

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

Meta Platforms, Inc.,  
a corporation,

Mark Zuckerberg,  
a natural person,

and

Within Unlimited, Inc.,  
a corporation,

Respondents.

Docket No. 9411

**NON-PARTY NIKE, INC.’S  
MOTION FOR *IN CAMERA* TREATMENT**

Pursuant to Rule 3.45(b) of the Federal Trade Commission’s Rules of Practice (16 C.F.R. § 3.45(b)) and the Scheduling Order governing the above-captioned proceeding (Doc. No. 605516), Non-Party Nike, Inc. (“Nike”) respectfully moves for *in camera* treatment of certain portions of two documents that counsel for the Federal Trade Commission (the “FTC”) and Respondent Meta Platforms, Inc. (“Meta”) have indicated they intend to introduce at trial. The confidential and competitively-sensitive information that Nike seeks to protect was provided by Nike in response to third-party subpoenas from Meta and the FTC in connection with *Federal Trade Commission v. Meta Platforms Inc., et al.*, Case No. 22-cv-04325-EJD (N.D. Cal.) (the “Federal Court Action”). On December 5, 2022, Judge Davila issued an Order in the Federal Court Action granting Nike’s motion for *in camera* treatment of the same material that Nike seeks to protect here. (*See* ECF No. 413, Case No. 22-cv-04325-EJD (N.D. Cal.).)

**I. Nike’s Request is Narrowly Tailored**

Nike’s request is the result of its good faith effort to seek protection only for information that is secret, sufficiently material to Nike’s business, and competitively sensitive such that disclosure would result in serious competitive injury to Nike. The request is minimal in scope, comprising only one strategy document and limited testimony, and is significantly narrower than the request Judge Davila granted in the Federal Court Action. Specifically, Nike seeks *in camera* treatment of the following information (the “Nike Information”), for a period of at least five years:

<b>Document</b>	<b>Portions to Seal</b>	<b>Basis for In-Camera Request</b>
PX0829 and DX1295 (NIKE_META-00000451)	Entire document	This non-public strategy document, used to inform Nike’s marketing and product development for its Nike Training Club and Nike Running Club apps, shows Nike’s analysis of the apps and their performance data; Nike’s evaluation of its competitors and their commercial activities; and Nike’s strategic plan for product development and marketing priorities. Such information is kept highly confidential by Nike, is important to Nike’s business success, and could be used to cause serious harm to Nike if it were made publicly available. <i>See</i> Alepin Decl. ¶¶ 6-11 & Ex. A.
PX0078 and DX1222 (Nike 30(b)(6) Deposition (James Healey, Nov. 16, 2022))	Select testimony highlighted in Alepin Decl. Ex. B (16:15; 18:10; 18:12; 18:15; 18:18; 18:22; 19:13-21:20; 22:11-20; 23:15-24:8; 24:12-16; 24:20-25:1; 25:4-10; 25:14-21; 26:14-22; 27:6-13; 27:15-21; 28:7-20; 30:15-17; 30:21-34:20; 35:7-37:5; 39:3-6)	The deposition testimony of Nike’s 30(b)(6) witness discusses the non-public and competitively sensitive strategy document described above, and should be protected from disclosure for the same reasons. The testimony also delves into other non-public and highly competitively-sensitive topics, such as Nike’s current and forward-looking business plans; Nike’s view of prevailing market dynamics that relate to its Nike Training Club app and other products, as developed through Nike’s internal market research and evaluation; and Nike’s marketing and product development strategies. Because such information could be used to injure Nike if it were made publicly available, legitimate private interests warrant granting in-camera treatment to this testimony. <i>See</i> Alepin Decl. ¶¶ 12-15 & Ex. B. Public disclosure would result in injury to Nike that could not be avoided through any less restrictive alternative.

## **II. Public Disclosure Would Cause Serious Competitive Harm to Nike**

Under Rule 3.45(b), *in camera* treatment is appropriate where, as here, “public disclosure will likely result in a clearly defined, serious injury to the . . . corporation requesting [such] treatment.” 16 C.F.R. § 3.45(b). A proponent seeking *in camera* treatment may satisfy this standard by showing that the information is “sufficiently secret and sufficiently material to the applicant’s business that disclosure would result in serious competitive injury.” *See, e.g., In re N. Texas Specialty Physicians*, Docket No. 9312, 2004 WL 1571167, at \*1 (Apr. 23, 2004) (quoting *In re Kaiser Aluminum & Chem. Corp.*, 103 F.T.C. 500, 500 (1984)). In deciding whether information warrants protection from public disclosure, the Commission considers: (1) the extent to which the information is known outside of the business; (2) the extent to which it is known by employees and others involved in the business; (3) the extent of measures taken to guard the secrecy of information; (4) the value of the information to the business and its competitors; (5) the amount of effort or money expended in developing the information; and (6) the ease or difficulty with which the information could be acquired or duplicated by others. *See In re Bristol-Meyers Co.*, 90 F.T.C. 455, 456-457 (1977). The Commission grants *in camera* protection “to protect confidential business information from unnecessary airing.” *H.P Hood & Sons, Inc.*, 58 F.T.C. 1184, 1188 (1961).

Here, the information that Nike seeks to seal warrants protection because it comprises confidential and competitively sensitive information concerning its Nike Training Club app, which, if made public, would prejudice Nike by disclosing to its competitors Nike’s confidential analyses and plans concerning its current and future strategy and business dealings. *See In re Dura Lube Corp.*, 1999 FTC LEXIS 255 at \*7 (Dec. 23, 1999) (“the likely loss of business advantages is a good example of a ‘clearly defined, serious injury’”). In particular, the

information that Nike seeks to protect consists of, among other things, (i) confidential data and testimony about the Nike Training Club user base; and (ii) Nike's strategic evaluation of its competitors and their commercial activities, which Nike uses to inform its product development analysis and marketing priorities for the current and future direction of the Nike Training Club app. (Alepin Decl. ¶¶ 6-15.) Nike closely guards the secrecy of this information, disclosing it only to particular employees of Nike on a need to know basis. (See Alepin Decl. ¶¶ 10, 14.) Nike's 30(b)(6) testimony also delves into other non-public and highly competitively-sensitive topics, such as Nike's current and forward-looking business plans; Nike's view of prevailing market dynamics that relate to its Nike Training Club app and other products, as developed through Nike's internal market research and evaluation; and Nike's marketing and product development strategies. (See Alepin Decl. ¶ 14 & Ex. B.) Disclosure of the Nike Information would provide a roadmap to Nike's competitors and risk serious economic harm by undermining the time and resources Nike has devoted to its product and marketing development. (See Alepin Decl. ¶¶ 8-11, 14-15.)

Finally, Nike's status as a non-party to these proceedings is another important factor supporting Nike's *in camera* request. The Commission has held that "[t]here can be no question that the confidential records of businesses involved in Commission proceedings should be protected insofar as possible." *HP. Hood & Sons*, 58 F.T.C. at 1186. This is especially so in the case of a non-party such as Nike, which deserves "special solicitude" in its request for *in camera* treatment for its confidential business information. See *In re Kaiser Aluminum & Chem. Corp.*, 103 F.T.C. 500 (1984) ("As a policy matter, extensions of confidential or *in camera* treatment in appropriate cases involving third party bystanders encourages cooperation with future adjudicative discovery requests").

