

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

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In the Matter of)	
Intuit, Inc.,)	
a corporation,)	Docket No. 9408
Respondent.)	
_____)	

ORDER MEMORIALIZING BENCH RULINGS

On March 22, 2023, Respondent Intuit, Inc. (“Respondent”) filed a motion for leave to amend its final exhibit list to add a supplemental expert witness report by its expert witness, Bruce Deal (“Deal Supplemental Report”) and to admit the Deal Supplemental Report into evidence as RX1520 (“Deal Motion”). On the same day, Federal Trade Commission Complaint Counsel filed its opposition, which also requested, in the alternative, that if Respondent’s Deal Motion were granted, that Complaint Counsel be granted leave to amend its final exhibit list to add a supplemental rebuttal expert witness report by its rebuttal expert witness Dr. Erez Yoeli (“Yoeli Supplemental Rebuttal Report”), and to admit the Yoeli Supplemental Rebuttal Report into evidence as GX870.

For the reasons stated on the record in open court, the Deal Motion was DENIED. Because the Deal Motion was denied, Complaint Counsel’s contingent motion to amend its exhibit list to add a supplemental rebuttal report is moot, and was therefore also DENIED.

On March 23, 2023, at the Final Prehearing Conference, Complaint Counsel sought to introduce numerous exhibits that related to the IRS Free File Program. Respondent opposed admission of this category of exhibits. Upon consideration of the argument heard from the parties, and for the reasons stated on the record in open court, Complaint Counsel’s request to admit the exhibits was GRANTED. The admitted exhibits are listed in the attachment to this Order.

ORDERED:



