

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

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

**RESPONDENT INTUIT INC.'S PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

TABLE OF CONTENTS

	Page
I. PROCEDURAL HISTORY	1
A. The FTC’s Investigation	1
B. FTC Proceedings.....	2
C. Trial.....	5
II. INTUIT INC.	5
III. THE TAX-PREPARATION INDUSTRY	7
A. The Highly Competitive Tax-Preparation Industry Provides Consumers With A Wide Range Of Tax-Preparation Options.....	8
B. Taxpayers Easily Switch Between Tax-Preparation Methods.....	10
C. Tax-Preparation Firms Offer Free Software To Facilitate Long-Term Customer Relationships, While Establishing Eligibility Criteria To Use It.....	12
IV. TURBOTAX’S PRODUCTS	13
A. Product Lineup.....	13
B. Intuit Aims To Start Customers In The Right SKU.....	15
V. TURBOTAX FREE TAX-PREPARATION SERVICES.....	19
A. TurboTax’s “Free-Tax Growth Strategy”	19
1. Intuit Offers Free Products As Part Of Its Long-Term Growth Strategy	19
2. Intuit’s Free-Tax Strategy Requires Intuit To Continuously Innovate And Improve Its Free Offerings.....	23
3. Intuit’s Free-Tax Strategy Has Led To Over A Hundred Million Americans Filing For Free Using TurboTax Free Edition.....	26
B. Simple Tax Return Qualification	28
1. Intuit Uses The IRS’s Definition Of “Simple Tax Returns”.....	28

2.	Reasonable Consumers Understand (Or Can Easily Learn) The Meaning of Simple Tax Returns	30
3.	Intuit’s Expansion of Free Eligibility Beyond Simple Tax Returns Does Not Impact Consumer Comprehension.....	35
C.	Free Tax-Preparation Services For Enlisted Servicemembers.....	36
VI.	TURBOTAX ADVERTISING.....	37
A.	Development Of TurboTax Advertisements.....	39
B.	TurboTax Advertising Channels.....	42
C.	Targeting Of TurboTax Advertisements.....	45
D.	The Challenged Advertisements	49
1.	Brand Video Advertisements.....	52
2.	Display Advertisements	65
3.	Paid-Search Advertisements	73
4.	Email Advertisements.....	77
5.	Radio Advertisements.....	82
6.	Complaint Counsel’s Concessions Confirm That The Ads Did Not Convey The Claims Asserted By Complaint Counsel	84
7.	The Challenged Ads Did Not Mislead Reasonable Consumers	85
E.	Current TurboTax Advertisements	91
1.	Brand Video Advertisements.....	91
2.	Display Advertisements.....	93
3.	Paid-Search Advertisements	96
4.	Email Advertisements.....	97
F.	Improvements In TurboTax Ads Over Time	99
VII.	THE TURBOTAX WEBSITE PROVIDES DETAILED INFORMATION ABOUT QUALIFICATIONS FOR FREE TURBOTAX SKUS AND ALL OTHER SKUS	102

A.	TurboTax Homepage	104
B.	TurboTax Free Edition Landing Page.....	109
C.	TurboTax “See if you qualify” Webpage	113
D.	TurboTax Products & Pricing Page	115
E.	TurboTax SKU Selector	119
F.	TurboTax Blog Posts And Other TurboTax Website Content.....	124
G.	TurboTax Promptly Notifies Consumers If They Need To Upgrade	125
VIII.	TURBOTAX’S COMPETITORS ADVERTISED THEIR FREE PRODUCTS AS BEING AVAILABLE FOR TAXPAYERS WITH SIMPLE TAX RETURNS	127
IX.	COMPLAINT COUNSEL FAILED TO PROVE THAT TURBOTAX’S FREE ADVERTISING WAS DECEPTIVE.....	130
A.	Reasonable Consumers In The Tax-Preparation Industry Are Not Misled By Free TurboTax Advertising.....	132
1.	Reasonable Consumers Understand Free Offers Are Qualified	133
2.	Reasonable Consumers Are Skeptical Of Free Offers.....	137
3.	Tax-Preparation Products Are High-Involvement Products That Reasonable Consumers Research At Length Before Selecting	141
4.	Reasonable Consumers Know To Look For And Where To Find Qualifications For Free Offers In Advertisements.....	145
B.	Professor Novemsky’s Survey Is Fatally Flawed For Countless Reasons And Does Not Provide Reliable Evidence of Deception Or Anything Else.....	149
1.	Survey Design.....	149
2.	Survey Population.....	152
3.	Survey Sample	155
4.	Question TAT240	157
5.	Blind Coding Of Responses To TAT220 And TAT230.....	161
6.	Question TAT255	164

7.	Professor Novemsky Overstates His Survey Results	168
C.	The Small Number Of Consumer Complaints Lodged Over Intuit’s Advertising Proves That No Significant Minority Of Reasonable Consumers Was Deceived	172
D.	TurboTax Data Concerning Consumers’ Experiences Reflect That Reasonable Consumers Were Not Deceived.....	181
E.	Reliable Consumer Testing And Survey Evidence Reflects That Reasonable Consumers Were Not Deceived.....	192
1.	Copy Testing.....	192
2.	TY20 NPS Survey.....	199
3.	Disclosure Efficacy Survey.....	200
4.	Kirk Fair Survey	207
F.	Complaint Counsel Did Not Satisfy Their Burden Of Proving That The Challenged Ads Were Likely To Mislead A Significant Minority Of Reasonable Consumers.....	210
G.	No Reasonable Person Would Believe That Intuit Acted Dishonestly Or Fraudulently	211
X.	COMPLAINT COUNSEL HAVE NOT PROVED THAT FREE TURBOTAX ADVERTISING IS MATERIAL TO REASONABLE CONSUMERS’ DECISIONS.....	214
XI.	INTUIT’S SETTLEMENT AGREEMENT AND CONSENT ORDER WITH STATE ATTORNEYS GENERAL	218
XII.	THE PROPOSED ORDER SOUGHT BY COMPLAINT COUNSEL WOULD HARM CONSUMERS.....	224
XIII.	INTUIT’S WITNESSES TESTIFIED CREDIBLY THAT THERE WAS NO LIKELIHOOD OF DECEPTION	229
A.	Intuit Executives	229
1.	Greg Johnson	229
2.	Cathleen Ryan.....	231
3.	Jack Rubin.....	233
B.	Expert Witnesses.....	238