### **III. No Countervailing Considerations Outweigh Nike's Basis For Sealing**

“[T]he importance of the information in explaining the rationale of FTC decisions is ‘the principal countervailing consideration weighing in favor of disclosure.’” *In re 1-800 Contacts, Inc.*, Docket No. 9372, 2017 WL 1345290, at \*1 (Apr. 4, 2017) (quoting *In re General Foods Corp.*, 95 F.T.C. 352, 1980 FTC LEXIS 99, at \*10 (Mar. 10, 1980)). Here, there is little legitimate public interest in disclosure of the small amount of information that Nike seeks to protect – particularly given that the information relates only to Nike, a non-party that did not put it at issue in this litigation. Moreover, with respect to Nike’s strategy document in particular (PX0829 and DX1295), the vast majority of the information in that document bears little (if any) relevance to the merits of the parties’ dispute in this action. And even if the Commission considers any Nike Information in rendering its decision, such information is likely only relevant on the margins and as one example of many, aggregated with information from various other third parties. It is highly unlikely that the Commission would need to recite or describe any detailed Nike-specific information in explaining the rationale of its decision in this matter concerning Meta’s proposed acquisition of VR software company Within Unlimited, Inc., which has nothing to do with Nike itself. Regardless, any public interest in disclosure of the limited information that Nike seeks to protect is outweighed by the prejudice that will result to Nike if no protection is granted. *See Alepin Decl.* ¶¶ 8-11, 14-15.

### **IV. Conclusion**

For the foregoing reasons, Nike respectfully requests that the Commission grant *in camera* treatment to the Nike Information listed in the chart above, for a period of five years or longer. Nike is willing to work with counsel for the parties in this proceeding to minimize the length and frequency of instances where *in camera* restrictions would be necessary.

Dated: December 23, 2022

Respectfully submitted,

/s/ Diane L. McGimsey

Diane L. McGimsey (SBN 234953)

mcgimseyd@sullcrom.com

Zachary A. Sarnoff (SBN 307762)

sarnoffz@sullcrom.com

**SULLIVAN & CROMWELL LLP**

1888 Century Park East, Suite 2100

Los Angeles, California 90067

Telephone: (310) 712-6600

Facsimile: (310) 712-8800

*Attorneys for Non-Party Nike, Inc.*

**STATEMENT REGARDING MEET-AND-CONFER**

The undersigned certifies that on December 21, 2022, counsel for Nike notified counsel for the parties via email that Nike would be seeking *in camera* treatment of the Nike Information at issue in this Motion. Counsel for the FTC and counsel for Meta each indicated that they do not oppose Nike's motion.

By: /s/ Diane L. McGimsey  
Diane L. McGimsey

*Attorney for Non-Party Nike, Inc.*

Dated: December 23, 2022

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**DECLARATION OF DOMINIQUE CHANTALE ALEPIN  
IN SUPPORT OF NIKE’S MOTION FOR *IN CAMERA* TREATMENT**

I, Dominique Chantale Alepin, declare as follows:

1. I am Assistant General Counsel, Competition at Nike, Inc. (“Nike”). I submit this Declaration in support of Nike’s Motion for In-Camera Treatment (the “Motion”). I have personal knowledge of the matters stated herein and, if called upon to do so, could testify competently about them.

2. Nike is a world-renowned athletic, footwear and apparel manufacturing company with famous global brands like Nike, Jordan, and Converse. In my position as Assistant General Counsel, Competition, I serve as the primary competition law advisor to the global, North America, and Asia Pacific/Latin America business, including executive leadership teams. I am familiar with Nike’s strategic priorities, the work at various departments within Nike, and with the types of information at Nike that are particularly competitively sensitive.



3. Nike is not a party to and has no direct interest in either the above-captioned litigation (the “FTC Proceeding”) or the related action pending in the Northern District of California, captioned *Federal Trade Commission v. Meta Platforms Inc., et al.*, Case No. 22-cv-04325-EJD (N.D. Cal.) (the “Federal Court Action”).

4. I understand that in connection with the Federal Court Action, the parties (Meta Platforms, Inc. (“Meta”) and the Federal Trade Commission (the “FTC”)) issued third-party subpoenas seeking documents and deposition testimony from Nike. In response, Nike produced various documents, and on November 16, 2022, provided 30(b)(6) deposition testimony.

5. I also understand that in connection with the FTC Proceeding, counsel for the FTC and counsel for Meta, respectively, provided notice that they intend to introduce certain Nike documents at trial. Nike’s Motion seeks to protect two of those documents from public disclosure.

6. The first document is a non-public, internal strategy presentation that I understand was produced by Nike with Bates Number NIKE\_META-00000451 and appears on the parties’ exhibit lists as PX0829 and DX1295 (the “Strategy Presentation”). A true and correct copy of the Strategy Presentation is attached to my declaration as Exhibit A.

7. The Strategy Presentation was created by Nike Direct Digital Brand, a department within Nike that focuses on Nike’s consumer-facing experiences (which includes Nike.com and Nike’s suite of apps such as the Nike app, SNKRS, Nike Run Club, and Nike Training Club). The Strategy Presentation was presented to Nike’s board of directors for fiscal year 2021, and used to inform Nike’s marketing and development for its Nike Training Club and Nike Run Club apps. Among other things, the Strategy Presentation shows the Nike Direct team’s internal analysis of the Nike Training Club and Nike Run Club apps, including data regarding their performance and

user base; internal evaluation of Nike's competitors and their commercial activities; and Nike's strategic plan for product development and marketing priorities.

8. As a footwear and apparel manufacturing company, Nike's business success is highly dependent upon the strength of its unique brands, which in turn is a function of the marketing and product development strategies that Nike carefully develops and executes. In order to outperform competitors and best position the Nike brands for success, Nike devotes a large amount of time and resources to product and marketing development.

9. With respect to the Nike Run Club and Nike Training Club apps in particular, the Strategy Presentation is one of the key outputs reflecting the significant time and resources that Nike Direct spent studying and thinking about the future of those apps, the customers who use them, and how Nike can develop and market the apps to continually improve the customer experience while supporting Nike's broader strategic business objectives. The purpose of the Strategy Presentation is to distill the team's internal learnings and analysis into a digestible, executive-level presentation for the Nike board of directors, while also providing a helpful going-forward reference point for the Nike employees who are tasked with executing the specific strategic plan outlined in the presentation.

10. The information and internal analysis reflected in the Strategy Presentation is kept strictly confidential by Nike and is not intended for any outside audience. In fact, even within Nike, the Strategy Presentation is not widely disseminated throughout the company and only disclosed to particular employees outside of Nike Direct on a need to know basis.

11. Public disclosure of the Strategy Presentation would likely cause serious competitive harm to Nike. It would reveal to competitors a roadmap of Nike's product development and marketing strategies for the Nike Training Club and Nike Run Club apps, giving competitors

an asymmetric inside look at Nike's forward-looking plans and an opportunity to adopt, respond, or otherwise capitalize on those plans to the detriment of Nike. Disclosure would undermine all the time and resources Nike has devoted to product and marketing development, which we spent with the understanding that such efforts would benefit Nike rather than its competitors.

