

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

In the matter of:

**Intuit Inc.,**  
a corporation,  
  
Respondent.

Docket No. 9408

**COMPLAINT COUNSEL'S OPPOSITION TO INTUIT INC.'S MOTION TO  
COMPEL CONCERNING COMPLAINT COUNSEL'S RESPONSES TO  
INTUIT'S FIRST SET OF INTERROGATORIES**

As set out in Complaint Counsel's Motion for Summary Decision, this case is about Intuit's advertising of TurboTax using deceptive free claims. There is no mystery about Complaint Counsel's theory of the case in this proceeding. Still, Intuit has filed a Motion to Compel ("MTC") seeking supplemental interrogatory responses from Complaint Counsel related to evidence Complaint Counsel has gathered in its investigation and this proceeding, most of which is already in Intuit's possession, and seeking to compel Complaint Counsel to provide analysis of documents in Intuit's possession. Complaint Counsel has already provided detailed and proper responses, subject to proper objections, to Intuit's interrogatories and has provided Intuit with ample and transparent information for it to conduct discovery.

"The purpose of interrogatories is to narrow the issues and thus help determine what evidence will be needed at trial . . . ." *In re TK-7 Corp.*, 1990 FTC LEXIS 20, \*1-2 (F.T.C. March 9, 1990). *See also In the Matter of Aspen Technology, Inc.*, 2003 FTC LEXIS 195, \*5-6 (F.T.C. Dec. 23, 2003). Complaint Counsel has provided Intuit with detailed information narrowing the issues for trial, including with its fully briefed Motion for Summary Decision. Discovery is ongoing and requiring Complaint Counsel to supplement its responses would create an undue burden. Intuit's motion should be denied.

## I. Factual Background

Discovery in this matter is ongoing. Intuit served Complaint Counsel with its First Set of Interrogatories<sup>1</sup> on August 19, 2022. MTC Ex. A. Complaint Counsel provided its written responses and objections on September 19, 2022. MTC Ex. B. On September 12, 2022, Complaint Counsel served Intuit with its First Set of Requests for Production. Plett Declaration (“PD”) ¶5, Ex. A. On October 14, 2022, Complaint Counsel served Intuit with its Second Set of Requests for Production and its First Set of Interrogatories. PD ¶¶10-11, Ex. B & C. On October 14, 2022, Complaint Counsel also issued subpoenas to third party advertising agencies to collect information about Intuit’s advertising. PD ¶12. Intuit has issued subpoenas to 383 consumers, including for the production of documents. PD ¶¶13-15.

Much of the discovery Complaint Counsel is seeking from Intuit and third parties relates to Intuit’s advertising. For example, Complaint Counsel has asked Intuit to identify “each materially different Advertisement” for a certain timeframe, and to produce “[a] copy of each unique TurboTax advertisement that uses or used any of the following words: “free,” “zero,” “\$0,” “no cost,” or “gratis.” See Ex. A & C. Complaint Counsel is also seeking information from Intuit about consumer complaints. See Ex. A (seeking “documents related to complaints or negative feedback from consumers or potential consumers who expected to file their taxes for free using TurboTax but were not eligible to do so”). Most of this discovery is still outstanding.

Intuit has already received extensive discovery about Complaint Counsel’s evidence in this case. On April 21, 2022, Complaint Counsel provided Intuit with over 600 documents related to consumer complaints. PD ¶4. On September 14, 2022, Complaint Counsel provided Intuit with a set of relevant consumer complaints as part of its initial disclosures. PD ¶6. On September 19, 2022, Complaint Counsel

---

<sup>1</sup> Complaint Counsel understands Intuit’s motion to be limited to its First Set of Requests Interrogatories, the only Interrogatories that Intuit and Complaint Counsel have met and conferred about.

supplemented these disclosures with an additional set of consumer complaints. PD ¶7. In nearly every instance, these complaints include the consumer's complaint narrative. PD ¶8, *see also, e.g.,* Complaint Counsel's Reply to Respondent Intuit Inc.'s Supplemental Response to the Statement of Material Facts as to Which There is No Genuine Issue for Trial, Attach. A. On October 13, 2022, Complaint Counsel provided Intuit with many external communications between consumers and complaint counsel, including documents provided by consumers in support of their complaints. PD ¶9.

## II. **Complaint Counsel Has Provided Complete Responses to Intuit's Interrogatories, Subject to Proper Objections.**

Intuit claims that Complaint Counsel's responses to certain interrogatories are deficient. First, Intuit argues Complaint Counsel's response to Interrogatory 1 seeking information about those advertisements that Complaint Counsel contends are deceptive is insufficient because Complaint Counsel identifies what Intuit calls a "small" number of advertisements, along with all substantially similar ads.<sup>2</sup> MTC at 2. However, Complaint Counsel provided a detailed response identifying dozens of deceptive ads. MTC Ex. B at 7-8. Moreover, the incorporation of "substantially similar" ads provides Intuit with sufficient information to understand which ads Complaint Counsel alleges are deceptive. As Intuit has acknowledged, identifying "substantially similar" advertisements is definite and allows Intuit to identify relevant ads. *See* MTC Ex. E, Section III.G (multistate settlement prohibiting Intuit from publishing ads that are "substantially similar" to those identified in an appendix). Finally, discovery is ongoing, and Complaint Counsel is seeking additional information about Intuit's advertisements.<sup>3</sup>

---

<sup>2</sup> Interrogatory 1 asks Complaint Counsel to "IDENTIFY every ADVERTISEMENT OR COMMUNICATION by INTUIT regarding TURBOTAX FREE EDITION that YOU claim in this lawsuit to be deceptive." MTC Ex. A.

<sup>3</sup> Many of Intuit's interrogatories are premature contention interrogatories, and Complaint Counsel objected to the interrogatories on those grounds. *See* MTC Ex. B. Per Rule 3.35(b)(2), contention interrogatories "need not be answered until after designated discovery has been completed." *See also In re Impax Labs., Inc.*, 2017 FTC LEXIS 82, \*6-7  
(continued)

Next, Intuit claims that Complaint Counsel's identification of the net impression and materiality for the set of deceptive ads (rather than each ad) is deficient. MTC 3-4. But Complaint Counsel has provided a complete answer to Intuit's Interrogatory. The net impression and the materiality for the ads identified, and substantially similar ads, is the same, and Complaint Counsel has cited to evidence in its possession supporting those positions.<sup>4</sup> Creating an appendix with duplicative entries that state the same response imposes burden without "narrow[ing] the issues" or facilitating Intuit's discovery. *See In re TK-7 Corp.*, 1990 FTC LEXIS 20, \*1-2 (F.T.C. March 9, 1990).

### **III. Intuit Can Derive Information from Documents Produced by Complaint Counsel**

Intuit also takes issue with Complaint Counsel's responses that identify, rather than analyze, consumer complaint records.<sup>5</sup> It seeks to impose on Complaint Counsel the obligation to review consumer complaint records to identify complaints corresponding to its specific interrogatories, even though the complaint records containing the information are in Intuit's possession. The burden of conducting this analysis is equal for Complaint Counsel and Intuit.