D. Michael Chappell
Chief Administrative Law Judge

Date: March 28, 2023

Exhibit Number	Description	Date	Complaint Counsel Control No. Begin Bates	Complaint Counsel Control No. End Bates	Intuit/Other Production Begin Bates	Intuit/Other Production End Bates	Basis of Admissibility
GX 6	October 18, 2013; Attachment to GX 5 Email re: Competitive Comparison for TTO	10/18/2013	CC-00000108	CC-00000113	INTUIT-FFA-FTC-000229280	INTUIT-FFA-FTC-000229285	3.43(b), 3.43(d)(3), 3.43(e)
GX 7	December 1, 2017; Calendar Invitation re: FFA Decision MeetingSee additional details below	12/1/2017	CC-00000114	CC-00000114	INTUIT-FFA-FTC-000099957	INTUIT-FFA-FTC-000099957	3.43(b), 3.43(d)(3), 3.43(e)
GX 8	December 1, 2017; Attachment to GX 7 Calendar Invitation re: FFA Decision MeetingSee additional details below	12/1/2017	CC-00000115	CC-00000121	INTUIT-FFA-FTC-000099958	INTUIT-FFA-FTC-000099964	3.43(b), 3.43(d)(3), 3.43(e)
GX 10	October 29, 2013; Attachment to GX 9 Email re: TT FY14 GTM Plan – narrative – v17 – DPM Business Management.docx	10/29/2013	CC-00000123	CC-00000150	INTUIT-FFA-FTC-000112398	INTUIT-FFA-FTC-000112425	3.43(b), 3.43(d)(3), 3.43(e)
GX 11	October 24, 2016; Email re: Fwd: Please read prior to our FFA meeting Monday morning	10/24/2106	CC-00000151	CC-00000154	INTUIT-FFA-FTC-000091522	INTUIT-FFA-FTC-000091525	3.43(b), 3.43(d)(3), 3.43(e)
GX 14	June 14, 2013; Email re: FW: Talking points for potential plan questions	6/14/2013	CC-00000239	CC-00000242	INTUIT-FFA-FTC-000033086	INTUIT-FFA-FTC-000033089	3.43(b), 3.43(d)(3), 3.43(e)
GX 15	August 12, 2013; Email re: here's what we reviewed w/marketing team other day...; with attachment	8/12/2013	CC-00000243	CC-00000257	INTUIT-FFA-FTC-000033168	INTUIT-FFA-FTC-000033182	3.43(b), 3.43(d)(3), 3.43(e)
GX 16	August 15, 2013; Email re: Whiteboard from yesterday's meeting; with attachments	8/15/2013	CC-00000258	CC-00000264	INTUIT-FFA-FTC-000069652	INTUIT-FFA-FTC-000069658	3.43(b), 3.43(d)(3), 3.43(e)
GX 17	December 17, 2013; Email re: Re-Cap of FFA Check-in	12/17/2013	CC-00000265	CC-00000268	INTUIT-FFA-FTC-000070477	INTUIT-FFA-FTC-000070480	3.43(b), 3.43(d)(3), 3.43(e)
GX 18	January 14, 2014; Email re: Action Items due 1/24; with attachments	1/14/2014	CC-00000269	CC-00000272	INTUIT-FFA-FTC-000070780	INTUIT-FFA-FTC-000070783	3.43(b), 3.43(d)(3), 3.43(e)
GX 19	August 22, 2013; Email re: FFA notes	8/22/2013	CC-00000273	CC-00000273	INTUIT-FFA-FTC-000133388	INTUIT-FFA-FTC-000133388	3.43(b), 3.43(d)(3), 3.43(e)
GX 20	July 5, 2016; Email re: GTG / Corp Affairs Planning Meeting Next steps; with attachment	7/5/2016	CC-00000274	CC-00000277	INTUIT-FFA-FTC-000504585	INTUIT-FFA-FTC-000504588	3.43(b), 3.43(d)(3), 3.43(e)
GX 21	June 12, 2017; Email re: FFA Encroachment Strategy notes 6/12/17	6/12/2017	CC-00000278	CC-00000278	INTUIT-FFA-FTC-000359177	INTUIT-FFA-FTC-000359177	3.43(b), 3.43(d)(3), 3.43(e)
GX 23	September 4, 2014; Email re: FFA Plan	9/4/2014	CC-00000281	CC-00000283	INTUIT-FFA-FTC-000212757	INTUIT-FFA-FTC-000212759	3.43(b), 3.43(d)(3), 3.43(e)
GX 24	October 21, 2016; Email re: Key Free File Questions	10/21/2016	CC-00000284	CC-00000284	INTUIT-FFA-FTC-000146874	INTUIT-FFA-FTC-000146874	3.43(b), 3.43(d)(3), 3.43(e)