1. John Hauser..... 238

2. Peter Golder 240

3. Bruce Deal 243

4. Rebecca Kirk Fair 244

XIV. COMPLAINT COUNSEL’S WITNESSES OFFERED INCREDIBLE AND UNRELIABLE TESTIMONY 246

A. Diana Shiller 246

B. Megan Baburek..... 248

C. Nathan Novemsky..... 248

D. Erez Yoeli 250

XV. THE COMMISSION’S DOCUMENTED BIAS 251

Intuit’s Proposed Conclusions of Law

Intuit’s Witness Index

Intuit's Exhibit Index

INTUIT'S PROPOSED FINDINGS OF FACT

I. PROCEDURAL HISTORY

A. The FTC's Investigation

1. The Federal Trade Commission ("FTC") initiated an investigation into Intuit's allegedly deceptive advertising in May 2019. (RX391 (Intuit) ¶5).

2. During the investigation, the FTC issued three Civil Investigative Demands seeking information, documents, and testimony from Intuit, in addition to several CIDs to individual Intuit employees seeking their testimony. (RX391 (Intuit) ¶5). In response, Intuit produced hundreds of thousands of responsive documents, dozens of written interrogatory responses, and testimony from corporate representatives. (RX391 (Intuit) ¶5). The FTC also took testimony from eight Intuit employees between September 29, 2020, and October 30, 2020. (RX391 (Intuit) ¶5).

3. On June 29, 2021, Complaint Counsel shared a draft complaint with Intuit. (RX391 (Intuit) ¶9). Allegations regarding Intuit's marketing of its free commercial products made up only a small portion of the draft complaint. (RX391 (Intuit) ¶9).

4. At that time, Intuit was instructed by Complaint Counsel not to discuss the substance of the allegations in the draft complaint with them because, in their view, such discussions would be "unproductive." (RX391 (Intuit) ¶9).

5. On January 6, 2022, Intuit entered into a tolling agreement with the FTC at Complaint Counsel's request that established a tolling date of January 5, 2022.

6. After starting its investigation, the FTC allowed nearly three full tax seasons to pass before suing Intuit in 2022. (RX391 (Intuit) ¶5; RX260 (FTC) at 27; RX799 (FTC) at 31).

7. On March 24, 2022, Intuit informed FTC Chair Lina M. Khan that it was voluntarily retracting its “Free, Free, Free” ads after a meeting with her in which concerns about those ads were expressed. (Ryan (Intuit) Tr. 754-755; GX352 (FTC) at 1; RX73 (Intuit) at 25; GX438 (Intuit) ¶16; Motion to Withdraw Matter from Adjudication at 9, 123 (May 4, 2022)).

8. Intuit voluntarily discontinued its “Free, Free, Free” ads even though doing so “was extremely disruptive,” requiring Intuit to “work[] across multiple agencies and across hundreds of contacts across [Intuit’s] media partners.” (Ryan (Intuit) Tr. 754).

B. FTC Proceedings

9. On March 28, 2022, nearly nine months after sending Intuit the draft complaint, and just three weeks before the April 18, 2022, deadline for filing federal taxes, the FTC filed a pair of complaints: the section 5(a) administrative complaint in this case, and a complaint filed in the United States District Court for the Northern District of California pursuant to section 13(b) of the FTC Act, 15 U.S.C. §53(b). (RX260 (FTC); RX799 (FTC); RX74 (Intuit) at 2).

10. Both complaints raised one count of deceptive advertising under section 5(a) of the Federal Trade Commission Act, 15 U.S.C. §45(a). (RX260 (FTC) at 24; RX799 (FTC) at 29).

11. The case the Commission authorized contended that consumers were deceived by TurboTax ads into coming to the TurboTax website, and that the website then further duped consumers into spending substantial time and effort before Intuit performed a “bait and switch,” telling consumers at the last minute that their taxes would not be free. (RX260 (FTC); RX799 (FTC)).

12. Along with its federal complaint, the FTC filed a motion seeking a temporary restraining order and a preliminary injunction enjoining Intuit from running purportedly

unlawfully deceptive advertisements for its free products. (Emergency Motion for Temporary Restraining Order and Preliminary Injunction, *FTC v. Intuit Inc.*, No. 5:22-cv-1973 (N.D. Cal. Mar. 28, 2022)).

13. The federal district court held a hearing on the FTC’s motion on April 21, 2022. (RX73 (Intuit)).

14. During this hearing, U.S. District Judge Charles R. Breyer observed that the FTC’s purported emergency motion was made after extensive delay—as the conduct was “known to the FTC for a considerable period of time”— and that its timing was “entirely disruptive” to Intuit. (RX73 (Intuit) at 6).