12. The second document involved in Nike's *in camera* Motion is the transcript of the November 16, 2022 deposition of Nike's 30(b)(6) witness, James Healey, which I understand appears on the parties' exhibit lists as PX0078 and DX1222. A true and correct copy of the deposition transcript is attached to my declaration as Exhibit B.

13. I have reviewed the deposition transcript with an eye towards how Nike would be affected if the information contained within it is publicly disclosed. Based on my familiarity with the testimony and with Nike's business, I believe the proposed redactions reflected in Exhibit B appropriately protect Nike's confidential and competitively-sensitive information while leaving un-redacted the testimony that concerns public or non-sensitive information.

14. In addition to testimony about the information and data contained in the Strategy Presentation discussed above, Nike's testimony delves into various other non-public and highly competitively sensitive topics, such as Nike's current and forward-looking business plans; Nike's view of prevailing market dynamics that relate to its Nike Training Club app and other products, as developed through Nike's internal market research and evaluation; and Nike's marketing and product development strategies. Nike's testimony on these subjects contains valuable, competitively-sensitive information that is closely guarded within Nike and not intended for any outside audience. Like with respect to the Strategy Presentation itself, public disclosure of testimony on these subjects would likely cause serious harm to Nike's business, giving competitors

valuable insight into Nike's strategic thinking and plans while undermining all the time and effort that Nike has devoted to product and marketing development.

15. As just one example, if competitors were privy to Nike's views on key customer demographics and Nike's strategies for developing products that resonate with those customers, that would give competitors an opportunity to adopt the same strategies or develop other strategies to blunt the impact of or otherwise counteract Nike's plans. Similarly, public disclosure of Nike's testimony regarding Nike's strategies for hiring effective trainers for its Nike Training Club video content would cause serious competitive harm to Nike by allowing competitors to adopt, respond to or otherwise exploit Nike's talent hiring strategies, causing Nike to lose a key competitive advantage.

16. Finally, I understand that some of Nike's competitors also received third-party subpoenas in connection with the litigation between the FTC and Meta, and they too are involved as non-parties in this proceeding. This fact increases the likelihood that Nike's competitors will be aware of a trial and the admission of evidence into the public record, making their access to Nike's confidential and proprietary information a genuine and realistic concern.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Beaverton, Oregon on December 23, 2022.

/s/ Dominique Chantale Alepin  
Dominique Chantale Alepin

# **EXHIBIT A**

**(Confidential – Redacted in Entirety)**

# **EXHIBIT B**

**(Redacted)**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

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FEDERAL TRADE COMMISSION, )  
 )  
 )  
 Plaintiff, ) Case No.  
 ) 5:22-cv-04325-EJD  
 v. )  
 )  
 )  
 META PLATFORMS INC., MARK )  
 ZUCKERBERG, and WITHIN )  
 UNLIMITED INC., )  
 )  
 )  
 Defendants. )  
 )

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HIGHLY CONFIDENTIAL  
VIDEO-RECORDED ORAL FRCP 30(b)(6) DEPOSITION OF  
NIKE INC.  
BY AND THROUGH ITS DESIGNEE  
JAMES M. HEALEY  
WEDNESDAY, NOVEMBER 16, 2022

VIDEO-RECORDED ORAL FRCP 30(b)(6) DEPOSITION  
OF NIKE INC., By and Through Its Designee,  
JAMES M. HEALEY, produced as a witness at the  
instance of the Defendants and duly sworn, was taken  
from at the location of the witness from 3:34 p.m.  
to 4:26 p.m. PST before Michael E. Miller, FAPR,  
RDR, CRR, California CSR #13649.

---

DIGITAL EVIDENCE GROUP  
1730 M Street, NW, Suite 812  
Washington, D.C. 20036  
(202) 232-0646

1 REMOTE APPEARANCES:

2 ON BEHALF OF PLAINTIFF:

SUSAN MUSSER, ESQUIRE

3 FEDERAL TRADE COMMISSION

600 Pennsylvania Avenue NW

4 Washington, D.C. 20580

5

6 ON BEHALF OF DEFENDANTS:

JACOB HARTMAN, ESQUIRE

7 KELLOGG HANSEN TODD FIGEL & FREDERICK PLLC

1615 M Street NW, Suite 400

8 Washington, D.C. 20036

9

10 ON BEHALF OF NIKE INC. AND THE WITNESS:

ZACHARY A. SARNOFF, ESQUIRE (with witness)

11 SULLIVAN & CROMWELL LLP

1888 Century Park East

12 Los Angeles, California 90067

13

14 ALSO PRESENT:

15 KATE KASO-HOWARD, ESQUIRE (with witness)

16 Nike, Inc.

17

18 REMOTE APPEARANCES:

19 VIDEOGRAPHER:

20 DEANDRE SHIVERS

21 Digital Evidence Group

22



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P R O C E E D I N G S

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November 16, 2022, 3:34 p.m. PST

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5

THE VIDEOGRAPHER: This is the

6

beginning of the videotaped deposition of

7

James Healey in the matter of Federal Trade

8

Commission v. Meta Platforms Incorporated, et

9

al.

10

Today's date is November 16th, 2022,

11

and the time is 3:34 p.m. Pacific Standard

12

Time.

13

Counsel, please introduce yourselves,

14

after which our court reporter will swear in

15

the witness.

16

MR. HARTMAN: Jake Hartman for

17

Kellogg Hansen for Meta.

18

MS. MUSSER: This is Susan Musser for

19

the FTC.

20

MR. SARNOFF: Zachary Sarnoff from

21

Sullivan & Cromwell on behalf of Nike and the

22

witness.

1 And also, before we get started, I  
2 just want to put on the record that since the  
3 witness is a 30(b)(6) witness and does not  
4 have personal knowledge of all the information  
5 covered by the topics we're discussing today,  
6 he had to be educated about certain facts and  
7 figures relating to Nike Training Club, and he  
8 put that information in a document to  
9 reference during the deposition.

10 If needed, we will Bates-stamp and  
11 produce a copy of that document for the  
12 parties after the deposition.

13 MR. HARTMAN: Thank you, Zach. I  
14 think that would be a good idea.

15 MR. SARNOFF: Yep. I figured there  
16 was no objection to that, so thank you.

17 -----

18 JAMES M. HEALEY,  
19 having been duly sworn,  
20 testified as follows:

21  
22

1

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2

EXAMINATION

3

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4 BY MR. HARTMAN:

5 Q. Good afternoon. Can you please state  
6 your full name for the record?

7 A. James Michael Healey.

8 Q. And where do you work, Mr. Healey?

9 A. For Nike in Beaverton, Oregon.

10 Q. And you're aware you're testifying as a  
11 corporate representative of Nike today?

12 A. I am.

13 Q. Are you prepared to testify on behalf of  
14 Nike about the competitive landscape for the Nike  
15 Training Club app?

16 A. I am.

17 Q. And prepared to testify about the  
18 features, capabilities and functionality of that  
19 app?

20 A. I am.

21 Q. Are you also prepared to testify on  
22 behalf of Nike about the product development

1 strategy for the fitness app?

2 A. I am.

3 Q. And are you prepared to testify on behalf  
4 of Nike about Nike's plans to enter or expand into  
5 virtual reality, augmented reality or mixed reality?