GX 25	October 21, 2016; Email re: Your help thinking through an issue	10/21/2016	CC-00000285	CC-00000285	INTUIT-FFA-FTC-000198488	INTUIT-FFA-FTC-000198488	3.43(b), 3.43(d)(3), 3.43(e)
GX 27	September 9, 2016; Email re: Email offer to TTO customers to TTFE (FFA product)	9/9/2016	CC-00000312	CC-00000316	INTUIT-FFA-FTC-000354846	INTUIT-FFA-FTC-000354850	3.43(b), 3.43(d)(3), 3.43(e)
GX 28	September 11, 2016; Email re: Important Growth Information; with attachment	9/11/2016	CC-00000317	CC-00000333	INTUIT-FFA-FTC-000121102	INTUIT-FFA-FTC-000121118	3.43(b), 3.43(d)(3), 3.43(e)
GX 29	October 3, 2014; Email re: FFA / TTFE Program Recommendations for TY '14	10/3/2014	CC-00000334	CC-00000339	INTUIT-FFA-FTC-000136636	INTUIT-FFA-FTC-000136641	3.43(b), 3.43(d)(3), 3.43(e)
GX 30	October 4, 2016; Email re: Additional questions for FFA	10/4/2016	CC-00000340	CC-00000344	INTUIT-FFA-FTC-000091065	INTUIT-FFA-FTC-000091069	3.43(b), 3.43(d)(3), 3.43(e)
GX 31	October 10, 2016; Email re: FFA update?	10/10/2016	CC-00000345	CC-00000345	INTUIT-FFA-FTC-000146774	INTUIT-FFA-FTC-000146774	3.43(b), 3.43(d)(3), 3.43(e)
GX 32	October 17, 2016; Email re: updated deck outlining TTFE flows	10/17/2016	CC-00000346	CC-00000348	INTUIT-FFA-FTC-000146847	INTUIT-FFA-FTC-000146849	3.43(b), 3.43(d)(3), 3.43(e)
GX 33	October 25, 2016; Email re: Decision on driving FFA volume	10/25/2016	CC-00000349	CC-00000350	INTUIT-FFA-FTC-000438530	INTUIT-FFA-FTC-000438531	3.43(b), 3.43(d)(3), 3.43(e)
GX 34	October 8, 2014; Email re: Free File product Name	10/8/2014	CC-00000351	CC-00000355	INTUIT-FFA-FTC-000188791	INTUIT-FFA-FTC-000188795	3.43(b), 3.43(d)(3), 3.43(e)
GX 35	October 9, 2014; Email re: TurboTax FFA recommendation	10/9/2014	CC-00000356	CC-00000357	INTUIT-FFA-FTC-000067208	INTUIT-FFA-FTC-000067209	3.43(b), 3.43(d)(3), 3.43(e)
GX 36	March 24, 2014; Email re: Tomorrow's Strategy Team Review	3/24/2014	CC-00000358	CC-00000358	INTUIT-FFA-FTC-000135223	INTUIT-FFA-FTC-000135223	3.43(b), 3.43(d)(3), 3.43(e)
GX 38	November 13, 2014; PowerPoint re: FFA/Freedom File Edition (TurboTax All Free)	11/13/2014	CC-00000373	CC-00000417	INTUIT-FFA-FTC-000434068-001	INTUIT-FFA-FTC-000434068-045	3.43(b), 3.43(d)(3), 3.43(e)
GX 39	February 9, 2017; Email re: FFA Disqual Copy Reco; with attachment	2/9/2017	CC-00000418	CC-00000425	INTUIT-FFA-FTC-000313260	INTUIT-FFA-FTC-000313267	3.43(b), 3.43(d)(3), 3.43(e)
GX 40	March 30, 2015; Email re: Weekly Dashboards (TTFE + Amazon); with attachments	3/30/2015	CC-00000426	CC-00000429	INTUIT-FFA-FTC-000175514	INTUIT-FFA-FTC-000175520	3.43(b), 3.43(d)(3), 3.43(e)
GX 41	February 10, 2015; Email re: FFA Turnaway URLs not 301 Redirect	2/10/2015	CC-00000430	CC-00000433	INTUIT-FFA-FTC-000139387	INTUIT-FFA-FTC-000139390	3.43(b), 3.43(d)(3), 3.43(e)
GX 42	February 24, 2015; Email re: FFA Dashboard;	2/24/2015	CC-00000434	CC-00000434	INTUIT-FFA-FTC-000190082	INTUIT-FFA-FTC-000190082	3.43(b), 3.43(d)(3), 3.43(e)
GX 62	March 3, 2016; Email re: PPC LP for FFA	3/3/2016	CC-00000688	CC-00000691	INTUIT-FFA-FTC-000298365	INTUIT-FFA-FTC-000298368	3.43(b), 3.43(d)(3), 3.43(e)
GX 63	February 22, 2019; Email re: Cookies/TTFE?	2/22/2019	CC-00000692	CC-00000695	INTUIT-FFA-FTC-000499393	INTUIT-FFA-FTC-000499396	3.43(b), 3.43(d)(3), 3.43(e)