15. Judge Breyer was unpersuaded by Complaint Counsel’s theory of deception. In open court, he recognized that TurboTax Free Edition ads “don’t say it is free to everybody and nobody thinks it is free to everybody.” (RX73 (Intuit) at 17). He also recognized that Intuit’s ads include “a disclaimer.” (RX73 (Intuit) at 16-17). In response to Complaint Counsel’s argument that Intuit’s ads “omitted” disclosures (RX73 (Intuit) at 39), Judge Breyer observed the disclosure “is right there; isn’t it? I mean, it is right under the word ‘free, free, free’ or ‘zero, zero, zero,’ it says ‘TurboTax free edition, for simple tax returns only.’” (RX73 (Intuit) at 40). Similarly, Judge Breyer noted that one exemplary ad “tells me that it is limited to simple tax returns” and “says ‘TurboTax free edition, for simple tax returns only*[,] That’s what it is.” (RX73 (Intuit) at 36-37).

16. Just a day after the hearing, on April 22, 2022, Judge Breyer denied Complaint Counsel’s motion. (RX74 (Intuit)).

17. On May 4, 2022, Intuit filed an unopposed motion to withdraw this matter from adjudication under FTC Rule 3.26(c). (Motion to Withdraw Matter from Adjudication (May 4, 2022)).

18. On May 6, 2022, Complaint Counsel moved for summary decision, before Intuit had any opportunity to conduct discovery. (Motion for Summary Decision (May 6, 2022)).

19. Also on May 6, 2022, the Commission withdrew the matter from adjudication pursuant to Rule 3.26(c). (Order Withdrawing Matter from Adjudication Pursuant to Rule 3.26(c) of the Commission Rules of Practice (May 6, 2022)).

20. On August 19, 2022, the Commission returned the matter to adjudication. (Order Returning the Matter to Adjudication and Setting a New Evidentiary Hearing Date (Aug. 19, 2022)).

21. On August 22, 2022, Complaint Counsel again moved for summary decision, still before Intuit had an opportunity to conduct discovery. (RX600 (FTC); Opposition to Complaint Counsel's Motion for Summary Decision at 5 (Aug. 30, 2022)).

22. On January 31, 2023, following briefing and oral argument, the Commission denied Complaint Counsel's motion for summary decision, finding that "a decision on the merits would be best made after fuller factual development at trial." (Opinion and Order Denying Summary Decision at 2 (Jan. 31, 2023)). The Commission reasoned that trial would allow the parties to offer evidence that "might provide insights concerning consumers' knowledge and expectations concerning 'free' claims in Intuit's ads." (Opinion and Order Denying Summary Decision at 12 (Jan. 31, 2023)).

23. In denying summary decision, the Commission acknowledged that Complaint Counsel had "focused heavily on [Intuit's] video ads" and thus called for "the analysis of [the]

other, equally important ads [to] be further developed during the course of trial.” (Opinion and Order Denying Summary Decision at 8 (Jan. 31, 2023)).

C. Trial

24. A trial in this matter was held before the undersigned beginning on March 27, 2023. (Chappell (ALJ) Tr. 5).

25. Complaint Counsel’s case-in-chief lasted just three partial trial days, during which they presented only two fact witnesses—both FTC employees—and one expert witness. (Shiller (FTC) Tr. 138; Baburek (FTC) Tr. 291; Novemsky (FTC) Tr. 348).

26. Intuit presented in its case-in-chief three current or former Intuit executives as fact witnesses, along with four expert witnesses (one via trial deposition). (Johnson (Intuit) Tr. 546; Ryan (Intuit) Tr. 686; Hauser (Intuit) Tr. 837; Golder (Intuit) Tr. 1041; Deal (Intuit) Tr. 1291; Rubin (Intuit) Tr. 1498; RX1555 (Kirk Fair (Intuit) Trial Dep.) at 1).

27. The trial ended with Complaint Counsel calling two putative expert witnesses in rebuttal. (Yoeli (FTC) Tr. 1657; Novemsky (FTC) Tr. 1763).

II. INTUIT INC.

28. Intuit is a personal finance software company headquartered in Mountain View, California. (JX1 ¶6; GX288 (Intuit) at 5; Johnson (Intuit) Tr. 549-551; GX152 (Johnson (Intuit) IHT) at 125).

29. Intuit was founded in 1984 with the mission of helping customers manage their finances through innovative technology. (Johnson (Intuit) Tr. 551; GX288 (Intuit) at 5-6, 63).

30. For nearly 40 years, Intuit has been a customer-focused company that endeavors to deliver leading financial software products that provide customers with unmatched value and benefit. (Johnson (Intuit) Tr. 547, 549-551, 555; GX152 (Johnson (Intuit) IHT) at 125; RX58-A

(Intuit) at 15; RX781 (Intuit) at 15). As Greg Johnson, former Intuit executive and General Manager of the Intuit Consumer Group that oversaw TurboTax, testified, “everything [Intuit] do[es] starts with the customer.” (Johnson (Intuit) Tr. 552, 555; GX288 (Intuit) at 9).

31. Intuit offers a number of widely used financial-software programs, including TurboTax, which assists consumers with preparing and filing their taxes; QuickBooks, which assists small and medium-sized businesses with accounting; and Credit Karma, which provides consumers personalized recommendations for consumer financial services products and services and access to their credit scores and reports. (GX288 (Intuit) at -6010).

32. With TurboTax, Intuit seeks to alleviate consumer stress associated with a financial issue that affects nearly every household in America—filing taxes—by simplifying the tax-preparation process so that consumers can file their taxes with confidence. (Johnson (Intuit) Tr. 549-551; RX814 (Intuit) at -6789).