Commission Rule 3.35(c) allows a party to "specify records from which answers to interrogatories may be derived or ascertained" if the "burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory (F.T.C. June 12, 2017). Intuit's attempt, with its Motion, to limit Complaint Counsel to evidence in Complaint Counsel's possession before the end of discovery is improper.

<sup>4</sup> Intuit seems to imply that Complaint Counsel's *only* response to Interrogatory 3 was to point Intuit to "discussion of materiality in CC's Motion for Summary Decision," MTC at 4. But Complaint Counsel referenced its discussion *and* the related exhibits, along with other evidence of materiality, including Intuit's own documents.

<sup>5</sup> Without pointing to any pleading or other evidence to support its assertion, Intuit also claims that Complaint Counsel alleges, and Intuit is entitled to discovery related to, whether "consumers viewing Intuit's deceptive advertising believe that TurboTax is free for *all* taxpayers." MTC at 5 (emphasis added). However, that is not what Complaint Counsel has alleged, and Intuit has not pointed to any evidence to the contrary. Intuit is not entitled to discovery related to allegations Complaint Counsel did not make. *In re HomeAdvisor, Inc.*, 2022 FTC LEXIS 65, \*3 (F.T.C. August 29, 2022) ("Respondent's contrary arguments in its Motion misconstrue the record, are unpersuasive, and are rejected.").

as for the party served.” 16 C.F.R. § 3.35(c); *see also In re North Texas Specialty Physicians*, 2004 FTC LEXIS 12 (F.T.C. Jan. 21, 2004), \*3-4 (denying a motion to compel where the “burden of deriving or ascertaining the answers” from a database produced in discovery was “substantially the same” for both parties); *In re Tronox Ltd.*, 2018 FTC LEXIS 99, \*3 (F.T.C. May 31, 2018).

Complaint Counsel provided Intuit with the consumer complaint information in its possession over 5 weeks ago, including the complaint narratives upon which any analysis would be based. PD ¶¶ 6-8. Intuit can equally review the complaint records provided to identify consumers who, for example, complained about Intuit’s free advertising or about the amount of time they spent using TurboTax before realizing they could not file their taxes for free. In fact, Intuit’s claim that many complaints are not relevant, *see* MTC at 5 n.2, suggests that it has already conducted a thorough review of the records. To the extent consumers provided Complaint Counsel with documents supporting their complaints, Complaint Counsel has produced substantially all such documents to Intuit. Finally, Complaint Counsel is still in the process of seeking additional discovery from Intuit about consumer complaints, since Intuit is likely the recipient of the most complaints about its products, and likely possesses the most accurate information about consumers who used TurboTax.

#### **IV. Complaint Counsel Is Not Required to Speculate About or Analyze Intuit’s Potential Future Ads**

Intuit’s remaining objections to Complaint Counsel’s interrogatory responses center around its demand that Complaint Counsel conduct a review of Intuit’s current and *future* ads and, in conjunction with the terms of Intuit’s settlement with the states, provide legal analysis of both. The information Intuit seeks is not only irrelevant but also work product and seeks to impose on Complaint Counsel the burden of conducting a compliance review of Intuit’s advertising practices. Complaint Counsel is not required to conduct such a review.

Discovery must be “reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defense of any respondent.” 16 C.F.R. § 3.31(c)(1). See *In re Basic Research, LLC*, 2004 FTC LEXIS 210, \*2 (F.T.C. November 4, 2004). As an initial matter, Intuit’s settlement with the states is entirely irrelevant to this proceeding, an argument raised in Complaint Counsel’s responses and objections that Intuit’s Motion to Compel ignores. Even so, in the spirit of providing Intuit with information it claims it needs for discovery, subject to properly lodged objections, Complaint Counsel responded to Intuit’s Interrogatories and identified, with specificity, the infirmities with the multistate settlement and additional relief Complaint Counsel is seeking in this proceeding. MTC Ex. B at 25-26, 32-33.

But Intuit wants more. It seeks to have Complaint Counsel provide legal analysis of its current and any *potential future advertising*, propounding interrogatories that are vague, overbroad, and call for speculation. Though Intuit claims its interrogatories merely seek to have Complaint Counsel “identify alleged specific deficiencies with its current advertising,” MTC at 7, that is not the case. For example, Intuit’s Interrogatory 13 requests that Complaint Counsel “IDENTIFY ANY circumstances in which ANY ADVERTISEMENT that complies with the AG SETTLEMENT *would* be false, misleading, OR deceptive” MTC Ex. A (emphasis added). This Interrogatory is not limited to a particular party (for example, Intuit), advertising for a particular product (for example, TurboTax) or any particular medium (for example TikTok).<sup>6</sup> In fact, it does not refer to Intuit’s current advertising at all and is vastly overbroad.

Even assuming Intuit intended to limit its interrogatories to its own advertising, or even to its advertising for TurboTax, the interrogatories would require Complaint

---

<sup>6</sup> Interrogatory 14 is similarly overbroad and vague, requiring Complaint Counsel to “IDENTIFY ANY circumstances in which ANY ADVERTISEMENT that complies with the AG SETTLEMENT would violate Section 5(a) of the Federal Trade Commission Act.” MTC Ex. A.

Counsel to hazard guesses about how Intuit may advertise and calls for speculation.<sup>7</sup> Complaint Counsel is not required to provide answers to such speculative questions. *See In re Basic Research, LLC* 2004 FTC LEXIS 210, \*6 (F.T.C. November 4, 2004) (denying a motion to compel that would have required Complaint Counsel to provide “speculative” answers to interrogatories). To the extent Intuit believes it needs information about whether Complaint Counsel considers its advertising to be deceptive, Complaint Counsel already identified such advertisements in response to Interrogatory 1, and in its Motion for Summary Decision and related filings. Intuit has all the information it needs to prepare its defenses and determine whether its current advertising is deceptive.

Additionally, Intuit’s interrogatories require Complaint Counsel to conduct a two-part analysis that would be squarely work product. The predicate of some of Intuit’s Interrogatories (for example, Interrogatories 13 and 14) is that Complaint Counsel should imagine or consider advertisements and determine whether they comply with the multistate settlement. After such analysis, Complaint Counsel must then consider how the ads may still be deceptive. Requiring Complaint Counsel to assess whether an advertisement that does not exist is compliant with a multistate settlement to which the FTC is not a party is not only irrelevant, but it would also require Complaint Counsel to disclose legal analysis and mental impressions that are clearly work product. *In re Lab. Corp. of Am.*, 2011 FTC LEXIS 30, \*9 (F.T.C. February 24,

---

<sup>7</sup> Complaint Counsel has identified a plethora of what it contends is deceptive past advertising and described, in detail, why it is deceptive. *See* Complaint Counsel’s Motion for Summary Decision. Past advertising is particularly probative in an adjudicative proceeding pending before the Commission which was occasioned when a “corporation *has been* or is using any ... deceptive act or practice in or affecting commerce.” 15 U.S.C. § 45(b) (emphasis added). Moreover, to the extent Intuit has identified its current advertising, Complaint Counsel included it in its response to Interrogatory 1. *See* MTC Ex. B at 8 (referring to RX 5, 9, and 10, which Intuit has presented as “current” advertising, at least as of late August 2022. *See* Declaration of Cathleen Ryan in Support of Intuit Inc.’s Opposition to Complaint Counsel’s Motion for Summary Decision, at ¶¶ 36, 42, 44). Complaint Counsel is seeking other current responsive advertising in discovery.