Exhibit Number	Description	Date	Complaint Counsel Control No. Begin Bates	Complaint Counsel Control No. End Bates	Intuit/Other Production Begin Bates	Intuit/Other Production End Bates	Basis of Admissibility
GX 65	November 22, 2013; Email re: Round One Visual Design review of Taxfreedom.com	11/22/2013	CC-00000710	CC-00000713	INTUIT-FFA-FTC-000368231	INTUIT-FFA-FTC-000368234	3.43(b), 3.43(d)(3), 3.43(e)
GX 66	May 27, 2016; Email re: Next Steps: FFA Category Growth Brainstorm; with attachments	5/27/2016	CC-00000714	CC-00000717	INTUIT-FFA-FTC-000040601	INTUIT-FFA-FTC-000040604	3.43(b), 3.43(d)(3), 3.43(e)
GX 67	July 10, 2018; Email re: FFA product name	7/10/2018	CC-00000718	CC-00000720	INTUIT-FFA-FTC-000012645	INTUIT-FFA-FTC-000012647	3.43(b), 3.43(d)(3), 3.43(e)
GX 68	July 12, 2018; Email re: SEO slide for FFA; with attachments	7/12/2018	CC-00000721	CC-00000724	INTUIT-FFA-FTC-000012670	INTUIT-FFA-FTC-000012673	3.43(b), 3.43(d)(3), 3.43(e)
GX 69	September 12, 2018; Email re: TTFE / potential name change; with attachment	9/12/2018	CC-00000725	CC-00000728	INTUIT-FFA-FTC-000012731	INTUIT-FFA-FTC-000012734	3.43(b), 3.43(d)(3), 3.43(e)
GX 70	July 25, 2018; Email re: FW: Free File; with attachment	7/25/2018	CC-00000729	CC-00000741	INTUIT-FFA-FTC-000012705	INTUIT-FFA-FTC-000012717	3.43(b), 3.43(d)(3), 3.43(e)
GX 71	October 4, 2018; Email re: FW: TTFE naming project background; with attachments	10/4/2018	CC-00000742	CC-00000788	INTUIT-FFA-FTC-000013686	INTUIT-FFA-FTC-000013732	3.43(b), 3.43(d)(3), 3.43(e)
GX 72	November 10, 2018; Email re: Feedback: new Tax Freedom microsite	10/10/2018	CC-00000789	CC-00000789	INTUIT-FFA-FTC-000013903	INTUIT-FFA-FTC-000013903	3.43(b), 3.43(d)(3), 3.43(e)
GX 73	November 10, 2018; Email re: Tax Freedom is LIVE – and open to Organic Search!; with attachment	10/10/2018	CC-00000790	CC-00000791	INTUIT-FFA-FTC-000013904	INTUIT-FFA-FTC-000013905	3.43(b), 3.43(d)(3), 3.43(e)
GX 74	April 24, 2019; Email re: ProPublica Story on Free File	4/24/2019	CC-00000792	CC-00000795	INTUIT-FFA-FTC-000068143	INTUIT-FFA-FTC-000068146	3.43(b), 3.43(d)(3), 3.43(e)
GX 75	April 25, 2019; Slack Message re: FFA dashboard	4/25/2019	CC-00000796	CC-00000798	INTUIT-FFA-FTC-000369012	INTUIT-FFA-FTC-000369014	3.43(b), 3.43(d)(3), 3.43(e)
GX 76	April 26, 2019; Slack Message re: Support for FFA	4/26/2019	CC-00000799	CC-00000800	INTUIT-FFA-FTC-000526024	INTUIT-FFA-FTC-000526025	3.43(b), 3.43(d)(3), 3.43(e)
GX 81	October 29, 2018; Email re: FFA Alignment	10/29/2018	CC-00000889	CC-00000893	INTUIT-FFA-FTC-000013886	INTUIT-FFA-FTC-000013890	3.43(b), 3.43(d)(3), 3.43(e)
GX 83	November 9, 2018; Email re: JIRA: (CTGWEB-26944) [FFA for TY18] Block FFA page from SEO	11/9/2018	CC-00000897	CC-00000897	INTUIT-FFA-FTC-000013902	INTUIT-FFA-FTC-000013902	3.43(b), 3.43(d)(3), 3.43(e)
GX 84	December 5, 2018; Email re: Blocking of TaxFreedom page	12/5/2018	CC-00000898	CC-00000898	INTUIT-FFA-FTC-000013926	INTUIT-FFA-FTC-000013926	3.43(b), 3.43(d)(3), 3.43(e)
GX 86	January 11, 2019; Document re: IRS Free File opens today in advance of tax season	1/11/2019	CC-00000902	CC-00000904			3.43(f)
GX 89	November 13, 2018; Email re: Preparing for Tax Season 2019 – New Free File MOU Guidelines and Product Questions for Turbo Tax Free File Program, Etc.	11/13/2018	CC-00000941	CC-00000942	INTUIT-FFA-FTC-000112223	INTUIT-FFA-FTC-000112224	3.43(b), 3.43(d)(3), 3.43(e)
GX 91	August 12, 2013; Email re: TT Product Lineup Strategy – TY13 Baseline update 7-29-13 v3.pptx	8/12/2013	CC-00000957	CC-00000960	INTUIT-FFA-FTC-000069589	INTUIT-FFA-FTC-000069592	3.43(b), 3.43(d)(3), 3.43(e)
GX 92	July 24, 2018; Email re: Free File; with attachment	7/24/2018	CC-00000961	CC-00000973	INTUIT-FFA-FTC-000012688	INTUIT-FFA-FTC-000012700	3.43(b), 3.43(d)(3), 3.43(e)
GX 108	October 1, 2018; Email re: <no subject>; with attachment	10/1/2018	CC-00001081	CC-00001089	INTUIT-FFA-FTC-000013511	INTUIT-FFA-FTC-000013519	3.43(b), 3.43(d)(3), 3.43(e)
GX 109	February 14, 2019; Email re: Government, Policy, Legal & Compliance Review	2/14/2019	CC-00001090	CC-00001093	INTUIT-FFA-FTC-000495189	INTUIT-FFA-FTC-000495192	3.43(b), 3.43(d)(3), 3.43(e)
GX 110	May 5, 2019; Email re: Go forward plans	5/5/2019	CC-00001094	CC-00001097	INTUIT-FFA-FTC-000495267	INTUIT-FFA-FTC-000495270	3.43(b), 3.43(d)(3), 3.43(e)
GX 111	August 3, 2018; Email re: Government, Policy, Legal @ Compliance Review (Driver: Joe Lillie)	8/3/2018	CC-00001098	CC-00001101	INTUIT-FFA-FTC-000508828	INTUIT-FFA-FTC-000508831	3.43(b), 3.43(d)(3), 3.43(e)
GX 112	January 16, 2019; Email re: Hold time for Jack/Mary-Ann; with attachments	1/16/2019	CC-00001102	CC-00001115	INTUIT-FFA-FTC-000119703	INTUIT-FFA-FTC-000119716	3.43(b), 3.43(d)(3), 3.43(e)
GX 113	February 9, 2019; Email re: GPLC meeting; with attachment	2/9/2019	CC-00001116	CC-00001118	INTUIT-FFA-FTC-000550078	INTUIT-FFA-FTC-000550080	3.43(b), 3.43(d)(3), 3.43(e)
GX 114	February 10, 2019; Email re: GPLC meeting	2/10/2019	CC-00001119	CC-00001121	INTUIT-FFA-FTC-000511650	INTUIT-FFA-FTC-000511652	3.43(b), 3.43(d)(3), 3.43(e)
GX 115	February 11, 2019; Email re: CG Questions about TurboTax Free File Edition; with attachments	2/11/2019	CC-00001122	CC-00001126	INTUIT-FFA-FTC-000509480	INTUIT-FFA-FTC-000509485	3.43(b), 3.43(d)(3), 3.43(e)
GX 116	October 10, 2019; Email re: Meeting Notes and Action Items from FFA TY19 Program Kickoff REVISED 10/8	10/10/2019	CC-00001127	CC-00001133	INTUIT-FFA-FTC-000518388	INTUIT-FFA-FTC-000518394	3.43(b), 3.43(d)(3), 3.43(e)
GX 284	June 21, 2018; Email re: Follow up on FFA Issue	6/21/2018	CC-00005976	CC-00005981	INTUIT-FFA-FTC-000132484	INTUIT-FFA-FTC-000132489	3.43(b), 3.43(d)(3), 3.43(e)