33. Intuit’s core value is “integrity without compromise.” (Johnson (Intuit) Tr. 553-555; RX58-A (Intuit) at 15; RX781 (Intuit) at 15; RX924-A (Intuit) at 17; RX922 (Intuit) at 12). That phrase embodies Intuit’s commitment to always “speak the truth” and “do the right thing even when no one is looking.” (Johnson (Intuit) Tr. 554; Ryan (Intuit) Tr. 836; RX58A (Intuit) at 15). Intuit’s reputation and its relationship with its customers depend on acting with integrity. (Johnson (Intuit) Tr. 554; Ryan (Intuit) Tr. 836; RX58A (Intuit) at 15).

34. Intuit’s mission and values—including its focus on customers and its commitment to integrity without compromise—are integral to the company and drive its customer-focused business and marketing strategies, including the advertising for its free products that is at issue here. (RX920 (Intuit) at -2621; RX921 (Intuit) at -3046; Johnson (Intuit) Tr. 550-551, 554-555; Ryan (Intuit) Tr. 836; RX58-A (Intuit) at 15).

35. Intuit’s mission and values are widely known within the company and echoed publicly. (Johnson (Intuit) Tr. 551, 554-555; Ryan (Intuit) Tr. 836; RX58-A (Intuit) at 13-15, 73, 76; RX781 (Intuit) at 14-15, 66, 68; RX804 (Intuit) at 7, 42, 128-129; RX924-A (Intuit) at 16-17).

36. Intuit employees are drawn to the company because of its mission and values, and Intuit expects its employees to act according to those values and that mission. (Johnson (Intuit) Tr. 549-551, 553-555; Ryan (Intuit) Tr. 686; Rubin (Intuit) Tr. 1499).

37. Consistent with its mission and values, Intuit has helped millions of consumers, small businesses, and self-employed workers—many of them returning customers—prosper by providing financial management and compliance software products and services. (GX288 (Intuit) at 5).

38. The TurboTax advertisements challenged in this case were developed with Intuit’s mission and values—including its focus on customers and commitment to integrity—in mind. (Johnson (Intuit) Tr. 550-551, 554-555; Ryan (Intuit) Tr. 836; RX920 (Intuit) at -2621; RX921 (Intuit) at -3046; RX58-A (Intuit) at 15).

III. THE TAX-PREPARATION INDUSTRY

39. The tax-preparation industry bears several characteristics that make deception an economically irrational strategy for firms, including Intuit. (RX1027 (Deal Expert Report) ¶¶11-13, 23-58; Yoeli (FTC) Tr. 1740-1742). These characteristics include a “largely fixed set of consumers,” i.e., a stable market size; an “annual requirement to file taxes”; intense competition for customers; differentiated product offerings; and “very low marginal costs” for consumers to switch firms. (RX1027 (Deal Expert Report) ¶¶10-13, 23-58).

40. Consumers in the tax-preparation industry also readily communicate about their experiences and understand when they have been deceived. (Deal (Intuit) Tr. 1301-1302, 1319-1320; RX1027 (Deal Expert Report) ¶¶143, 155; Golder (Intuit) Tr. 1189-1191, 1213-1214; Yoeli (FTC) Tr. 1740-1742). While this fact does not preclude deception in all cases, it is important background for understanding Intuit’s incentives and business objectives in running the ads at issue, as well as its conduct moving forward.

A. The Highly Competitive Tax-Preparation Industry Provides Consumers With A Wide Range Of Tax-Preparation Options

41. The tax-preparation industry is highly competitive, meaning many suppliers—over 130,000, in fact (RX874 (Intuit) at 27)—compete to provide tax-preparation services to consumers through differentiated products. (Deal (Intuit) Tr. 1316; RX1027 (Deal Expert Report) ¶¶37-41 & n.66; RX50 (Intuit) at 7; GX288 (Intuit) at 11; RX436 (Intuit) at -9045; RX874 (Intuit) at 24; RX704 (Intuit) at 5).

42. The term “Tax Year” is used in the industry to refer to the calendar year preceding the period during which consumers prepare and file their annual individual tax returns. (JX1 ¶7). For example, Tax Year 2021 refers to tax returns filed in calendar year 2022 for income earned in calendar year 2021. (JX1 ¶7).

43. There were approximately 163 million consumers in the tax-preparation industry—i.e., taxpayers who filed an individual tax return—in Tax Year 2021. (RX924-B (Intuit) at 93; RX1510 (Intuit) at 1).

44. The number of consumers in the tax-preparation industry is stable, growing by an average of only 1.1% annually over the last ten years, meaning firms interact with largely the same group of customers each year. (Rubin (Intuit) Tr. 1529; Deal (Intuit) Tr. 1299-1301;

RX924-B (Intuit) at 93; RX808 (Intuit) at 10; RX811 (Intuit) at 4; RX1027 (Deal Expert Report) ¶¶14-15, fig. 1). This slow growth creates an economic incentive for Intuit to retain customers who already use its products. (Rubin (Intuit) Tr. 1529; Deal (Intuit) Tr. 1299-1301; RX1027 (Deal Expert Report) ¶26).

45. The tax-preparation industry also is characterized by repeat transactions. Consumers are generally required to prepare and file a tax return each year, for their entire income-generating lives. (Deal (Intuit) Tr. 1299-1301). As a result, firms in the tax-preparation industry engage in repeat transactions with a relatively fixed set of customers, year after year. (Rubin (Intuit) Tr. 1529; Deal (Intuit) Tr. 1299-1301).