2011) (quoting Fed. R. Civ. P. 26(b)(3)) (“[T]he court shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation.”). Work product must only be disclosed where the party seeking such materials “has substantial need of the materials in the preparation of its case and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means.” 16 C.F.R. 3.31(c)(5); *see also In re Aspen Technology Inc.*, 2003 FTC LEXIS 195, \*4 (F.T.C. December 23, 2003). Intuit has not established any “substantial need” that justifies requiring Complaint Counsel to conduct and disclose legal analysis in this way.

#### V. Conclusion

For the foregoing reasons Intuit’s Motion to Compel should be denied.

Respectfully submitted,

Dated: October 26, 2022

/s/ Rebecca Plett

**Roberto Anguizola**, IL Bar No. 6270874

**Rebecca Plett**, VA Bar No. 90988

**James Evans**, VA Bar No. 83866

**Sara Tonnesen**, MD Bar No. 1312190241

Federal Trade Commission

600 Pennsylvania Ave., NW, CC-6316

Washington, DC 20580

(202) 326-3284 / [ranguizola@ftc.gov](mailto:ranguizola@ftc.gov)

(202) 326-3664 / [rplett@ftc.gov](mailto:rplett@ftc.gov)

(202) 326-2026 / [james.evans@ftc.gov](mailto:james.evans@ftc.gov)

(202) 326-2879 / [stonnesen@ftc.gov](mailto:stonnesen@ftc.gov)

**Counsel Supporting the Complaint**  
**Federal Trade Commission**



## CERTIFICATE OF SERVICE

I hereby certify that on October 26, 2022, I electronically filed the foregoing Complaint Counsel's Opposition to Intuit Inc.'s Motion to Compel electronically using the FTC's E-Filing system, which will send notification of such filing to:

April Tabor  
Office of the Secretary  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Suite CC-5610  
Washington, DC 20580  
ElectronicFilings@ftc.gov

*Secretary of the Commission  
Clerk of the Court*

Hon. D. Michael Chappell  
Chief Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Suite H-110  
Washington, DC 20580

*Administrative Law Judge*

I further certify that on October 26, 2022, I caused the foregoing document to be served via email on:

David Z. Gringer  
Phoebe Silos  
Charles Bridge  
Eleanor Davis  
Wilmer Cutler Pickering Hale & Dorr LLP  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
David.Gringer@wilmerhale.com  
Phoebe.Silos@wilmerhale.com  
Charles.Bridge@wilmerhale.com  
Eleanor.Davis@wilmerhale.com  
(212) 230-8800

Shelby Martin  
Wilmer Cutler Pickering Hale & Dorr LLP  
1225 Seventeenth Street, Suite 2600  
Denver, CO 80202  
Shelby.Martin@wilmerhale.com  
(720) 274-3135

Katherine Mackey  
Wilmer Cutler Pickering Hale & Dorr LLP  
60 State Street  
Boston, MA 02109  
Katherine.Mackey@wilmerhale.com  
(617) 526-6000

Jonathan E. Paikin  
Jennifer Milici  
Derek A. Woodman  
Vinecia Perkins  
Andres Salinas  
Spencer Todd  
Jocelyn Berteaud  
Benjamin Chapin  
Margaret (Molly) Dillaway  
Reade Jacob  
Wilmer Cutler Pickering Hale & Dorr LLP  
1875 Pennsylvania Avenue NW  
Washington, DC 20006  
Jonathan.Paikin@wilmerhale.com  
Jennifer.Milici@wilmerhale.com  
Derek.Woodman@wilmerhale.com  
Vinecia.Perkins@wilmerhale.com  
Andres.Salinas@wilmerhale.com  
Spencer.Todd@wilmerhale.com  
Joss.Berteaud@wilmerhale.com  
Benjamin.Chapin@wilmerhale.com  
Molly.Dillaway@wilmerhale.com  
Reade.Jacob@wilmerhale.com  
(202) 663-6000

*Attorneys for Respondent, Intuit Inc.*

/s/ Rebecca Plett  
Rebecca Plett

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

In the matter of:

**Intuit Inc.,**  
a corporation,  
  
Respondent.

Docket No. 9408

**DECLARATION OF REBECCA PLETT IN SUPPORT OF COMPLAINT  
COUNSEL'S OPPOSITION TO INTUIT INC.'S MOTION TO COMPEL  
CONCERNING COMPLAINT COUNSEL'S RESPONSES TO INTUIT'S  
FIRST SET OF INTERROGATORIES**

I, Rebecca Plett, have personal knowledge of the facts and matters set forth below. If called as a witness, I could and would testify as follows:

1. I am one of the counsel supporting the Complaint in In re Intuit Inc., Docket No. 9408, an adjudicative proceeding pending before the Federal Trade Commission.
2. I am over twenty-one years old and am a citizen of the United States. I am a member in good standing of the Virginia State Bar (Bar No. 90988). My business address is 600 Pennsylvania Avenue, NW, Mailstop CC-6316, Washington, DC 20580.
3. I submit this declaration in support of Complaint Counsel's Opposition to Intuit Inc.'s Motion to Compel Concerning Responses to Intuit's First Set of Interrogatories.
4. On April 21, 2022, Complaint Counsel served its initial disclosures on Intuit Inc. These initial disclosures included over 600 documents related to consumer complaints.
5. On September 12, 2022, Complaint Counsel served Intuit with Complaint Counsel's First Set of Requests for Production of Documents. A true and correct copy of that document is attached as Exhibit A.

6. On September 14, 2022, pursuant to its obligation to supplement initial disclosures, Complaint Counsel served Intuit with complaints from 228 consumers that are relevant to this matter.

7. On September 19, 2022, Complaint Counsel supplemented its initial disclosures and provided Intuit with complaints from an additional 161 consumers relevant to this matter.

8. In nearly every instance, the complaints provided, as discussed in the two preceding paragraphs, included a complaint narrative, in the consumer's words, describing their experience or complaint about Intuit and/or TurboTax.

9. On October 13, 2022, Complaint Counsel produced 1,247 non-privileged, responsive documents to Intuit. These documents reflect most of Complaint Counsel's non-privileged communications with third parties, including with consumers.

10. On October 14, 2022, Complaint Counsel served Intuit with its Second Set of Requests for Production of Documents. A true and correct copy of that document is attached as Exhibit B.

11. On October 14, 2022, Complaint Counsel served Intuit with its First Set of Interrogatories. A true and correct copy of that document is attached as Exhibit C.

12. On October 14, 2022, Complaint Counsel served subpoenas duces tecum on four of the advertising agencies that Complaint Counsel understands have performed work for Intuit related to its advertising. Among other things, the subpoenas seek "a copy of each materially different Advertisement for TurboTax that the Company played a role in disseminating, developing, creating, executing, evaluating, testing, or approving."

13. On September 1, 2022, counsel for Intuit provided Complaint Counsel with copies of subpoenas to 42 consumers for deposition testimony, trial testimony, and the production of documents

14. October 7, 2022, counsel for Intuit provided Complaint Counsel with copies of subpoenas to an additional 24 third-party consumers.

15. On October 17, counsel for Intuit provided Complaint Counsel with copies of 317 subpoenas duces tecum it issued to consumers. Among other things, the subpoenas seek “DOCUMENTS sufficient to show the amount of time YOU spent visiting the TURBOTAX WEBSITE from January 2015 to present” and “All DOCUMENTS sufficient to show all ADVERTISEMENTS that YOU have seen OR received from ANY online tax preparation companies from January 2015 to present.”

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

Dated: October 26, 2022  
Durham, North Carolina

/s/ Rebecca Plett

**Roberto Anguizola**, IL Bar No. 6270874

**Rebecca Plett**, VA Bar No. 90988

**James Evans**, VA Bar No. 83866

**Sara Tonnesen**, MD Bar No. 1312190241

Federal Trade Commission

600 Pennsylvania Ave., NW, CC-6316

Washington, DC 20580

(202) 326-3284 / [ranguizola@ftc.gov](mailto:ranguizola@ftc.gov)

(202) 326-3664 / [rplett@ftc.gov](mailto:rplett@ftc.gov)

(202) 326-2026 / [james.evans@ftc.gov](mailto:james.evans@ftc.gov)

(202) 326-2879 / [stonnesen@ftc.gov](mailto:stonnesen@ftc.gov)

**Counsel Supporting the Complaint  
Federal Trade Commission**

# Exhibit A

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

**In the Matter of:**

**Intuit Inc.,** a corporation.

**Docket No. 9408**

**COMPLAINT COUNSEL'S FIRST REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO INTUIT INC.**

Pursuant to Rule 3.37 of the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings, Complaint Counsel requests that Respondent Intuit Inc. ("Intuit") produce the items and documents specified below.

**INSTRUCTIONS**

1. **Response; objections: Within 21 days of service** of this request, you are required to: (1) confer about the format for the production of electronically stored information; and (2) serve a written response to this request on Complaint Counsel stating, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for the objection shall be stated. If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The response may state an objection to a requested form for producing electronically stored information. If you object to a requested form - or if no form was specified in the request - you must state the form you intend to use. Within five days of serving your objections, if any, to this request you shall meet and confer with Complaint Counsel to attempt to resolve such disputes.

2. **Time, Place, and Manner for Production:** Electronic copies of the items requested below are to be produced by **Tuesday, October 11, 2022**, by transmitting them to Complaint Counsel via secure file transfer. When you are ready to transmit the items requested below, please email Complaint Counsel at: [ranguizola@ftc.gov](mailto:ranguizola@ftc.gov); [jevans1@ftc.gov](mailto:jevans1@ftc.gov); and [rplett@ftc.gov](mailto:rplett@ftc.gov), and we will send you an invitation to transmit the items via the FTC secure file transfer system. All items requested must be produced as they were kept in the usual course of business or must be organized and labeled to correspond to the categories in this request. If production of the requested items at the time, place, and manner set forth above is not possible, please contact Complaint Counsel Roberto Anguizola at (202) 326-3284, James Evans at (202) 326-2026, or Rebecca Plett at (202) 326-3664, **no later than Friday, October 7,**

2022, to discuss an alternate time, place, or manner for production of the requested items.

3. **Applicable Time Period:** Unless otherwise specified, the time period covered by each request below shall be from November 1, 2020, through the date of your complete compliance with these requests. Documents originating before this period but referring or relating to actions or conduct within the period should be included in your production response(s). If after the date of production, you become aware of additional responsive documents, you should produce those documents to Complaint Counsel.

4. If any documents responsive to a document request have been previously produced to the Commission during the course of its investigation, *In re Intuit* Matter No. 1923119, you shall identify the document(s) previously provided and the date of submission instead of re-submitting the document(s). Identification shall be by Bates number if the documents were so numbered when submitted, or by author, date, and subject matter if not so numbered, and shall specify to which request(s) they are responsive. Documents that may be responsive to more than one request need not be submitted more than once; however, your response shall indicate, for each document submitted, each document request to which the document is responsive.

5. A complete copy of each document should be submitted even if only a portion of the document is within the terms of the document request. The document shall not be edited, cut, or expunged and shall include all covering letters and memoranda, transmittal slips, appendices, tables, or other attachments.

6. If any of the responsive documents are in the form of ESI, please produce these documents in their existing, native formats.

7. If any requested material is withheld based on a claim of privilege, submit, together with such claim, a schedule of items withheld that states individually for each item withheld: (a) the nature of the document; (b) the identity of the person who created the document; (c) the identity of the person to whom the document was directed; (d) the subject matter of the document; (e) the date of the document; (f) the identity of all parties who executed the document; (g) the nature of the privilege which you claim; and (h) the custodian of the document.

8. As used herein, the singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun

so used, and vice versa; the use of the masculine form of a pronoun shall be considered to include also within its meaning the feminine form of the pronoun so used, and vice versa; the use of any tense of any verb shall be considered to include within its meaning all other tenses of the verb so used; and the use of “and” shall be considered to include “or,” and vice versa.

## DEFINITIONS

Notwithstanding any definition below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Federal Trade Commission’s Rules of Practice.

1. “**Advertisement**” or “**Advertising**” or “**Ad**” means any written or verbal statement, illustration, or depiction that promotes the sale or use of a good or service or is designed to increase consumer interest in a brand, good, or service. Advertising media covered by this definition includes but is not limited to: packaging and labeling; promotional materials; print, including direct mail; television, including short form TV ads and infomercials; radio; video advertisements, including YouTube ads and ads disseminated through streaming services, and internet, social media, and other digital content, including banner advertisements and web pages, mobile networks and applications.

2. “**Any**” shall be construed to include the word “**all**,” and the word “**all**” shall be construed to include the word “**any**.”

3. “**Company**,” “**You**,” or “**Your**” means **Intuit Inc.**, its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all directors, officers, members, employees, agents, consultants, and other persons working for or on behalf of the foregoing.

4. “**Document**” or “**Documents**” are synonymous in meaning and equal in scope to the usage of the terms as defined by 16 C.F.R. 3.34(b), and includes, without limitation, the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including, but not limited to, any advertisement, book, pamphlet, periodical, contract, correspondence, communication, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, journal, agenda, minute, code book, or label. “Document” shall also include electronically stored information (“ESI”). ESI means



the complete original and any nonidentical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any electronically created or stored information, including, but not limited to, electronic mail, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and sound recordings, whether stored on cards, magnetic or electronic tapes, disks, computer files, computer or other drives, cell phones, Blackberry, PDA, or other storage media, and such technical assistance or instructions as will enable conversion of such ESI into a reasonably usable form.

5. “**Each**” shall be construed to include “**every**,” and “**every**” shall be construed to include “**each**.”

6. “**Relating to**” or “**Regarding**” means discussing, describing, reflecting, referring, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

7. “**TurboTax**” means any income tax preparation product or service offered by Intuit using the TurboTax brand or mark.

## DOCUMENTS REQUESTED

Produce the following Documents:

1. A copy of each unique TurboTax advertisement that uses or used any of the following words: “free,” “zero,” “\$0,” “no cost,” or “gratis.”

2. All documents relating to any aspect of the creation, development, approval, modification, execution, or evaluation of any advertisement responsive to Request for Production 1, including client briefs, creative briefs, research analyses, point of views, story boards, call reports, meeting reports, or other contact reports.

3. All documents relating to the advertising and marketing strategy associated with any advertisement responsive to Request for Production 1.

4. All documents relating to data on, or analysis of, consumer perception, comprehension, or recall (including copy tests, focus groups, marketing or consumer surveys and reports, penetration tests, recall tests, audience reaction tests, a/b tests, multivariate tests, and communication tests) of any advertisement responsive to Request for Production 1.

5. All documents, without regard to the applicable time period, relating to the TurboTax “Power of Free” advertising campaign.

6. All documents, without regard to the applicable time period, relating to TurboTax Super Bowl advertisements that used any of the following words: “free,” “zero,” “\$0,” “no cost,” or “gratis.”

7. All documents relating to the creation, content, placement, use, approval, modification, or rejection of any disclaimers or disclosures used in any advertisement responsive to Requests for Production 1.

8. For any advertisement responsive Request for Production 1, documents sufficient to show the beginning and ending dates of dissemination, audience size, and the times and locations the ads were disseminated.

9. For print ads responsive Request for Production 1, produce documents sufficient to show every publication in which the ads were disseminated.

10. For video, television and radio ads responsive Request for Production 1, documents sufficient to show every network, system, streaming service, or station in which the ads were disseminated.

11. For internet ads responsive Request for Production 1, documents sufficient to show the platform used (e.g., mobile, desktop); its successfulness in driving traffic to the TurboTax website (e.g., click-through rates per ad, keyword or campaign; traffic and cost statistic per ad, keyword or campaign; impressions; quality scores; cross device conversion rates); and the URL of the landing page each advertisement directed the consumer to.

12. For any advertisement responsive Request for Production 1, documents sufficient to identify the cost of each advertisement.

13. For any advertisement responsive Request for Production 1, documents sufficient to identify the revenue directly or indirectly derived from each advertisement.

14. Documents relating to the return on investment (ROI) or monetization of TurboTax advertisements that use or used any of the following words: “free,” “zero,” “\$0,” “no cost,” or “gratis” or customers acquired by the company through such ads.

15. All documents regarding the use of the phrase “simple U.S. tax returns” in TurboTax advertisements, including on websites.

16. Copies of all materially different consumer-facing popups or websites describing Intuit’s eligibility restrictions for using a TurboTax product or service for free.

17. Copies of all materially different websites that include the terms “for simple U.S. returns only,” “for simple returns,” “simple tax returns,” or “see why it’s free.”

18. All documents relating to data on, or analysis of, consumer perception, comprehension, or recall (including copy tests, focus groups, marketing or consumer surveys and reports, penetration tests, recall tests, audience reaction tests, a/b tests, multivariate tests, and communication tests) about the cost of TurboTax products or services.

19. All documents related to complaints or negative feedback from consumers or potential consumers who expected to file their taxes for free using TurboTax but were not eligible to do so.

20. All documents related to employee complaints or negative employee feedback regarding the TurboTax advertisements that use the terms “free,” “zero,” “\$0,” “no cost,” or “gratis.”

21. Documents sufficient to show each different customer service script or frequently asked questions (FAQs) used by the company to communicate with consumers or potential consumers who expected to file their taxes for free using TurboTax but were not eligible to do so, and the time period during which each script or FAQ was used.

22. All data pertaining to customers and potential customers who interacted with a free TurboTax offer or product or service, as contained in your customer relationship management database (“CRM”), or any database(s) used to maintain customer and potential customer information, feedback, complaints and/or sales.

23. The schema for any CRM or other database containing the data requested in Request for Production 22, including tables, fields, and relationships between tables and fields used in those databases.

24. Data related to negative consumer feedback or complaints about free offers pertaining to TurboTax, including data that is not captured in your CRM.

25. All documents related to any arbitration filed against Intuit related to free offers pertaining to TurboTax.

Dated: September 12, 2022

Respectfully submitted,

s/Rebecca Plett  
Roberto Anguizola  
Rebecca Plett  
James Evans

Complaint Counsel  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Telephone: 202-326-3664  
Email: rplett@ftc.gov

## CERTIFICATE OF SERVICE

This is to certify that on September 12, 2022, I caused the foregoing Complaint Counsel's First Requests for Production of Documents to Intuit Inc., to be served via email on:

David Z. Gringer  
 Phoebe Silos  
 Charles Bridge  
 Eleanor Davis  
 Wilmer Cutler Pickering Hale & Dorr  
 LLP  
 7 World Trade Center  
 250 Greenwich Street  
 New York, NY 10007  
 David.Gringer@wilmerhale.com  
 Phoebe.Silos@wilmerhale.com  
 Charles.Bridge@wilmerhale.com  
 Eleanor.Davis@wilmerhale.com  
 (212) 230-8800

Shelby Martin  
 Wilmer Cutler Pickering Hale & Dorr  
 LLP  
 1225 Seventeenth Street, Suite 2600  
 Denver, CO 80202  
 Shelby.Martin@wilmerhale.com  
 (720) 274-3135

Katherine Mackey  
 Wilmer Cutler Pickering Hale & Dorr  
 LLP  
 60 State Street  
 Boston, MA 02109  
 Katherine.Mackey@wilmerhale.com  
 (617) 526-6000

Jonathan E. Paikin  
 Jennifer Milici  
 Derek A. Woodman  
 Vinecia Perkins  
 Andres Salinas  
 Spencer Todd  
 Jocelyn Berteaud  
 Benjamin Chapin  
 Margaret (Molly) Dillaway  
 Reade Jacob  
 Wilmer Cutler Pickering Hale & Dorr  
 LLP  
 1875 Pennsylvania Avenue NW  
 Washington, DC 20006  
 Jonathan.Paikin@wilmerhale.com  
 Jennifer.Milici@wilmerhale.com  
 Derek.Woodman@wilmerhale.com  
 Vinecia.Perkins@wilmerhale.com  
 Andres.Salinas@wilmerhale.com  
 Spencer.Todd@wilmerhale.com  
 Joss.Berteaud@wilmerhale.com  
 Benjamin.Chapin@wilmerhale.com  
 Molly.Dillaway@wilmerhale.com  
 Reade.Jacob@wilmerhale.com  
 (202) 663-6000

*Attorneys for Respondent, Intuit Inc.*

          /s/ Rebecca Plett  
 Rebecca Plett

# Exhibit B

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

**In the Matter of:**

**Intuit Inc.,** a corporation.

**Docket No. 9408**

**COMPLAINT COUNSEL'S SECOND SET OF REQUESTS FOR  
PRODUCTION OF DOCUMENTS TO INTUIT INC.**

Pursuant to Rule 3.37 of the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings, Complaint Counsel requests that Respondent Intuit Inc. ("Intuit") produce the items and documents specified below.

**INSTRUCTIONS**

1. **Response; objections: Within 21 days of service** of this request, you are required to: (1) confer about the format for the production of electronically stored information; and (2) serve a written response to this request on Complaint Counsel stating, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for the objection shall be stated. If objection is made to part of an item or category, the part shall be specified and inspection permitted of the remaining parts. The response may state an objection to a requested form for producing electronically stored information. If you object to a requested form - or if no form was specified in the request - you must state the form you intend to use. Within five days of serving your objections, if any, to this request you shall meet and confer with Complaint Counsel to attempt to resolve such disputes.

2. **Time, Place, and Manner for Production:** Electronic copies of the items requested below are to be produced by **Monday, November 14, 2022**, by transmitting them to Complaint Counsel via secure file transfer. When you are ready to transmit the items requested below, please email Complaint Counsel at: [ranguizola@ftc.gov](mailto:ranguizola@ftc.gov); [jevans1@ftc.gov](mailto:jevans1@ftc.gov); and [rplett@ftc.gov](mailto:rplett@ftc.gov), and we will send you an invitation to transmit the items via the FTC secure file transfer system. All items requested must be produced as they were kept in the usual course of business or must be organized and labeled to correspond to the categories in this request. If production of the requested items at the time, place, and manner set forth above is not possible, please contact Complaint Counsel Roberto Anguizola at (202) 326-3284, James Evans at (202) 326-2026, or Rebecca Plett at (202) 326-3664, **no later than**

**Thursday, November 10, 2022**, to discuss an alternate time, place, or manner for production of the requested items.

3. **Applicable Time Period:** Unless otherwise specified, the time period covered by each request below shall be from November 1, 2020, through the date of your complete compliance with these requests. Documents originating before this period but referring or relating to actions or conduct within the period should be included in your production response(s). If after the date of production, you become aware of additional responsive documents, you should produce those documents to Complaint Counsel.

4. If any documents responsive to a document request have been previously produced to the Commission during the course of its investigation, *In re Intuit* Matter No. 1923119, you shall identify the document(s) previously provided and the date of submission instead of re-submitting the document(s). Identification shall be by Bates number if the documents were so numbered when submitted, or by author, date, and subject matter if not so numbered, and shall specify to which request(s) they are responsive. Documents that may be responsive to more than one request need not be submitted more than once; however, your response shall indicate, for each document submitted, each document request to which the document is responsive.

5. A complete copy of each document should be submitted even if only a portion of the document is within the terms of the document request. The document shall not be edited, cut, or expunged and shall include all covering letters and memoranda, transmittal slips, appendices, tables, or other attachments.

6. If any of the responsive documents are in the form of ESI, please produce these documents in their existing, native formats.

7. If any requested material is withheld based on a claim of privilege, submit, together with such claim, a schedule of items withheld that states individually for each item withheld: (a) the nature of the document; (b) the identity of the person who created the document; (c) the identity of the person to whom the document was directed; (d) the subject matter of the document; (e) the date of the document; (f) the identity of all parties who executed the document; (g) the nature of the privilege which you claim; and (h) the custodian of the document.

8. As used herein, the singular form of a noun or pronoun shall be considered to include within its meaning the plural form of the noun or pronoun



so used, and vice versa; the use of the masculine form of a pronoun shall be considered to include also within its meaning the feminine form of the pronoun so used, and vice versa; the use of any tense of any verb shall be considered to include within its meaning all other tenses of the verb so used; and the use of “and” shall be considered to include “or,” and vice versa.

## DEFINITIONS

Notwithstanding any definition below, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Federal Trade Commission’s Rules of Practice.

1. “**Any**” shall be construed to include the word “**all**,” and the word “**all**” shall be construed to include the word “**any**.”

2. “**Company**,” “**You**,” or “**Your**” means **Intuit Inc.**, its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all directors, officers, members, employees, agents, consultants, and other persons working for or on behalf of the foregoing.

3. “**Document**” or “**Documents**” are synonymous in meaning and equal in scope to the usage of the terms as defined by 16 C.F.R. 3.34(b), and includes, without limitation, the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including, but not limited to, any advertisement, book, pamphlet, periodical, contract, correspondence, communication, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, journal, agenda, minute, code book, or label. “Document” shall also include electronically stored information (“ESI”). ESI means the complete original and any nonidentical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any electronically created or stored information, including, but not limited to, electronic mail, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and sound recordings, whether stored on cards, magnetic or electronic tapes, disks, computer files, computer or other drives, cell phones, smart phones, or other storage media, and such technical assistance or instructions as will enable conversion of such ESI into a reasonably usable form.

4. “**Each**” shall be construed to include “**every**,” and “**every**” shall be construed to include “**each**.”

5. “**Free TurboTax**” means any TurboTax product or service offered for free, including TurboTax Free Edition, excluding products or services offered pursuant to the Free File program.

6. “**Relating to**” or “**Regarding**” means discussing, describing, reflecting, referring, containing, analyzing, studying, reporting, commenting, evidencing, constituting, setting forth, considering, recommending, concerning, or pertaining to, in whole or in part.

7. “**TurboTax**” means any online income tax preparation product or service offered by Intuit using the TurboTax brand or mark.

### DOCUMENTS REQUESTED

Produce the following Documents:

26. All documents consulted, relied upon, or cited in drafting the Declaration of Rebecca Kirk Fair, filed in support of Intuit Inc.’s Opposition to Plaintiff’s Emergency Motion for Temporary Restraining Order and Preliminary Injunction in FTC v. Intuit Inc., No. 3:22-cv-01973-CRB (N.D. Cal.).

27. All documents consulted, relied upon, or cited in drafting the Declaration of John Hauser filed in support of Intuit Inc.’s Opposition to Plaintiff’s Emergency Motion for Temporary Restraining Order and Preliminary Injunction in FTC v. Intuit Inc., No. 3:22-cv-01973-CRB (N.D. Cal.).

28. All documents consulted, relied upon, or cited in drafting the Declaration of Peter Golder filed in support of Intuit Inc.’s Opposition to Plaintiff’s Emergency Motion for Temporary Restraining Order and Preliminary Injunction in FTC v. Intuit Inc., No. 3:22-cv-01973-CRB (N.D. Cal.).

29. All documents consulted, relied upon, or cited in drafting the Declaration of Rebecca Kirk Fair, filed in support of Intuit Inc.’s Opposition to Complaint Counsel’s Motion for Summary Decision.

30. All documents consulted, relied upon, or cited in drafting the Declaration of Professor John Hauser, filed in support of Intuit Inc.’s Opposition to Complaint Counsel’s Motion for Summary Decision.