6 A. I am.

7 MR. SARNOFF: And I would just like  
8 to put into the record that that's subject to  
9 our written responses and objections and the  
10 limitations of my e-mail to parties last  
11 night.

12 BY MR. HARTMAN:

13 Q. Mr. Healey, what is your current role at  
14 Nike?

15 A. Vice president of digital product.

16 Q. And what does digital product entail?

17 A. Our digital products are our  
18 consumer-facing experiences, both consumer facing  
19 and activity facing. So this would be Nike app,  
20 Nike.com, SNKRS app, Nike Run Club and Nike Training  
21 Club.

22 Q. So Nike Training Club falls under your

1 purview?

2 A. That's correct.

3 Q. What is the Nike Training Club app?

4 A. Nike Training Club app is an app that  
5 provides guided workouts and information around  
6 working out, predominantly around the modalities of  
7 yoga, strength training and just overall fitness for  
8 our Nike consumers.

9 Q. When did Nike launch Nike Training Club?

10 A. Nike Training Club was launched on -- in  
11 December of 2012.

12 Q. And when Nike launched Nike Training  
13 Club, was the app free to use?

14 A. And I should actually say and there's two  
15 versions of the Nike Training Club app. One is on  
16 the Android store and one is on the iOS Apple store.  
17 The Apple version was launched in January of 2009.  
18 The Google version on Android was launched in 2012.

19 Q. Thank you. That's a helpful  
20 clarification.

21 When the app was launched -- let's start  
22 with the iOS platform -- was the app free to use?

1 A. Yes.

2 Q. Do you recall when Nike launched the  
3 premium version of Nike Training Club?

4 A. May 2019.

5 Q. And when Nike launched --

6 A. Excuse me.

7 Q. Sorry.

8 A. Sorry. Yes.

9 Q. When Nike launched the premium version of  
10 Nike Training Club, what was the monthly  
11 subscription fee?

12 A. 14.99 in the US and roughly that in other  
13 markets throughout the world that it was launched  
14 in.

15 Q. Was the subscription fee the only way  
16 that Nike made money off of Nike Training Club?

17 A. The way that we make money off of the  
18 Nike Training Club is to drive consumers also from  
19 the apps to our commercial properties, like Nike.com  
20 and Nike app, and so it is an organic demand driver  
21 for those experiences as well.

22 Q. When Nike launched the premium version of

1 Nike Training Club, what additional features or  
2 programs were users able to access?

3 A. Predominantly around the content itself,  
4 so enriched content that was catered more towards  
5 what they would expect if they went to a gym and  
6 paid for either personal training or for more  
7 curated gym training.

8 Q. And has the price of Nike Training Club  
9 changed?

10 A. Yes. We removed the price and paywall  
11 for Nike Training Club effective March of 2020.

12 Q. And why did Nike do that?

13 A. At the time, it was the beginning of the  
14 pandemic. Most of our consumers were stuck at home.  
15 Gyms had been closed down. In some countries our  
16 Nike members or consumers didn't have the ability to  
17 actually go outside and work out, so we thought this  
18 was an opportunity to create access to sport given  
19 the constraints they had.

20 Q. I want to ask a little bit about the  
21 content itself. Fair to say that Nike Training Club  
22 offers exercise classes?



1 A. Yes.

2 Q. And are those classes designed by fitness  
3 professionals?

4 A. They are.

5 Q. Does the Nike Training Club app offer  
6 guided coaching?

7 A. Guided coaching in the sense of personal  
8 training around high-intensity interval classes,  
9 yoga and strength training.

10 Q. And when you described those classes,  
11 those are classes that are led by professional  
12 trainers?

13 A. Yes.

14 Q. Does the Nike Training Club app offer  
15 adjustable workouts, so different levels based on  
16 different skill or experience?

17 A. The Nike Training Club offers different  
18 workouts that our consumers can adjust based off of  
19 whether they -- they can select the content that  
20 they want to see, so they have different modalities  
21 across fitness as well as the duration and  
22 intensity, and have the ability to augment those

1 workouts with training equipment if they'd like to  
2 as well.

3 Q. Would you describe Nike Training Club as  
4 being accessible to athletes at all levels?

5 MS. MUSSER: Object to form.

6 MR. HARTMAN: Sorry, Mr. Healey, you  
7 can answer.

8 THE WITNESS: Okay. Thank you.

9 A. The intent is to democratize access to  
10 fitness, and so we try to create content that's  
11 accessible for all athletes. And Nike's position on  
12 athletes is anyone who has a body.

13 BY MR. HARTMAN:

14 Q. And does Nike Training Club offer fitness  
15 tracking?

16 A. It only tracks the workouts you've done.

17 Q. Does it offer calorie tracking, for  
18 example, within workouts?

19 A. It has rudimentary ability to track  
20 duration/calories of workouts, yes.

21 Q. And is Nike Training Club integrated with  
22 any wearable devices?

1 A. It's integrated with the Apple HealthKit,  
2 which allows it to then be integrated with any of  
3 the wearable devices that are enabled through Apple  
4 HealthKit, and Garmin as well.

5 Q. Does Nike intend the workouts in Nike  
6 Training Club to be immersive?

7 MS. MUSSER: Objection to form.

8 A. No. In the sense that Nike intends them  
9 to be accessible where the consumer is, and I can't  
10 speculate on exactly what you mean by "immersive"  
11 given the fairly general term.

12 BY MR. HARTMAN:

13 Q. Is it Nike's intention that the workouts  
14 offered on Nike Training Club be fully engaging for  
15 the user?

16 MS. MUSSER: Object to form.

17 A. The intent is to make them educational.  
18 It is intended to drive consistency in working out.  
19 It's intended to inspire. All of those things in  
20 combination we would hope drive engagement over time  
21 for our consumers.

22 BY MR. HARTMAN:

1 Q. Would you describe Nike Training Club as  
2 having any aspects of gamification of fitness?

3 MS. MUSSER: Object to form.

4 A. The only elements of gamification would  
5 be recognition of workouts completed. We do have a  
6 rewards area that tracks your workouts over time and  
7 throughout doing those successive workouts, you can  
8 unlock different rewards to show progress and  
9 achievements over time.

10 BY MR. HARTMAN:

11 Q. And is there a social aspect to Nike  
12 Training Club?

13 A. There is. You can develop community and  
14 track others who are working out within Nike  
15 Training Club.

16 Q. Do users of Nike Training Club have  
17 access to a library of workout classes?

18 A. Yes.

19 Q. About how many classes are available on  
20 that library now?

21 A. Just over 500 classes.

22 Q. And are those classes divided into

1 categories?

2 A. They are. We have three kinds of classes  
3 that we provide overall. And as I mentioned before,  
4 we have different modalities of classes, but the  
5 general classification are classes that do not  
6 require workout equipment, some that require basic  
7 workout equipment, and some that require more  
8 advanced workout equipment. And those are across  
9 the modalities of high-intensity interval training,  
10 yoga and general fitness.

11 Q. Can you give me a sense of what's  
12 comprised by general fitness?

13 A. Predominantly it's going to be strength  
14 training. It's going to be things that you can do  
15 without exercise equipment to being able to do basic  
16 at-home-type gym equipment.