46. Consumers have an array of alternatives when deciding how to prepare and file their tax returns each year. (RX534 (Intuit) at 31). Consumers can do so themselves, by hand; by hiring a tax professional (such as a certified public accountant (“CPA”), attorney, IRS enrolled agent, enrolled actuary, or enrolled retirement plan agent); by visiting a tax store (such as Liberty Tax); by using software available through the IRS Free File program; or by using commercial online tax-preparation software (such as TurboTax). (RX874 (Intuit) at 27; Deal (Intuit) Tr. 1303, 1308-1309; RX1027 (Deal Expert Report) ¶¶14-17, 42-50, C-1-34).

47. Within the online tax-preparation software segment of the industry, Intuit competes with other firms that offer such software, including Tax Act, Free Tax USA, TaxSlayer, H&R Block, and Cash App Taxes (formerly known as Credit Karma Tax). (Rubin (Intuit) Tr. 1535; RX874 (Intuit) at 29; GX288 (Intuit) at 11; GX447 (Intuit) at 5).

48. ████████ percent of tax returns filed using online tax-preparation software are filed using TurboTax. (RX814 (Intuit) at -6786). Third-party websites and reviewers recognize

that “TurboTax is the best online tax software because of its thorough and intelligent interview process.” (RX505 (Intuit) at 3; RX80 (Intuit) at 2; RX1497 (Intuit) at 2).

49. In Tax Year 2020, 83.9 million tax returns (approximately 55%) were filed by a tax professional and 67.2 million returns (approximately 44%) were self-prepared using an online tax-preparation software program. (RX84 (Intuit) at tbl. 4).

50. In Tax Year 2021, 87 million tax returns (approximately 53.4%) were filed by a tax professional or tax store, 1 million (approximately 0.6%) were self-prepared on paper, and 74 million (approximately 45.4%) were prepared using online tax-preparation software. (RX327 (Intuit) at -8340; RX924-B (Intuit) at 93; Rubin (Intuit) Tr. 1535).

B. Taxpayers Easily Switch Between Tax-Preparation Methods

51. Consumers can (and do) switch between different tax-preparation products and methods with ease, both within each Tax Year and also from one year to the next. (Deal (Intuit) Tr. 1302, 1310-1311; RX1027 (Deal Expert Report) ¶¶15; 51-54, 129; RX1018 (Golder Expert Report) ¶¶64-65).

52. Every year, in fact, approximately 20% of taxpayers use a different tax-preparation method than they used the year before. (RX704 (Intuit) at 8). Switching between tax-preparation methods happens in no small part because firms in the industry actively encourage customers to switch, and product-review websites discuss the ease of doing so. (Deal (Intuit) Tr. 1309-1311; RX1027 (Deal Expert Report) ¶¶53; RX1018 (Golder Expert Report) ¶¶61-63; RX60 (Intuit); RX814 (Intuit) at -6786 to -6787; RX899 (Intuit); RX859 (Intuit); RX638 (Intuit); RX1048 (Intuit)).

53. Tax Year 2018 data show that [REDACTED] of consumers who used tax-preparation software the year prior (or [REDACTED] consumers) switched to a different software brand.

(RX704 (Intuit) at 8). [REDACTED] of consumers who used a paid tax preparer the year prior (or [REDACTED] consumers) switched to a different one. (RX704 (Intuit) at 8). And [REDACTED] of all consumers who switched (or [REDACTED] consumers) changed their *method* of preparation (online DIY product to CPA, for example, or tax store to online product). (RX704 (Intuit) at 8; RX1027 (Deal Expert Report) ¶54).

54. Intuit's customer data further illustrate that [REDACTED] million TurboTax customers in Tax Year 2020 switched to TurboTax from a different tax-preparation method used the prior year. (RX1027 (Deal Expert Report) ¶129). These [REDACTED] million new TurboTax customers constituted over [REDACTED] of TurboTax's customer base that year of [REDACTED]. (RX1027 (Deal Expert Report) ¶129).

55. The online software segment of the tax-preparation industry—the segment in which TurboTax competes—has several features that allow customers to switch firms and products with particular ease. (RX90 (Intuit); RX498 (Intuit)). To start, consumers can simultaneously browse competitors' product websites. (Rubin (Intuit) Tr. 1586, 1610; Yoeli (FTC) Tr. 1718-1719). TurboTax also allows consumers to electronically import and export their tax documents to and from competitors' products, thereby reducing the burden on consumers of switching. (Ryan (Intuit) Tr. 694-695, 799-800; Deal (Intuit) Tr. 1310-1311, 1346; RX1027 (Deal Expert Report) ¶¶12, 51, 53). Further, tax-preparation software typically does not require a financial commitment until the end of the tax-filing process, unlike a tax store or CPA, which may require upfront payment. (RX1027 (Deal Expert Report) ¶52).

C. Tax-Preparation Firms Offer Free Software To Facilitate Long-Term Customer Relationships, While Establishing Eligibility Criteria To Use It

56. Intuit and its competitors all offer consumers free versions of their tax-preparation software. (RX1027 (Deal Expert Report) ¶20, App'x C (“Digital DIY Tax Preparation Products Overview”) at C-3, fig. C.1 (“Free Products Among Intuit’s and Competitors’ Digital DIY Offerings in TY21”), C-7, fig. C.2 (“Comparison of Tax Situation Coverage Across Free Digital DIY Tax Product Offerings”)).

57. Companies offer free versions of their tax-preparation software to encourage consumers to try their products, with the goal of retaining customers who use free products over the long term, so that those customers will stay with a particular firm if they eventually need paid tax-preparation assistance. (RX1027 (Deal Expert Report) ¶61).

58. Like Intuit’s TurboTax Free Edition, Intuit’s competitors’ free software also include qualifications on eligibility, almost always tied to the complexity of taxpayers’ returns, meaning not all consumers are eligible to file for free using their software. (Rubin (Intuit) Tr. 1535-1536; *infra* ¶¶141, 454, 458-459).

59. The IRS also offers free tax-preparation services through the IRS Free File program, a private-public partnership with tax-preparation companies. (Rubin (Intuit) Tr. 1507-1509). Like the free software offered by Intuit’s competitors, the software offered through the IRS Free File program is only available for certain consumers who qualify. (Rubin (Intuit) Tr. 1519; RX301 (Intuit) at 3, 6). Unlike most commercial offers, however, eligibility for the IRS program is based on adjusted gross income (“AGI”). (Rubin (Intuit) Tr. 1519; RX301 (Intuit) at 3, 6; Shiller (FTC) Tr. 261). Moreover, the IRS’s rules dictate that participating companies impose additional eligibility requirements to ensure the companies’ Free File offerings serve at

least 10 percent but not more than 50 percent of the eligible population. (RX1259-A (Intuit); Rubin (Intuit) Tr. 1516-1518). As a result, eligibility for the IRS Free File program is a “patchwork.” (RX1259-A (Intuit); Rubin (Intuit) Tr. 1518).

IV. TURBOTAX’S PRODUCTS

A. Product Lineup

60. Intuit offers several products under the “TurboTax” brand name that help consumers prepare and file their federal and state tax returns. (Ryan (Intuit) Tr. 690; Johnson (Intuit) Tr. 571-573, 642; JX1 ¶8; RX439-A (Intuit); RX449 (Intuit); GX144 (Soukas (Intuit) Dep.) at 15).

61. Intuit refers to these TurboTax products as “stock keeping units” or “SKUs.” (Johnson (Intuit) Tr. 572; Rubin (Intuit) Tr. 1575; Deal (Intuit) Tr. 1410).

62. TurboTax SKUs (free and paid) are differentiated by the complexity of a consumer’s tax situation they can handle and the level of expert assistance provided. (Ryan (Intuit) Tr. 690; Johnson (Intuit) Tr. 568, 570-571; RX439-A (Intuit); RX449 (Intuit)). This approach makes TurboTax’s SKUs easier for consumers to understand and choose among. (Johnson (Intuit) Tr. 571).

63. The complexity of a customer’s tax return is determined by the IRS forms and schedules that the individual must file. (Ryan (Intuit) Tr. 690; Johnson (Intuit) Tr. 571; GX145 (Berger (Intuit) Dep.) at 121; GX4 (Intuit) at 9-10).

64. TurboTax’s SKUs fall into three categories: Do-It-Yourself (“DIY”), Live Assisted, and Live Full Service; each offers varying levels of expert assistance. (Johnson (Intuit) Tr. 572; Ryan (Intuit) Tr. 690-691; RX439-A (Intuit); RX449 (Intuit); RX1223 (Intuit); RX1224-A (Intuit)).

65. TurboTax DIY SKUs allow consumers to prepare and file their tax returns on their own. (Johnson (Intuit) Tr. 563; GX150 (Goode (Intuit) IHT) at 44-45; GX157 (Smith (Intuit) IHT) at 31). TurboTax Live Assisted SKUs allow consumers to prepare and file their returns themselves after receiving expert tax assistance, including a final expert review before filing. (Ryan (Intuit) Tr. 690). TurboTax Live Full Service SKUs provide consumers with a tax expert—similar to a CPA—who prepares and files a customer’s return entirely on her behalf. (Ryan (Intuit) Tr. 691).

66. Each of the three product categories includes four separate SKUs. (Johnson (Intuit) Tr. 572-573; Ryan (Intuit) Tr. 690-691). The four TurboTax DIY SKUs are TurboTax Free Edition, TurboTax Deluxe, TurboTax Premier, and TurboTax Self-Employed. (Ryan (Intuit) Tr. 690; RX439-A). The four TurboTax Live Assisted SKUs are TurboTax Live Basic, TurboTax Live Deluxe, TurboTax Live Premier, and TurboTax Live Self-Employed. (GX144 (Soukas (Intuit) Dep.) at 15; RX1224-A (Intuit)). The four TurboTax Live Full Service SKUs are TurboTax Live Basic Full Service, TurboTax Live Deluxe Full Service, TurboTax Live Premier Full Service, and TurboTax Live Self-Employed Full Service. (GX144 (Soukas (Intuit) Dep.) at 15; RX1224-A (Intuit)).

67. The three free TurboTax products—Free Edition, Live Basic, and Live Basic Full Service—may be used by consumers with “simple tax returns,” as defined by the IRS, regardless of income level. (Ryan (Intuit) Tr. 702-703; GX146 (Ryan (Intuit) Dep.) at 122; GX156 (Ryan (Intuit) IHT) at 92; RX3 (Intuit); *see also* RX371 (Intuit) at -0295).

68. Prior to Tax Year 2018, simple tax returns were those that could be filed with an IRS Form 1040EZ or Form 1040A. (Ryan (Intuit) Tr. 707, 718-719; RX1280 (Intuit)).

Beginning in Tax Year 2018, simple tax returns were those that could be filed on a Form 1040, without any attached schedules or forms. (Ryan (Intuit) Tr. 702-703; RX3 (Intuit)).

69. TurboTax Free Edition is “truly free.” (Rubin (Intuit) Tr. 1524, 1528; Johnson (Intuit) Tr. 573, 614, 617, 622; GX161 (Maxson (FTC) Dep.) at 279; *see also* Ryan (Intuit) Tr. 702-703, 742; GX146 (Ryan (Intuit) Dep.) at 122; GX156 (Ryan (Intuit) IHT) at 92; RX3 (Intuit); RX371 (Intuit) at 8; RX439-A (Intuit); RX449 (Intuit)). Consumers cannot pay to use TurboTax Free Edition under any circumstances. (Rubin (Intuit) Tr. 1528, 1539; *see also* Johnson (Intuit) Tr. 573, 617, 622; Ryan (Intuit) Tr. 702-703, 742).

70. TurboTax Deluxe, TurboTax Live Deluxe, and TurboTax Live Deluxe Full Service are paid SKUs that can be used by consumers with more complex tax situations, including mortgage deductions, rental property income, charitable donations over \$300, itemized deductions, unemployment income, or education expenses. (Rubin (Intuit) Tr. 1614; RX439-A (Intuit); RX449 (Intuit)).

71. TurboTax Premier, TurboTax Live Premier, and TurboTax Live Premier Full Service are paid SKUs that can be used by consumers with IRS forms or schedules beyond those covered by the TurboTax Deluxe SKUs, such as investment income, rental property income, or refinancing deductions. (RX439-A (Intuit); RX449 (Intuit)).

72. TurboTax Self-Employed, TurboTax Live Self-Employed, and TurboTax Live Self-Employed Full Service are paid SKUs that can be used by taxpayers who file forms 1099-NEC, 1099-K, and Schedule C. (RX439-A (Intuit); RX950 (Intuit) at 1-3; RX1539 (Intuit) at 1).

B. Intuit Aims To Start Customers In The Right SKU

73. Because it wants its customers to have a positive experience, Intuit is incentivized to get them started in the TurboTax SKU that best suits their individual tax needs, including by

accurately informing customers about Free Edition's qualifications. (Johnson (Intuit) Tr. 567-568, 570; Ryan (Intuit) Tr. 705, 747-748; Rubin (Intuit) Tr. 1580-1581, 1583-1584; RX40 (Intuit) at 12; RX810 (Intuit) at -6751, -6772; RX42 (Intuit) at 11; RX54 (Intuit) at -2523; RX1027 (Deal Expert Report) ¶67; RX1018 (Golder Expert Report) ¶¶28-29, 205; GX152 (Johnson (Intuit) IHT) at 66-67, 128-129, 136-137; GX150 (Goode (Intuit) Dep.) at 128; GX146 (Ryan (Intuit) Dep.) at 125-126). As Intuit's Senior Vice President of Marketing Cathleen Ryan testified, Intuit's "business depends on ... [TurboTax customers] start[ing] in the right product for them." (Ryan (Intuit) Tr. 747).

74. Intuit defines the "right" product for the consumer as the lowest-priced (or free) TurboTax SKU for which the consumer's tax situation qualifies. (Johnson (Intuit) Tr. 567-568, 570).

75. When consumers begin in the right TurboTax SKU for their tax needs, and thereby avoid having to switch to a more expensive SKU during their tax-preparation process, they have a more positive experience. (Ryan (Intuit) Tr. 747-748; Rubin (Intuit) Tr. 1560, 1583-1584; RX54 (Intuit) at -2523; GX152 (Johnson (Intuit) IHT) at 128-129). They also tend to leave more positive feedback about TurboTax. (Rubin (Intuit) Tr. 1559-1560, 1583-1584; GX152 (Johnson (Intuit) IHT) at 66-67, 128-129; GX411 (Intuit) at 1, 10; RX809 (Intuit) at 5). And they are more likely to return to TurboTax the following year. (Ryan (Intuit) Tr. 747-748; GX152 (Johnson (Intuit) IHT) at 128-129).

76. Conversely, consumers generally report having a more negative experience when they are prompted to change SKUs. (Johnson (Intuit) Tr. 567-568; Rubin (Intuit) Tr. 1525-1526; GX636 (Intuit) at -4423; GX411 (Intuit) at 1, 10).

77. Not surprisingly, then, Intuit has invested substantial time, effort, and other resources in tools that help consumers identify the TurboTax SKU best for their tax situation. (Johnson (Intuit) Tr. 570; GX152 (Johnson (Intuit) IHT) at 161-162).

78. Since Tax Year 2015, Intuit's "Products & Pricing" webpage has included a straightforward tool (the "SKU Selector") that can recommend the right TurboTax SKU for a consumer, with the goal of making it easy for consumers to choose the right SKU for their individual tax needs. (Johnson (Intuit) Tr. 565-566; Rubin (Intuit) Tr. 1575-1577; RX295 (Intuit)).

79. RX716-A, shown in part below, is a screenshot of the Products & Pricing webpage from Tax Year 2018 that shows the SKU Selector at the top of the page. (RX716-A (Intuit)).

The screenshot shows the Intuit TurboTax website. At the top, there's a navigation menu with links for 'Products & Pricing', 'Tools & Tips', 'After You File', 'Help', 'Security', and 'Tax Reform'. A 'Sign In' button and 'En Español' link are on the right. The main heading is 'Tell us about you – we'll recommend the right tax solution.' Below this is a grid of 12 icons representing various tax situations: 'I want to maximize deductions and credits', 'I have a job (received W2)', 'I paid rent', 'I own a home', 'I have children or dependents', 'I'd like a tax expert to review my return', 'I donated to charity', 'I'm paying off student loans', 'I sold stock or own rental property', 'I'm self-employed / freelancer', 'I own a small business', and 'My life has changed and I have questions'. Below the grid is a 'turbotaxlive' banner with a 'Do your taxes with a real CPA' message. The bottom section, titled 'America's #1 brand of tax software', displays four product tiers: 'Free Edition' (\$0 Fed, \$0 State, \$0 File), 'Deluxe MOST POPULAR' (\$59.99* State additional), 'Premier' (\$79.99* State additional), and 'Self-Employed' (\$119.99* State additional). Each tier includes a 'File for \$0' or 'Start for Free' button and a star rating with review count.