31. All documents consulted, relied upon, or cited in drafting the Declaration of Professor Peter Golder, filed in support of Intuit Inc.'s Opposition to Complaint Counsel's Motion for Summary Decision.

32. All documents reflecting or discussing the income, revenues, profits, and return on investment generated or derived from Free TurboTax, including the return on investment for or value of customers using Free TurboTax, and customers who start preparing their taxes in Free TurboTax but pay Intuit for services.

33. All documents reflecting or discussing the amount of money spent by Intuit advertising and marketing Free TurboTax.

34. All documents reflecting or discussing the specific amount of money spent by Intuit on each advertisement identified in response to Interrogatory 1 and produced in response to Request for Production 1.

Dated: October 14, 2022

Respectfully submitted,

s/Rebecca Plett  
Roberto Anguizola  
Rebecca Plett  
James Evans

Complaint Counsel  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Telephone: 202-326-3664  
Email: rplett@ftc.gov

**CERTIFICATE OF SERVICE**

This is to certify that on October 14, 2022, I caused the foregoing Complaint Counsel's Second Set of Requests for Production of Documents to Intuit Inc., to be served via email on:

David Z. Gringer  
Phoebe Silos  
Charles Bridge  
Eleanor Davis  
Wilmer Cutler Pickering Hale & Dorr  
LLP  
7 World Trade Center  
250 Greenwich Street  
New York, NY 10007  
David.Gringer@wilmerhale.com  
Phoebe.Silos@wilmerhale.com  
Charles.Bridge@wilmerhale.com  
Eleanor.Davis@wilmerhale.com  
(212) 230-8800

Shelby Martin  
Wilmer Cutler Pickering Hale & Dorr  
LLP  
1225 Seventeenth Street, Suite 2600  
Denver, CO 80202  
Shelby.Martin@wilmerhale.com  
(720) 274-3135

Katherine Mackey  
Wilmer Cutler Pickering Hale & Dorr  
LLP  
60 State Street  
Boston, MA 02109  
Katherine.Mackey@wilmerhale.com  
(617) 526-6000

Jonathan E. Paikin  
Jennifer Milici  
Derek A. Woodman  
Vinecia Perkins  
Andres Salinas  
Spencer Todd  
Jocelyn Berteaud  
Benjamin Chapin  
Margaret (Molly) Dillaway  
Reade Jacob  
Wilmer Cutler Pickering Hale & Dorr  
LLP  
1875 Pennsylvania Avenue NW  
Washington, DC 20006  
Jonathan.Paikin@wilmerhale.com  
Jennifer.Milici@wilmerhale.com  
Derek.Woodman@wilmerhale.com  
Vinecia.Perkins@wilmerhale.com  
Andres.Salinas@wilmerhale.com  
Spencer.Todd@wilmerhale.com  
Joss.Berteaud@wilmerhale.com  
Benjamin.Chapin@wilmerhale.com  
Molly.Dillaway@wilmerhale.com  
Reade.Jacob@wilmerhale.com  
(202) 663-6000

*Attorneys for Respondent, Intuit Inc.*

/s/ Rebecca Plett  
Rebecca Plett

# Exhibit C

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

**In the Matter of:**

**Intuit Inc.,** a corporation.

**Docket No. 9408**

**COMPLAINT COUNSEL'S FIRST SET OF INTERROGATORIES TO INTUIT  
INC.**

Pursuant to Rule 3.35 of the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings and the Scheduling Order, Complaint Counsel requests that Respondent Intuit Inc. ("Intuit") respond to these Interrogatories within 30 days and furnish the requested information to Complaint Counsel via email to Roberto Anguizola (ranguizola@ftc.gov), Rebecca Plett (rplett@ftc.gov) and James Evans (james.evans@ftc.gov), or at such time and place as may be agreed upon by all counsel.

**INSTRUCTIONS**

1. Unless otherwise specified, the time period covered by an Interrogatory shall be from November 1, 2020 to through the date of Your completion of these Interrogatories.
2. Each Interrogatory should be set forth in full preceding the answer to it and should be answered separately and fully in writing, under oath.
3. All answers shall be served within 30 days after service of these Interrogatories.
4. These Interrogatories seek information that is in Your knowledge or possession, or under Your actual or constructive custody or control, whether or not such information is located in the files of, or possessed by Your individual officers, directors or employees, and whether or not such information is received from or disseminated to any other person or entity including attorneys, accountants, directors, officers, employees, independent contractors, or volunteers.
5. To the extent that an Interrogatory may be answered by referencing a document, it is permissible to attach the document as an exhibit to the answer

and refer to the document in the answer.

6. Where an Interrogatory requests an answer or portion of an answer that already has been supplied in response to another Interrogatory, the answer or portion of the answer need not be supplied a second time. It is sufficient to specify the responses that contain the answer, and supply any additional information necessary to answer the Interrogatory.

7. All objections to any Interrogatory must be raised in your initial response and are otherwise waived.

8. If you object to any Interrogatory or a part of any Interrogatory, state the Interrogatory or part to which you object, state the exact nature of the objection, and describe in detail the facts upon which you base your objection. If any Interrogatory cannot be answered in full, it shall be answered to the fullest extent possible and the reasons for the inability to answer fully shall be provided. If you object to any Interrogatory on the grounds of relevance or overbreadth, you shall provide all responsive information that is concededly relevant to the parties' claims or defenses or the requested relief. For each Interrogatory that cannot be answered in full, you shall describe the efforts made to locate information needed for such answer.

9. If any Documents are not identified in response to an Interrogatory on grounds of privilege, submit together with such claim a schedule of the items withheld which states individually for each item withheld: (a) the nature of the Document; (b) the Identity of the Person who created the Document; (c) the Identity of the Person to whom the Document was directed; (d) the subject matter of the Document; (e) the date of the Document; (f) the Identity of all Parties who executed the Document; (g) the nature of the privilege which You claim; and (h) the custodian of the Document.

10. You are hereby advised that Complaint Counsel will move, if any party files any dispositive motion, or at the commencement of trial, to preclude you from presenting evidence regarding responsive matters you have failed to set forth in your answers to these Interrogatories.

## DEFINITIONS

Notwithstanding any definition below, each word, term, or phrase used in these Requests is intended to have the broadest meaning permitted under the Federal Trade Commission's Rules of Practice.

1. “**Advertisement**” or “**Advertising**” or “**Ad**” means any written or verbal statement, illustration, or depiction that promotes the sale or use of a good or service or is designed to increase consumer interest in a brand, good, or service. Advertising media includes, but is not limited to: promotional materials; print, including direct mail; television, including short form TV Ads and infomercials; radio; and Internet, social media, and other digital content, including banner Advertisements and web pages, mobile networks and applications.

2. “**Any**” shall be construed to include the word “**all**,” and the word “**all**” shall be construed to include the word “**any**.”

3. “**Company**,” “**You**,” or “**Your**” means **Intuit Inc.**, its wholly or partially owned subsidiaries, unincorporated divisions, joint ventures, operations under assumed names, and affiliates, and all directors, officers, members, employees, agents, consultants, and other persons working for or on behalf of the foregoing.

