES

Nature and Scope of Matter:

To compile information concerning investments and partnerships involving generative AI companies, pursuant to Section 6(b) of the Federal Trade Commission Act, 15 U.S.C. § 46(b).

The Federal Trade Commission hereby resolves and directs that any and all compulsory process available to it be used in connection with this inquiry. The Federal Trade Commission specifically authorizes the filing or continuation of actions to enforce any such compulsory process after the expiration of the three-year period.

Authority to Conduct Investigation:

Sections 6, 9, 10, and 20 of the Federal Trade Commission Act, 15 U.S.C. §§ 46, 49, 50, and 57b-1, as amended; FTC Procedures and Rules of Practice, 16 C.F.R. § 1.1 et seq., and supplements thereto.

By direction of the Commission.

April J. Tabor Secretary

DATED: