

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

In the Matter of

Meta Platforms, Inc., et al.

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Docket No. 9411

PUBLIC

**RESPONDENT META PLATFORMS, INC.'S
ANSWER AND AFFIRMATIVE DEFENSES TO PETITIONER'S COMPLAINT**

Pursuant to Rule 3.12 of the Federal Trade Commission's ("Commission" or "FTC") Rules of Practice for Adjudicative Proceedings, Respondent Meta Platforms, Inc. ("Meta"), by and through its attorneys, admits, denies, and avers as follows with respect to the Administrative Complaint ("Complaint") filed by the Commission as follows:

GENERAL RESPONSE TO COMMISSION'S ALLEGATIONS

Meta states that the Complaint is a fundamentally flawed and misguided application of the antitrust laws to the merger agreement between Meta and Within Unlimited, Inc. ("Within") because their businesses face fierce competition today and in the future from a strong and expanding set of competitors.

Each paragraph below corresponds to the same-numbered paragraph in the Complaint. All allegations not expressly admitted are denied. Meta does not interpret the headings or preamble in the Complaint as well-pleaded allegations to which any response is required. To the extent a response is required to the headings or preamble, Meta denies all such allegations in the headings and preamble. Unless otherwise defined, capitalized terms refer to the capitalized terms

defined in the Complaint, but any such use is not an acknowledgment or admission of any characterization the Commission may ascribe to the terms.

SPECIFIC RESPONSES TO COMMISSION’S ALLEGATIONS

1. Meta admits that it is seeking to acquire Within, the maker of Supernatural. Meta denies the remaining allegations contained in Paragraph 1.

2. Meta admits that the Facebook, Instagram, Messenger and WhatsApp applications are referred to collectively as Meta’s “Family of Apps,” and Meta reported in its Securities and Exchange Commission (“SEC”) annual filing for the year ending December 31, 2021, that the “[f]amily monthly active people (MAP) was 3.59 billion” as of December 31, 2021. Meta further admits that on June 9, 2022, the company formerly known as Facebook was renamed “Meta Platforms, Inc.” Meta denies the remaining allegations contained in Paragraph 2.

3. Meta admits that it acquired Oculus VR, Inc. in 2014; that the Quest 2 has been available for sale in the United States and worldwide since its launch in 2020; and that it announced its intent to increase the sale price of the Quest 2 headset on or around July 26, 2022. Meta denies the remaining allegations contained in Paragraph 3.

4. Meta admits that the Quest Store is a distribution platform for VR software apps. Meta further admits that it acquired Beat Games, the developer of Beat Saber, in November 2019; that on or around July 26, 2022, Meta announced that, for a limited time, every new headset purchase will include an offer to download Beat Saber without paying any separate download fees; and that Meta owns other VR apps. Meta denies the remaining allegations contained in Paragraph 4.

5. Meta denies the allegations contained in Paragraph 5.

6. Meta denies the allegations contained in Paragraph 6.

7. To the extent the Complaint is quoting documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 7.

8. To the extent the Complaint is quoting documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 8.

9. Meta denies the allegations contained in Paragraph 9.

10. Meta denies the allegations contained in Paragraph 10.

11. Meta denies the allegations contained in Paragraph 11.

12. Meta denies the allegations contained in Paragraph 12.

13. Meta denies the allegations contained in Paragraph 13.

14. Paragraph 14 purports to state conclusions of law to which no response is required.

15. Paragraph 15 purports to state conclusions of law to which no response is required.

16. Paragraph 16 purports to state conclusions of law to which no response is required.

17. Paragraph 17 purports to state conclusions of law to which no response is required. To the extent a response is required, Meta denies the allegations contained in Paragraph 17.

18. Meta admits that it is a publicly traded company organized under the laws of Delaware with headquarters in Menlo Park, California; that it develops and sells VR and other extended reality hardware and software through its Reality Labs division; and that Meta reported

its Reality Labs division generated \$2,274 million in revenue in 2021 and \$1,139 million in revenue in 2020, which it recorded in its SEC annual filing for the year ending December 31, 2021. Meta also admits that it offers for sale the Quest 2 VR headset, which is Meta's best-selling VR hardware product to date by units sold, and that it acquired Beat Games, the creator of Beat Saber, in 2019, which is Meta's best-selling VR software product to date by revenue. Meta denies the remaining allegations contained in Paragraph 18.

19. Meta admits that Mark Zuckerberg is the founder, Chairman, CEO and controlling shareholder of Meta and that Mr. Zuckerberg maintains an office at 1601 Willow Road, Menlo Park, California, 94025. Meta denies the remaining allegations contained in Paragraph 19.

20. Paragraph 20 purports to state conclusions of law to which no response is required. To the extent a response is required, Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20, and therefore denies the same.

21. Meta admits that on October 22, 2021, Meta and Within entered into an agreement and plan of merger, pursuant to which Meta would acquire all shares of Within.

22. Meta admits that the VR industry is currently characterized by a high degree of innovation and growth. Meta denies the remaining allegations contained in Paragraph 22.

23. Meta admits that users may experience VR through a headset with displays in front of each eye. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 23.

24. Meta admits that its best-selling VR headset to date by unit measurement is the

Quest 2. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the purported industry source estimates, and therefore denies the same. Meta remaining denies the allegations contained in Paragraph 24.

25. Meta admits that the Meta Quest Store, App Lab, Valve's Steam Store, and SideQuest are application stores where users can download applications and content. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations concerning how users get apps for VR headsets, and therefore denies the same. Meta denies the remaining allegations contained in Paragraph 25.

26. Meta admits that VR software and studio companies, including Within, develop apps that run on VR headsets. Meta denies the remaining allegations contained in Paragraph 26.

27. To the extent the Complaint is quoting documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta admits that it acquired Beat Games, the developer of Beat Saber, in November 2019, and that since 2019 Beat Saber has been the top-grossing app on Meta's Quest Store by revenue. Meta denies the remaining allegations contained in Paragraph 27.

28. Meta admits that it has acquired the studios cited in Paragraph 28. Meta denies the remaining allegations contained in Paragraph 28.

29. Meta admits that it has developed and released Horizon Worlds, Horizon Workrooms, Horizon Venues, and Horizon Home. Meta denies the remaining allegations contained in Paragraph 29.

30. To the extent the Complaint is quoting documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 30.

31. Meta denies the allegations contained in Paragraph 31.

32. Meta denies the allegations contained in Paragraph 32.

33. Meta denies the allegations contained in Paragraph 33.

34. Meta denies the allegations contained in Paragraph 34.

35. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the purported rankings by third parties, and therefore denies this. Meta denies the remaining allegations contained in Paragraph 35.

36. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations concerning industry participants, and therefore denies the same. Meta denies the remaining allegations contained in Paragraph 36.

37. Meta denies the allegations contained in Paragraph 37.

38. Meta denies the allegations contained in Paragraph 38.

39. Meta denies the allegations contained in Paragraph 39.

40. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 40.

41. Meta admits that as of August 26, 2022, consumers can purchase a Supernatural Annual Membership for \$179.99/year or a Supernatural Monthly Membership for \$18.99/month on Meta's Quest Store. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations concerning third parties contained in Paragraph 41, and therefore denies the same. Meta denies the remaining allegations contained in Paragraph 41.

42. Meta denies the allegations contained in Paragraph 42.

43. Meta denies the allegations contained in Paragraph 43.

44. Meta denies the allegations contained in Paragraph 44.

45. Meta denies the allegations contained in Paragraph 45.

46. Meta denies the allegations contained in Paragraph 46.

47. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 47.

48. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48, and therefore denies the same.

49. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 49.

50. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations of Paragraph 50.

51. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 51.

52. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations concerning unidentified studies, and therefore denies the same. Meta denies the remaining allegations contained in Paragraph 52.

53. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations concerning unidentified industry participants, and therefore denies the same. Meta denies the remaining allegations contained in Paragraph 53.

54. Meta denies the allegations contained in Paragraph 54.

55. Paragraph 55 purports to state conclusions of law to which no response is required. To the extent a response is required, Meta respectfully refers the Court to the 2010 U.S. Department of Justice and Federal Trade Commission Horizontal Merger Guidelines for an accurate and complete statement of its contents.

56. Paragraph 56 purports to state conclusions of law to which no response is required. To the extent a response is required, Meta respectfully refers the Court to the 2010 U.S. Department of Justice and Federal Trade Commission Horizontal Merger Guidelines for an accurate and complete statement of its contents.

57. Paragraph 57 purports to state conclusions of law to which no response is required. To the extent a response is required, Meta respectfully refers the Court to the 2010 U.S. Department of Justice and Federal Trade Commission Horizontal Merger Guidelines for an accurate and complete statement of its contents.

58. Meta denies the allegations contained in Paragraph 58.

59. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 59.

60. Meta denies the allegations contained in Paragraph 60.

61. Meta denies the allegations contained in Paragraph 61.

62. Meta denies the allegations contained in Paragraph 62.

63. Meta denies the allegations contained in Paragraph 63.

64. To the extent that the Complaint is quoting from the 2010 U.S. Department of Justice and Federal Trade Commission Horizontal Merger Guidelines, Meta respectfully refers

the Court to the same for an accurate and complete statement of its contents. Meta denies the remaining allegations contained in Paragraph 64.

65. Meta denies the allegations contained in Paragraph 65.

66. Meta admits that it reported in Meta's SEC annual filing for the year ending December 31, 2021, that its costs and expenses relating to Reality Labs were \$12,467 million for the year ending December 31, 2021, and \$7,762 million for the year ending December 31, 2020. Meta further admits that it reported in Meta's SEC quarterly filing for the three months ending March 31, 2022, that its costs and expenses relating to Reality Labs were \$3,655 million. Meta denies the remaining allegations contained in Paragraph 66.

67. Meta denies the allegations contained in Paragraph 67.

68. Meta admits that it reported in Meta's SEC annual filing for the year ending December 31, 2021, that its total income from operations for the year ending December 31, 2021 was \$46,753 million, and that the costs and expenses relating to Reality Labs for the year ending December 31, 2021 were \$12,467 million.

69. Meta admits that it continues to add features and content to the apps it has already released; that it continues to develop and release new apps; and that Meta has previously developed VR apps. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations concerning third parties, and therefore denies the same. The remaining allegations contained in Paragraph 69 are vague and imprecise, and Meta therefore denies them on that basis.

70. To the extent that the Complaint is quoting from documents, Meta respectfully refers the court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 70.

71. Meta admits that it has previously developed VR apps. Meta denies the remaining allegations contained in Paragraph 71.

72. Meta admits that it developed Oculus Move, which among other things allows users to track certain fitness-related metrics while using the Quest 2.

73. Meta admits that it owns seven VR development studios and that it employed approximately 10,000 employees within its Reality Labs division as of March 2021. Meta denies the remaining allegations contained in Paragraph 73.

74. Meta denies the allegations contained in Paragraph 74.

75. Meta admits that it determines what content is featured on Meta's Quest Store. Meta denies the remaining allegations contained in Paragraph 75.

76. Meta admits that the company name changed to "Meta Platforms, Inc." in October 2021. Meta denies the remaining allegations contained in Paragraph 76.

77. Meta denies the allegations contained in Paragraph 77.

78. To the extent that the Complaint is quoting from documents, Meta respectfully refers the court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 78.

79. To the extent that the Complaint is quoting from documents, Meta respectfully refers the court to the documents for an accurate and complete statement of their contents. Meta denies the allegations contained in Paragraph 79.

80. To the extent that the Complaint is quoting from documents, Meta respectfully refers the court to the documents for an accurate and complete statement of their contents. Meta denies the allegations contained in Paragraph 80.

81. To the extent that the Complaint is quoting from documents, Meta respectfully

refers the court to the documents for an accurate and complete statement of their contents. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 81.

82. Meta denies the allegations contained in Paragraph 82.

83. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 83.

84. Meta denies the allegations contained in Paragraph 84.

85. To the extent that the Complaint is quoting from documents, Meta respectfully refers the court to the documents for an accurate and complete statement of their contents. Meta denies the allegations contained in Paragraph 85.

86. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 86.

87. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta admits that Meta developed “FitBeat” as a track for Beat Saber. Meta denies the remaining allegations contained in Paragraph 87.

88. Meta admits that Beat Saber includes a 360-degree mode where targets come from all sides and a no-fail mode that allows users to complete tracks despite missing blocks. Meta denies the allegations contained in Paragraph 88.

89. To the extent that the Complaint is quoting from documents, Meta respectfully

refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 89.

90. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 90.

91. Meta admits that the internal codename for the proposed acquisition of Within was “Project Eden.” Meta denies the remaining allegations contained in Paragraph 91.

92. Meta admits that the former head of product for Supernatural is currently employed by Meta. Meta denies the remaining allegations contained in Paragraph 92.

93. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 93.

94. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 94.

95. Meta denies the allegations contained in Paragraph 95.

96. Meta denies the allegations contained in Paragraph 96.

97. Meta denies the allegations contained in Paragraph 97.

98. Meta denies the allegations contained in Paragraph 98.

99. Meta denies the allegations contained in Paragraph 99.

100. Meta denies the allegations contained in Paragraph 100.

101. To the extent the Complaint is referring to Meta’s earnings report, Meta respectfully refers the Court to the earnings report for an accurate statement of its contents. Meta

denies the remaining allegations contained in Paragraph 101.

102. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 102, and therefore denies the same.

103. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 103.

104. Meta admits that the former head of product for Supernatural is currently employed by Meta. Meta denies the remaining allegations contained in Paragraph 104.

105. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations concerning Within's view of competition, and therefore denies the same. Meta denies the remaining allegations contained in Paragraph 105.

106. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 106.

107. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 107.

108. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 108.

109. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 109.

110. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations concerning Within's development strategy, and therefore denies the same. Meta denies the remaining allegations contained in Paragraph 110.

111. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations concerning Within's view of competition, and therefore denies the same. Meta denies the remaining allegations contained in Paragraph 111.

112. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations concerning Within's view of competition, and therefore denies the same. Meta denies the remaining allegations contained in Paragraph 112.

113. To the extent that the Complaint is relying on public webpages, Meta respectfully refers the Court to the webpage(s) for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 113.

114. Meta admits that the Quest Store has a search functionality that allows users to find apps. Meta denies the remaining allegations contained in Paragraph 114.

115. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of what Within views as Supernatural's target market, and therefore denies the same. Meta denies the remaining allegations contained in Paragraph 115.

116. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 116.

117. Meta denies the allegations contained in Paragraph 117.

118. Meta admits that it launched "FitBeat" in April 2022. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of how media coverage has

attributed “FitBeat,” and therefore denies this. Meta denies the remaining allegations contained in Paragraph 118.

119. To the extent the Complaint is quoting documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 119.

120. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 120, and therefore denies the same.

121. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 121, and therefore denies the same.

122. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 122, and therefore denies the same.

123. Meta avers that it lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 123, and therefore denies the same.

124. Meta denies the allegations contained in Paragraph 124.

125. Meta denies the allegations contained in Paragraph 125.

126. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. Meta denies the remaining allegations contained in Paragraph 126.

127. To the extent that the Complaint is quoting from documents, Meta respectfully refers the Court to the documents for an accurate and complete statement of their contents. The remaining allegations in Paragraph 127 are vague and imprecise, and Meta therefore denies them on that basis.

128. Meta denies the allegations contained in Paragraph 128.

129. Meta denies the allegations contained in Paragraph 129.

130. Meta denies the allegations contained in Paragraph 130.

131. Meta avers that no response is required to the allegations contained in Paragraph 131.

132. Paragraph 132 purports to state conclusions of law to which no response is required. To the extent a response is required, Meta denies the allegations contain in Paragraph 132.

AFFIRMATIVE AND OTHER DEFENSES

Without assuming any burden of proof that it would not otherwise bear, Meta reasserts, without limitation, all defenses raised in its other filings, whether or not separately re-pleaded herein. Meta also asserts the following affirmative and other defenses. In listing the defenses below, Meta does not knowingly or intentionally waive any defenses, including arguments about which issues fall within the Complaint Counsel's burden of proof. Meta also reserves the right to rely on any affirmative or other defense or claim that may subsequently come to light, and expressly reserves the right to amend its Answer to assert such additional defenses or claims.

FIRST AFFIRMATIVE DEFENSE

The Complaint fails to state a claim on which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Granting the relief sought is inequitable and contrary to the public interest.

THIRD AFFIRMATIVE DEFENSE

The Complaint fails to allege a plausible relevant product market.

FOURTH AFFIRMATIVE DEFENSE

The Complaint fails to allege a plausible relevant geographic market.

FIFTH AFFIRMATIVE DEFENSE

The Complaint fails to allege undue share in any plausibly defined relevant market.

SIXTH AFFIRMATIVE DEFENSE

The Complaint fails to allege any plausible harm to competition.

SEVENTH AFFIRMATIVE DEFENSE

The Complaint fails to allege any plausible harm to consumers.

EIGHTH AFFIRMATIVE DEFENSE

The Complaint fails to allege any plausible harm to consumer welfare.

NINTH AFFIRMATIVE DEFENSE

There will be no harm to competition, consumers, or consumer welfare because there is, and will continue to be, entry and expansion by competitors, which is timely, likely, and sufficient.

TENTH AFFIRMATIVE DEFENSE

The combination of the Respondents' businesses will be procompetitive. The transaction will result in substantial acquisition-specific efficiencies, synergies, and other procompetitive effects that will directly benefit consumers. These benefits will greatly outweigh any and all proffered anticompetitive effects.

ELEVENTH AFFIRMATIVE DEFENSE

The alleged harm to potential competition is not actionable.

TWELFTH AFFIRMATIVE DEFENSE

The FTC cannot provide clear proof that Meta would provide VR fitness services but for the acquisition of Within.

THIRTEENTH AFFIRMATIVE DEFENSE

The FTC has failed to establish that Respondents exercise market power with respect to any relevant market.

FOURTEENTH AFFIRMATIVE DEFENSE

The Complaint reflects improper selective enforcement of the antitrust laws.

FIFTEENTH AFFIRMATIVE DEFENSE

The combination of Respondents' businesses is not likely substantially to lessen competition applying the analytical framework set forth in the Merger Guidelines promulgated by the FTC and Department of Justice.

SIXTEENTH AFFIRMATIVE DEFENSE

Because Chair Khan is disqualified, the initiation and maintenance of this action violates the Due Process Clause, U.S. Const. amend V; the Federal Trade Commission Act, 5 U.S.C. §§ 41 et seq.; the Administrative Procedure Act, 5 U.S.C. §§ 1001 et seq.; Federal Trade Commission internal regulations, *see, e.g.*, 16 C.F.R. § 4.17; and federal ethics laws and regulations, *see, e.g.*, 28 U.S.C. § 455; 5 C.F.R. § 2635.501(a); 5 C.F.R. § 2635.101(b)(14).

SEVENTEENTH AFFIRMATIVE DEFENSE

Because Chair Khan is disqualified, the FTC cannot seek, obtain, or enforce any equitable remedy under the doctrines of unclean hands, estoppel, or other equitable doctrines.

EIGHTEENTH AFFIRMATIVE DEFENSE

The FTC is not entitled to relief as a matter of law.

NINETEENTH AFFIRMATIVE DEFENSE

The FTC is not entitled to relief because none of Meta's conduct identified in the Complaint is actionable – either independently or in the aggregate – under the antitrust laws.

TWENTIETH AFFIRMATIVE DEFENSE

The FTC cannot proceed because it purports to exercise executive authority in violation of Article II of the United States Constitution.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The FTC is equitably estopped from asserting its claims.

TWENTY-SECOND AFFIRMATIVE DEFENSE

The Due Process Clause of the United States Constitution barred the FTC from commencing this action against Meta and bars the FTC from continuing this action against Meta and from seeking a claim for relief.

PRAYER FOR RELIEF

WHEREFORE, Meta respectfully requests that the Court enter judgment:

1. Denying the FTC's requested relief;
2. Dismissing the Complaint in its entirety, with prejudice;
3. Awarding Meta the costs it has incurred in defending this action and expenses; and
4. Awarding such other and further relief to Meta as the Court may deem just and proper.

Dated: August 22, 2022

Respectfully submitted,

/s/ Eric Hochstadt

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Counsel for Respondent Meta Platforms, Inc.

CERTIFICATE OF SERVICE

I hereby certify that, on August 22, 2022, I caused the foregoing document to be electronically filed with the Secretary of the Commission using the Federal Trade Commission's e-filing system, causing the document to be served on all of the following registered participants:

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The Honorable D. Michael Chappell
Administrative Law Judge
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I also certify that I caused the foregoing document to be served via email to:

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Peggy Bayer Femenella
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CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the original filing, and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

/s/ Eric Hochstadt
Eric Hochstadt