17 Q. Does -- sorry.

18 Has the Nike Training Club offered  
19 live-streaming fitness classes?

20 A. Yes.

21 Q. Does it continue to offer those today?

22 A. It's not part of our regular programming,


1 and so they're quite infrequent.

2 Q. Let's take a look, if we can, at a  
3 document that was produced by Nike. It has the  
4 Bates number NIKE\_META-00000451. And if we could  
5 mark that as Exhibit Meta 18, please.

6 (Whereupon, Deposition Exhibit  
7 Meta-18, FY'21 NRC/NTC Strategy  
8 Presentation, NIKE\_META-00000451 -  
9 NIKE\_META-00000474, was marked for  
10 identification.)

11 MR. HARTMAN: Thank you.

12 BY MR. HARTMAN:

13 Q. Mr. Healey, this is a presentation titled  
14 Nike Direct Digital Brand, FY'21 NRC/NTC Strategy,  
15  is  
16 that correct?

17 A. Yes.

18 Q. And NTC in this context stands for Nike  
19 Training Club?

20 A. That's correct.

21 Q. Okay. Let's turn to slide 4. That's  
22 going to be labeled with the Bates number ending in

1 454.

2 And do you see the title of this slide  
3 says: Nike's Activity Apps Have Accelerated in a  
4 World Where Access to Sport is Limited and the  
5 Meaning of "Sport" Has Changed?

6 A. I see that.

7 Q. When the slide says Nike's activity apps  
8 have accelerated, is that a reference to the growth  
9 in the number of users in Nike's activity apps?

10 A. Yes.

11 MS. MUSSER: Object to form.

12 A. Yes, it is.

13 BY MR. HARTMAN:

14 Q. Is Nike Training Club one of Nike's  
15 activity apps?

16 A. Yes.

17 Q. And based on your understanding, what  
18 does this slide mean when it says access to sport is  
19 limited and the meaning of sport has changed?

20 A. The timing of this was created during the  
21 height of the pandemic where access to sport was  
22 limited because we had our Asian consumers were

1 stuck at home either doing some sort of quarantine,  
2 similar limitations within Europe and the Middle  
3 East, and so it really limited access to sport, both  
4 outdoors and within gyms.

5 Q. And you see on the right-hand side  
6 there's some data and a chart that appears to be  
7 associated with Nike Training Club?

8 A. Yes.

9 Q. And based on this data, do you agree that  
10 Nike Training Club had [REDACTED] active users at  
11 the time this document was put together?

12 A. Yes. And by [REDACTED] it was annual  
13 users is the definition for active.

14 Q. Thank you. That's very helpful.

15 And it says that there were [REDACTED]  
16 new users, correct?

17 A. Yes.

18 Q. Can you tell me what the [REDACTED] means  
19 in this context?

20 A. Yes. It's a year-over-year metric.

21 Q. So the number of new users for this year  
22 was [REDACTED] than the number of new users the



1 prior year?

2 A. Fiscal year over fiscal year, correct.

3 Q. Got it.

4 Mr. Healey, does Nike Training Club app  
5 compete with other companies in providing home  
6 fitness products?

7 A. Yes.

8 MR. HARTMAN: Sorry, DeAndre, if we  
9 can put up slide 6, please. I'm sorry, which  
10 will end in Bates number 456.

11 BY MR. HARTMAN:

12 Q. You see this title is -- sorry, this  
13 slide is titled [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

21 BY MR. HARTMAN:

22 Q. Mr. Healey, would you consider the

1 at-home fitness market a competitive market?

2 MS. MUSSER: Object to form, calls  
3 for speculation.

4 A. That's -- can you repeat the question  
5 again?

6 BY MR. HARTMAN:

7 Q. Sure.

8 Is the at-home fitness market a  
9 competitive market?

10 MS. MUSSER: Same objection.

[REDACTED]

21 BY MR. HARTMAN:

22 Q. In terms of looking for consumers at home

1 or wherever they may be to work out, would you  
 2 consider that space to have aggressive competitors?

3 MS. MUSSER: Object to form.

4 A. Yeah, I -- I can't speculate on  
 5 aggressive. I would say competitive. "Aggressive"  
 6 is too vague a term.

7 BY MR. HARTMAN:

8 Q. Speaking just -- let me start that over.

9 Speaking specifically about Nike Training  
 10 Club, is Nike Training Club competing with every  
 11 company that is trying to get people off the couch  
 12 and to start exercising at home or wherever they may  
 13 be?

14 MS. MUSSER: Object to form.

■ ■ [REDACTED]  
 ■ [REDACTED]  
 ■ [REDACTED]  
 ■ [REDACTED] [REDACTED]  
 ■ [REDACTED]  
 ■ [REDACTED]  
 ■ [REDACTED]  
 ■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9 BY MR. HARTMAN:

10 Q. Excellent. Would you say -- let me start  
11 that over.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17 BY MR. HARTMAN:

18 Q. Is adding new content relevant to  
19 engaging users?

[REDACTED]

[REDACTED]

[REDACTED]

█ [REDACTED]

2 Q. Is one of Nike's product priorities for  
3 Nike Training Club to add new content consistently?

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

11 Q. And is an endpoint of that learning  
12 agenda creating new content that will appeal to  
13 consumers?

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

22 Q. Mr. Healey, are Nike Training Club's

1 trainers world-class coaches?

2 MS. MUSSER: Object to form.

3 A. Nike's trainers are world-class -- what  
4 we call trainers.

5 BY MR. HARTMAN:

6 Q. And those folks are experienced in  
7 engaging users and athletes, right?

8 MS. MUSSER: Object to form.

9 A. They're experienced in training athletes.

10 BY MR. HARTMAN:

11 Q. And is part of that engaging the user  
12 that they're interacting with?

13 MS. MUSSER: Object to form.

[REDACTED]



1 BY MR. HARTMAN:

2 Q. And does Nike hire these fitness experts  
3 in part to help it compete with other at-home  
4 fitness offerings?

5 MS. MUSSER: Object to form.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14 BY MR. HARTMAN:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

22 MR. SARNOFF: Object to form.

1 MS. MUSSER: Object to form. Calls  
2 for speculation.

3 MR. SARNOFF: Calls for speculation.

4 MS. MUSSER: Sorry, Mr. Sarnoff.

5 MR. SARNOFF: That's all right. You  
6 can answer, Mr. Healey.

[REDACTED]

21 BY MR. HARTMAN:

22 Q. Mr. Healey, do you understand that Nike

1 has produced several documents to Meta and the FTC  
2 in response to the subpoenas issued in this  
3 litigation?

4 A. I'm not aware.

5 Q. So thinking just about the document we  
6 looked at a moment ago, is that a document that you  
7 recognize as being created by Nike employees or at  
8 the request of Nike employees?

9 A. The document that we're looking at, the  
10 NRC/NTC Strategy?

11 Q. Yes.

12 A. Yes.

13 Q. And that's a document created in the  
14 normal course of Nike's business?

15 A. Yes.

16 Q. And maintained as the records of Nike?

17 A. Yes.

18 MR. HARTMAN: I have a bit of time  
19 left, but I will pass the witness to  
20 Ms. Musser.

21 MS. MUSSER: Okay.

22

1 -----

2 EXAMINATION

3 -----

4 BY MS. MUSSER:

5 Q. All right, good afternoon -- I guess  
6 evening, Mr. Healey.

7 A. Good evening.

8 Q. We haven't met before today, have we?

9 A. No.

10 Q. It's nice to meet you. Hopefully we'll  
11 be able to keep this short and sweet. I have a few  
12 follow-up questions from what my colleague  
13 Mr. Hartman was asking.

14 Maybe starting with the end there, you've  
15 mentioned several times that [REDACTED]

[REDACTED]

[REDACTED]

18 Did I get that right?

19 A. Yes.

20 Q. Can you tell me what you mean by that?

[REDACTED]

[REDACTED]

[Redacted content]

[Redacted text block containing approximately 20 lines of blacked-out content]

[Redacted text block containing multiple lines of blacked-out content]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

21 Q. And you had referenced NTC Premium during  
22 Mr. Hartman's questioning. Do you recall that?



1 A. Yes.

2 Q. Can you remind me, how much was that NTC  
3 Premium monthly subscription fee?

4 A. Around 14.99, depending on where in the  
5 world you were paying for it.

6 Q. Why was it priced at 14.99?

[REDACTED]

[Redacted text block containing multiple lines of blacked-out content]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

6 Q. You had mentioned that the NTC app was  
7 integrated with the Apple HealthKit and Garmin.

8 Do you recall that testimony?

9 A. Yes.

10 Q. Is the NTC app integrated with any  
11 virtual reality technology?

12 A. No.

13 Q. You also mentioned that there were  
14 elements of -- the only elements of gamification  
15 were the rewards that you can unlock on the NTC app.

16 Did I get that right?

17 A. That's correct.

18 Q. When you say gamification, what do you  
19 mean?

20 A. Gamification would be anything that's  
21 driving more engagement over time. You could  
22 actually include community aspects, gamifying, being

1 able to receive likes for workouts, follows from  
2 new -- new followers in the Nike Training Club.

3 So it's anything that's going to create  
4 ultimately more engagement and drive more opens of  
5 the app to drive daily engagement rate or monthly  
6 active use of the app.

7 Q. Can you provide some examples that -- of  
8 gamification that Nike's NTC app does not use?

9 A. Yeah. Gamification is very broad in the  
10 sense of -- for us, we think of it only in very  
11 simplistic terms, as I mentioned, something as  
12 simple as getting a little icon badge saying you've  
13 done a week worth of successive workouts or three  
14 weeks' worth of successive workouts, or you've had  
15 an anniversary in the app because you've had it for  
16 a year.

17 There's obviously from there a lot  
18 more -- a lot more space, so we're just touching it  
19 very lightly. Gamification can be everything from  
20 some commercial incentivization, you know, if you  
21 unlock different rewards that are not just a badge,  
22 such as promotions, access to product, access to

1 athletes could be conceptually some of the things.

2 I would have to speculate past that.

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

█ [REDACTED]

7 Q. And can you turn to PX0830. It should  
8 appear on your screen shortly.

9 (Whereupon, Deposition Exhibit  
10 PX-830, Responses and Objections of  
11 Non-Party Nike, Inc. to Rule 45 Subpoena,  
12 was marked for identification.)

13 MR. SARNOFF: Susan, do you mind,  
14 what document are we looking at? We don't see  
15 it on the screen yet.

16 MS. MUSSER: This is the responses  
17 and objections to Meta's subpoena.

18 MR. SARNOFF: Okay, thank you.

19 MS. MUSSER: No worries.

20 MR. SARNOFF: We don't see it yet --

21 THE VIDEOGRAPHER: Yeah, I'm still  
22 pulling it up. Your folder is empty. The

1 FTC's folder is empty.

2 MS. MUSSER: Interesting.

3 Do you mind if we take a quick break  
4 to see if I can fix that for about five  
5 minutes?

6 MR. SARNOFF: I have a copy of it,  
7 Susan. I handed it to the witness just now,  
8 if that allows us to keep moving here.

9 MS. MUSSER: That would be great.

10 MR. SARNOFF: You said the responses  
11 and objections to Meta's subpoena?

12 MS. MUSSER: Yes. And, Mr. Hartman,  
13 do you need me to send you a copy of that or  
14 is that something that have you handy?

15 MR. HARTMAN: No objections. I have  
16 a copy.

17 BY MS. MUSSER:

18 Q. If you can take a minute to look at this  
19 document, Mr. Healey. And I'll direct you to the  
20 particular paragraphs, so just let me know when  
21 you're ready.

22 (Document review.)

1 A. All right.

2 BY MS. MUSSER:

3 Q. Now, are you familiar with this document?

4 A. I am now.

5 Q. Can you turn to the last page. Just for  
6 the record, this is page ending in -- I'm sorry,  
7 it's the second-to-last page.

8 Do you see that this document has been  
9 signed by Diane McGimsey from Sullivan & Cromwell?

10 A. Yes.

11 Q. And Sullivan & Cromwell is Nike's counsel  
12 in this matter; is that right?

13 A. Yes.

14 Q. And turning to the second page, you'll  
15 see a case caption titled FTC v. Meta Platforms.

16 Do you see that?

17 A. Yes.

18 Q. And this is responses and objections to  
19 nonparty Nike Inc. to Rule 45 Subpoena.

20 Do you see that?

21 A. Yes.

22 Q. If you could turn now to the paragraph

1 numbered 11, and it starts: Nike objects to the  
2 definition of "Competitive Landscape."

3 Let me know when you have a minute to get  
4 there.

5 Are you there, Mr. Healey?

6 A. Yes.

7 Q. The second sentence says: Nike's  
8 principal business activity is the design,  
9 development and marketing and selling of athletic  
10 footwear, apparel, equipment, accessories and  
11 services.

12 Do you see that?

13 A. Yes.

14 Q. Do you agree with that statement?

15 A. I do.

16 Q. It goes on to say: and thus competes  
17 with products and/or entities with respect to  
18 offerings wholly unrelated to the "VR Dedicated  
19 Fitness App market" or the "VR Fitness App market."

20 Do you see that?

21 A. Yes.

22 Q. And you're familiar with the term



1 "virtual reality," correct?

2 A. I am.

3 Q. Can you define that for me?

4 A. Virtual reality is -- is creating a  
5 virtual integration of physical with digital life,  
6 typically through the headset, that augments what  
7 you see and makes you feel that you're part of a  
8 virtual or a created world with your physical body.

9 Q. And do you agree with the statement that  
10 Nike competes with products that are not related to  
11 the virtual reality fitness application market?

12 MR. SARNOFF: Objection to form.

13 A. Our business is -- our core business is  
14 wholly unrelated to virtual dedicated fitness app  
15 market. I would agree.

16 BY MS. MUSSER:

17 Q. And so does Nike compete with virtual  
18 reality fitness applications?

19 MR. SARNOFF: Objection to form.

20 A. No, I don't believe we do.

21 BY MS. MUSSER:

22 Q. You can put that document aside,

1 Mr. Healey.

2 I just have a few follow-up questions  
3 about the Nike Training Club. Is the Nike Training  
4 Club application available in the Oculus or Quest  
5 store?

6 A. No.

7 Q. And other than your phone, what  
8 technology do you need to use Nike Training Club?

9 A. You don't need any other technology.

10 Q. And right now, you can't use Nike  
11 Training Club with a virtual reality headset; is  
12 that right?

13 A. That's correct.

14 Q. And you discussed certain fitness content  
15 or videos that's available as part of the Nike  
16 Training Club.

17 Do you recall that discussion with  
18 Mr. Hartman?

19 A. Yes.

20 Q. Can you describe how a user interacts  
21 with the application to participate in those virtual  
22 workouts?

1           A.       The workouts are video-based workouts,  
2 they're broadcast on demand predominantly, and so  
3 the consumer, when using Nike Training Club, presses  
4 play, starts a workout, and either has the workout  
5 play through as just an end-to-end video or is  
6 prompted, once they've completed each section of  
7 some guided workouts, to move on to the next  
8 section.

9                       In both formats, it's a video or  
10 video-like technology that's broadcast to them.

11           Q.       Is this video two-dimensional?

12           A.       Yes.

13           Q.       Is -- are these videos 360-degree  
14 experiences?

15           A.       No.

16           Q.       And who at Nike or what business unit,  
17 rather, at Nike developed the Nike Training Club  
18 application?

19           A.       Today it would be called the Nike Direct  
20 business, which is our direct-to-consumer business.  
21 When this was created in 2009 for the Apple store,  
22 it would likely -- I can't say for certain because

1 this is so long ago. It would have been created  
2 through a combination of our training business,  
3 which is actually our -- the business category  
4 training, which sells footwear and apparel, and they  
5 would have partnered with a digital team to create  
6 this experience in order to sell their inline  
7 product.

8 Q. Did Nike create this application  
9 in-house?

10 A. That's a good question. I do not know if  
11 we fully created it in-house, given the length of  
12 time it's been since we created it.

13 Q. And what unit within Nike is responsible  
14 for strategy and development of the Nike Training  
15 Club app today?

16 A. Today, it is Nike Direct, so it's our  
17 direct-to-consumer business.

18 MS. MUSSER: Okay. I think at this  
19 time, that's all the questions I have for you,  
20 Mr. Healey.

21 MR. HARTMAN: I have nothing further.  
22 I'm happy to let Mr. Healey return to his

1 day-to-day life. We can go off the record.

2 MR. SARNOFF: Okay. Sorry, before we  
3 go off the record, just one thing: Nike  
4 designates this testimony highly confidential,  
5 and the witness reserves the right to review  
6 and sign the transcript.

7 MS. MUSSER: Understood on behalf of  
8 the FTC.

9 MR. HARTMAN: Yep. Agreed on behalf  
10 of Nike -- pardon me, on behalf of Meta. A  
11 lot of talk about Nike today.

12 THE VIDEOGRAPHER: All right. The  
13 time is 4:25 p.m., and we're off the record.

14 (Time noted: 4:25 p.m. PST)

15 --o0o--

16

17

18

19

20

21

22

1 C E R T I F I C A T E

2

3 I, MICHAEL E. MILLER, FAPR, RDR, CRR,  
California CSR #13649, do hereby certify:

4 That JAMES M. HEALEY, the witness  
5 whose deposition is hereinbefore set forth, was duly  
sworn by me and that such deposition is a true  
6 record of the testimony given by such witness;

7 That pursuant to FRCP Rule 30, signature of  
the witness was requested by the witness or other  
party before the conclusion of the deposition;

8 I further certify that I am not related to any  
of the parties to this action by blood or marriage,  
9 and that I am in no way interested in the outcome of  
this matter.

10 IN WITNESS WHEREOF, I have hereunto set my  
11 hand on November 17, 2022.

12

13

14

15

16

17

18

19 \_\_\_\_\_  
Michael E. Miller

20 Fellow of the Academy of Professional Reporters

21 Registered Diplomate Reporter

22

1 James M. Healey 30(b)(6), c/o

SULLIVAN & CROMWELL LLP

2 1888 Century Park East

Los Angeles, California 90067

3

Case: Federal Trade Commission v. Meta Platforms, Inc., et al

4 Date of deposition: November 16, 2022

Deponent: James M. Healey 30(b)(6)

5

6 Please be advised that the transcript in the above  
referenced matter is now complete and ready for signature.

7 The deponent may come to this office to sign the transcript,

8 a copy may be purchased for the witness to review and sign,

9 or the deponent and/or counsel may waive the option of

10 signing. Please advise us of the option selected.

11 Please forward the errata sheet and the original signed

12 signature page to counsel noticing the deposition, noting the

13 applicable time period allowed for such by the governing

14 Rules of Procedure. If you have any questions, please do

15 not hesitate to call our office at (202)-232-0646.

16

17

18 Sincerely,

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4 SIGNATURE PAGE

Case: Federal Trade Commission v. Meta Platforms, Inc., et al  
5 Witness Name: James M. Healey 30(b)(6)  
Deposition Date: November 16, 2022

6

I do hereby acknowledge that I have read  
7 and examined the foregoing pages  
of the transcript of my deposition and that:

8

9 (Check appropriate box):

( ) The same is a true, correct and  
10 complete transcription of the answers given by  
me to the questions therein recorded.

( ) Except for the changes noted in the  
11 attached Errata Sheet, the same is a true,  
12 correct and complete transcription of the  
13 answers given by me to the questions therein  
14 recorded.

15

16 \_\_\_\_\_

17 DATE

\_\_\_\_\_

WITNESS SIGNATURE

18

19

20

21 \_\_\_\_\_

22 DATE

\_\_\_\_\_

NOTARY



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5

6 ERRATA SHEET

7

8 Case: Federal Trade Commission v. Meta Platforms, Inc., et al

9 Witness Name: James M. Healey 30(b)(6)

10 Deposition Date: November 16, 2022

11 Page No. Line No. Change

12

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Signature

Date

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51:9 <b>women</b> 31:5,7 31:10,10 <b>work</b> 6:8 10:17 22:16 23:1 33:16 <b>working</b> 8:6 13:18 14:14 22:13 31:8 <b>workout</b> 14:17 15:6,7,8 28:13 45:4,4 <b>works</b> 8:5 11:15,18 12:1 12:16,18,20 13:5,13 14:5,6 14:7 28:11 38:1,13,14 44:22 45:1,1,7 <b>works</b> 25:5 <b>world</b> 9:13 17:4 31:4 35:5 43:8 <b>world-class</b> 26:1 26:3 <b>worries</b> 39:19 <b>worth</b> 38:13,14 <b>written</b> 7:9 49:22 <hr/> <b>X</b> <hr/> <hr/> <b>Y</b> <hr/> <b>Yeah</b> 23:4 38:9 39:21 <b>year</b> 18:21 19:1 19:2,2 38:16 <b>year-over-year</b> 18:20 <b>years</b> 28:17,17 33:20 <b>Yep</b> 5:15 47:9 <b>yoga</b> 8:7 11:9 15:10 <hr/> <b>Z</b> <hr/> <b>Zach</b> 5:13 <b>Zachary</b> 2:10	4:20 <b>ZUCKERBE...</b> 1:7 <hr/> <b>0</b> <hr/> <hr/> <b>1</b> <hr/> <b>1.8</b> 18:15 <b>11</b> 42:1 <b>13649</b> 1:18 48:3 <b>14</b> 18:10,12 <b>14.99</b> 9:12 35:4 35:6 <b>16</b> 1:13 3:3,11 4:3 49:4 50:5 51:10 <b>1615</b> 2:7 <b>16th</b> 4:10 <b>17</b> 48:11 <b>1730</b> 1:21 50:1 51:2 <b>18</b> 16:5 <b>1888</b> 2:11 49:2 <hr/> <b>2</b> <hr/> <b>20036</b> 1:21 2:8 50:2 51:3 <b>2009</b> 8:17 45:21 <b>2012</b> 8:11,18 <b>2019</b> 9:4 <b>202</b> 1:22 50:2 <b>202)-232-0646</b> 49:15 <b>202)232-0646</b> 51:4 <b>2020</b> 10:11 <b>2022</b> 1:13 3:3 4:3,10 48:11 49:4,20 50:5 51:10 <b>20580</b> 2:4 <b>232-0646</b> 1:22 50:2 <hr/> <b>3</b> <hr/> <b>3:34</b> 1:17 4:3,11 <b>30</b> 3:6 48:6	<b>30(b)(6)</b> 1:11,15 5:3 49:1,4 50:5 51:9 <b>31%</b> 18:18,22 <b>360-degree</b> 45:13 <b>39</b> 3:15 <hr/> <b>4</b> <hr/> <b>4</b> 16:21 <b>4:25</b> 47:13,14 <b>4:26</b> 1:17 <b>400</b> 2:7 <b>45</b> 3:17 39:11 41:19 <b>454</b> 17:1 <b>456</b> 19:10 <hr/> <b>5</b> <hr/> <b>5:22-cv-04325...</b> 1:5 <b>500</b> 14:21 25:15 <hr/> <b>6</b> <hr/> <b>6</b> 3:5 19:9 <b>600</b> 2:3 <hr/> <b>7</b> <hr/> <hr/> <b>8</b> <hr/> <b>812</b> 1:21 50:1 51:2 <hr/> <b>9</b> <hr/> <b>90067</b> 2:12 49:2		
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**UNITED STATES OF AMERICA  
 BEFORE THE FEDERAL TRADE COMMISSION  
 OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

Meta Platforms, Inc.,  
 a corporation,

Mark Zuckerberg,  
 a natural person,

and

Within Unlimited, Inc.,  
 a corporation,

Respondents.

Docket No. 9411

**[PROPOSED] ORDER ON NON-PARTY NIKE, INC.’S  
MOTION FOR *IN CAMERA* TREATMENT**

Pursuant to Commission Rule 3.45(b) and the Scheduling Order entered in this matter, Non-Party Nike, Inc. (“Nike”) has filed a Motion for *In Camera* Treatment (the “Motion”). The Motion requests that information from the following two Nike documents, as listed in the chart below (the “Nike Information”), be afforded *in camera* treatment for a period of five years:

<b>FTC Exhibit No.</b>	<b>Meta Exhibit No.</b>	<b>Nike Information</b>
PX0829	DX1295	Entire document (NIKE_META-00000451)
PX0078	DX1222	The following testimony from the Nike 30(b)(6) Deposition Transcript (James Healey, Nov. 16, 2022):  16:15; 18:10; 18:12; 18:15; 18:18; 18:22; 19:13-21:20; 22:11-20; 23:15-24:8; 24:12-16; 24:20-25:1; 25:4-10; 25:14-21; 26:14-22; 27:6-13; 27:15-21; 28:7-20; 30:15-17; 30:21-34:20; 35:7-37:5; 39:3-6

Having considered the Motion, the declaration filed in support of the Motion, and the documents themselves, the undersigned finds that the Nike Information sought to be protected meets the standards for *in camera* treatment.

Accordingly, Nike's Motion is **GRANTED**.

**IT IS HEREBY ORDERED** that the Nike Information shall be granted *in camera* treatment for a period of five years, to expire five years from the date of this order.

ORDERED:

\_\_\_\_\_  
D. Michael Chappell  
Chief Administrative Law Judge

DATED: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that on December 23, 2022, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

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

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

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

Abby Dennis  
Peggy Bayer Femenella  
Jeanine Balbach  
Michael Barnett  
E. Eric Elmore  
Justin Epner  
Joshua Goodman  
Sean D. Hughto  
Frances Anne Johnson  
Andrew Lowdon  
Lincoln Mayer  
Kristian Rogers  
Anthony R. Saunders  
Timothy Singer  
**Federal Trade Commission**  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Tel: (202) 326-2381  
adennis@ftc.gov  
pbayer@ftc.gov  
jbalbach@ftc.gov  
mbarnett@ftc.gov  
eelmore@ftc.gov  
jepner@ftc.gov  
jgoodman@ftc.gov

Chantale Fiebig  
Michael Moiseyev  
Jeffrey Perry  
**Weil, Gotshal & Manges LLP**  
2001 M Street, NW, Suite 600  
Washington, DC 20036  
Tel: (202) 682-7235  
chantale.fiebig@weil.com  
michael.moiseyev@weil.com  
jeffrey.perry@weil.com  
Meta.ALJ.Case-Weil.KH@weil.com

Eric Hochstadt  
Diane Sullivan  
**Weil, Gotshal & Manges LLP**  
767 Fifth Avenue  
New York, NY 10153  
Tel: (212) 310-8000  
eric.hochstadt@weil.com  
diane.sullivan@weil.com

Bambo Obaro  
**Weil, Gotshal & Manges LLP**  
201 Redwood Shores Parkway, 6th Floor  
Redwood Shores, CA 94065

shughto@ftc.gov  
fjohnson@ftc.gov  
alowdon@ftc.gov  
lmayer@ftc.gov  
krogers@ftc.gov  
asaunders@ftc.gov  
tsinger@ftc.gov

Erika Wodinsky  
**Federal Trade Commission**  
90 7th Street, Suite 14-300  
San Francisco, CA 94103  
Tel: (415) 848-5190  
ewodinsky@ftc.gov

Erica Meyers  
**Federal Trade Commission**  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Tel: (202) 326-2076  
emeyers@ftc.gov

*Counsel Supporting the Complaint*

Tel: (650) 802-3000  
Bambo.obaro@weil.com

*Counsel for Meta Platforms, Inc.*

Geoffrey M. Klineberg  
Jacob Hartman  
Kimberly Hamlett  
**Kellogg, Hansen, Todd, Figel & Frederick, PLLC**  
Sumner Square  
1615 M Street, NW, Suite 400  
Washington, DC 20036  
(202) 326-7928  
gklineberg@kellogghansen.com  
jhartman@kellogghansen.com  
khamlett@kellogghansen.com  
ZUCKERBERG-ALJ@lists.kellogghansen.com

*Counsel for Mark Zuckerberg*

Christopher J. Cox  
**Hogan Lovells US LLP**  
855 Main St., Suite 200  
Redwood City, CA 94063  
Tel: (650) 463-4000  
chris.cox@hoganlovells.com

Lauren Battaglia  
Logan M. Breed  
Benjamin Holt  
Charles A. Loughlin  
**Hogan Lovells US LLP**  
555 13th Street, NW  
Washington, DC 20004  
(202) 637-6407  
logan.breed@hoganlovells.com  
WithinFTC9411@hoganlovells.com

*Counsel for Within Unlimited, Inc.*

By: /s/ Diane L. McGimsey  
Diane L. McGimsey

*Attorney for Non-Party Nike, Inc.*