4. “**Document**” or “**Documents**” are synonymous in meaning and equal in scope to the usage of the terms as defined by 16 C.F.R. 3.34(b), and includes, without limitation, the complete original and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any written, typed, printed, transcribed, filmed, punched, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated or made, including, but not limited to, any advertisement, book, pamphlet, periodical, contract, correspondence, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, journal, agenda, minute, code book, or label. “Document” shall also include electronically stored information (“ESI”). ESI means the complete original and any nonidentical copy (whether different from the original because of notations, different metadata, or otherwise), regardless of origin or location, of any electronically created or stored information, including, but not limited to, electronic mail, instant messaging, videoconferencing, and other electronic correspondence (whether active, archived, or in a deleted items folder), word processing files, spreadsheets, databases, and sound recordings, whether stored on cards, magnetic or electronic tapes, disks, computer files, computer or other drives, cell phones, smart phones, or other storage media, and such technical assistance or instructions as will enable conversion of such ESI into a reasonably usable form.

5. “**Each**” shall be construed to include “**every**,” and “**every**” shall be construed to include “**each**.”



6. “**Free TurboTax**” means any TurboTax product or service offered for free, including TurboTax Free Edition, excluding products or services offered pursuant to the Free File program.

7. “**Funnel**” means the TurboTax Online Funnel, for example as depicted in RX 52 at 4.

8. “**Hard Stop**” means the screen(s) shown to consumers in the Free TurboTax when consumers indicated that they have a tax situation not covered by the Free TurboTax and prompting such consumers to upgrade to paid TurboTax.

9. “**Identify**” or “**the Identity of**” requires identification of (a) natural persons by name, title, present business affiliation, present business address, telephone number, and email address or, if a present business affiliation or present business address is not known, the last known business and home addresses; and (b) businesses or other organizations by name, address, and the identities of Your contact persons at the business or organization.

10. “**Person**” or “**Persons**” means all natural persons, corporations, partnerships or other business associations, and all other legal entities, including all members, officers, predecessors, assigns, divisions, affiliates, and subsidiaries.

11. “**Tax Year**” means the year-long period at the end of and immediately after a given calendar year when tax returns for that given calendar year are filed.

12. “**Third Parties**” means vendors, contractors, consultants, or other Persons not considered by Intuit to be Intuit employees.

13. “**TurboTax**” means any online income tax preparation product or service offered by Intuit using the TurboTax brand or mark.

## INTERROGATORIES

1. Identify each materially different Advertisement for TurboTax that includes the terms “free” “zero” “\$0” or “no cost” and for each such Advertisement state:

- (a) The type of Advertisement (e.g., television Advertisement, social media Advertisement, paid search, print, radio, video, email campaign, direct mail campaign, etc.);
- (b) The dates, times, and locations the Advertisement was disseminated;
- (c) The channels through which the Advertisement was disseminated (e.g. by name, the television stations, social media platforms, video sharing platforms; search engines; publications etc.);
- (d) The number of times the Advertisement was circulated, aired, served, shown, and/or viewed;
- (e) The cost to Intuit for such Advertisement; and
- (f) The revenue generated by or derived from such Advertisement, including estimates if actual revenue is not known.

2. For each Advertisement identified in response to Interrogatory 1, Identify Third Parties involved in the dissemination, development, creation, execution, evaluation, approval, or testing of such Advertisement and identify, by Tax Year, how much Intuit paid to such third parties.

3. By Tax Year, Intuit’s total expenditures on Advertisements.

4. For each hyperlinked pop-up screen that provided information about the eligibility limitations of any Free TurboTax state, by Tax Year and placement on Intuit’s websites:

- (a) the number of times it was served or shown;
- (b) the number of clicks;
- (c) the click-rate; and
- (d) the click-through rate (“CTR”).

5. By Tax Year, for each stage of the Funnel, state the rate at which consumers abandon TurboTax.

6. For each Hard Stop, state the tax situation that would have prompted Intuit to display the Hard Stop to consumers.

7. By Tax Year and Hard Stop, state how much time, on average, consumers spent using Free TurboTax prior to being shown a Hard Stop.

8. By Tax Year, of consumers who started preparing their tax returns in Free TurboTax, state how many:

- (a) Were shown a Hard Stop, broken out by the Hard Stop;
- (b) After being shown a Hard Stop, subsequently filed a tax return using a paid TurboTax product or service, broken out by Hard Stop;
- (c) Were shown a Hard Stop and filed a tax return using Free TurboTax, broken out by Hard Stop;
- (d) Were shown a Hard Stop and did not file a tax return using any TurboTax product or service; and
- (e) The amount consumers Identified in 8(b) paid Intuit to file their taxes.

Dated: October 14, 2022

Respectfully submitted,

s/Rebecca Plett  
Roberto Anguizola  
Rebecca Plett  
James Evans

Complaint Counsel  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Telephone: 202-326-3664  
Email: rplett@ftc.gov

## CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2022, I caused the foregoing Complaint

Counsel's First Set of Interrogatories, to be served via email on:

David Z. Gringer  
 Phoebe Silos  
 Charles Bridge  
 Eleanor Davis  
 Wilmer Cutler Pickering Hale & Dorr  
 LLP  
 7 World Trade Center  
 250 Greenwich Street  
 New York, NY 10007  
 David.Gringer@wilmerhale.com  
 Phoebe.Silos@wilmerhale.com  
 Charles.Bridge@wilmerhale.com  
 Eleanor.Davis@wilmerhale.com  
 (212) 230-8800

Shelby Martin  
 Wilmer Cutler Pickering Hale & Dorr  
 LLP  
 1225 Seventeenth Street, Suite 2600  
 Denver, CO 80202  
 Shelby.Martin@wilmerhale.com  
 (720) 274-3135

Katherine Mackey  
 Wilmer Cutler Pickering Hale & Dorr  
 LLP  
 60 State Street  
 Boston, MA 02109  
 Katherine.Mackey@wilmerhale.com  
 (617) 526-6000

Jonathan E. Paikin  
 Jennifer Milici  
 Derek A. Woodman  
 Vinecia Perkins  
 Andres Salinas  
 Spencer Todd  
 Jocelyn Berteaud  
 Benjamin Chapin  
 Margaret (Molly) Dillaway  
 Reade Jacob  
 Wilmer Cutler Pickering Hale & Dorr  
 LLP  
 1875 Pennsylvania Avenue NW  
 Washington, DC 20006  
 Jonathan.Paikin@wilmerhale.com  
 Jennifer.Milici@wilmerhale.com  
 Derek.Woodman@wilmerhale.com  
 Vinecia.Perkins@wilmerhale.com  
 Andres.Salinas@wilmerhale.com  
 Spencer.Todd@wilmerhale.com  
 Joss.Berteaud@wilmerhale.com  
 Benjamin.Chapin@wilmerhale.com  
 Molly.Dillaway@wilmerhale.com  
 Reade.Jacob@wilmerhale.com  
 (202) 663-6000

*Attorneys for Respondent, Intuit Inc.*

          /s/ Rebecca Plett  
 Rebecca Plett