80. More generally, Intuit endeavors to be transparent—in its advertisements and on the TurboTax website—about the qualifications for TurboTax Free Edition and its other free products, so that consumers get started in the right product. (Ryan (Intuit) Tr. 747; Johnson (Intuit) Tr. 608-610; GX651 (Intuit) at -0265; GX150 (Goode (Intuit) IHT) at 217).

81. Intuit's efforts to get consumers to begin their tax returns in the right TurboTax SKU for them have been successful. Between Tax Years 2014 and 2021, █████ of customers that started in a DIY TurboTax SKU ultimately completed and filed their returns using the same

SKU. (RX820 (Intuit); RX821 (Intuit); *see also* RX1018 (Golder Expert Report) ¶206 & fig. 37).

82. Intuit’s efforts to get consumers with simple tax returns to begin in Free Edition have been similarly successful. Between Tax Years 2014 and 2021, ██████████ of the ██████████ consumers (██████████) who began their tax returns in Free Edition completed and filed their returns in Free Edition. (RX820 (Intuit); RX821 (Intuit); *see also* RX1018 (Golder Expert Report) ¶207 & fig. 37).

V. TURBOTAX FREE TAX-PREPARATION SERVICES

A. TurboTax’s “Free-Tax Growth Strategy”

1. Intuit Offers Free Products As Part Of Its Long-Term Growth Strategy

83. Intuit offers free TurboTax SKUs, including TurboTax Free Edition, as part of a long-term growth strategy to attract and retain customers with simple tax returns. (Ryan (Intuit) Tr. 702-703; GX152 (Johnson (Intuit) IHT) at 124). By delivering an exceptional experience in its free TurboTax SKUs, Intuit aims to develop a long-term relationship with simple filers so that they will continue to use TurboTax as their tax situations become more complex—and hence require the use of paid TurboTax SKUs—over time. (Johnson (Intuit) Tr. 626, 642-643; Ryan (Intuit) 702-703; Rubin (Intuit) Tr. 1522-1523; RX50 (Intuit) at 2; RX1018 (Golder Expert Report) ¶28; GX156 (Ryan (Intuit) IHT) at 89-90, 118; GX152 (Johnson (Intuit) IHT) at 124-125; GX148 (Somers (Intuit) Dep.) at 88-89).

84. In addition to driving acquisition and retention of simple filers, offering a genuinely free tax-preparation solution supports other aspects of Intuit’s broader strategy. Customers who have a positive experience filing their own taxes for free are more likely to recommend TurboTax to their friends, family, and neighbors (Rubin (Intuit) Tr. 1584-1585;

GX155 (Rubin (Intuit) IHT) at 175, 208-209, 213; GX152 (Johnson (Intuit) IHT) at 162), and offering free TurboTax SKUs leads customers to consider other DIY solutions (RX54 (Intuit) at - 2511; RX1027 (Deal Expert Report) ¶¶60-61).

85. Customers with simple tax returns offer significant potential long-term value to Intuit because they tend to be younger and less set in their ways, have lower acquisition costs, and likely will have more complex taxes over time. (Ryan (Intuit) Tr. 702-703; Rubin (Intuit) Tr. 1522-1523, 1596-1598; Yoeli (FTC) Tr. 1745; GX152 (Johnson (Intuit) IHT) at 122-125). For instance, TurboTax Free Edition filers have an average age of 33 years, significantly lower than the average age of all taxpayers (which is 45-50 years). (Rubin (Intuit) Tr. 1597-1598).

86. Intuit does not set any short-term revenue goals for simple filers who use its free TurboTax SKUs. (Johnson (Intuit) Tr. 556-557, 642).

87. For Intuit to realize the potential long-term value of acquiring simple filers, it must retain those customers year-over-year. (Johnson (Intuit) Tr. 626-627, 643; Rubin (Intuit) Tr. 1522-1523; RX1018 (Golder Expert Report) ¶28). Therefore, to ensure it receives a return on its investments in developing, supporting, and marketing TurboTax—including its offering of free TurboTax SKUs to simple filers—Intuit relies on repeat customers returning to TurboTax every year. (Johnson (Intuit) Tr. 626-627; RX1018 (Golder Expert Report) ¶28). Repeat customers are the foundation of Intuit's business and business model. (Johnson (Intuit) Tr. 626; Rubin (Intuit) Tr. 1529; Ryan (Intuit) Tr. 747).

88. Intuit's focus on retaining customers is also consistent with its economic incentives in the tax-preparation industry. Because there are, as discussed earlier, relatively few new customers entering the tax-preparation market each year, many consumers will have prepared their taxes before and may be resistant to trying online tax-preparation generally or

TurboTax specifically. (Rubin (Intuit) Tr. 1529-1530; Deal (Intuit) Tr. 1299-1301; RX924-C at -0862; RX1027 (Deal Expert Report) ¶¶14-15, fig. 1). Intuit also faces high customer-acquisition costs, providing yet additional incentive for Intuit to value repeat customers, as it can take several years to recoup the investment required to acquire each new customer. (Johnson (Intuit) Tr. 626-627; RX50 (Intuit) at -6547; RX1027 (Deal Expert Report) ¶65).

89. In short, because the tax-preparation industry has a “largely fixed set of consumers,” and because of the “very low marginal costs and [the] annual requirement to file taxes,” Intuit (like its competitors) derives far greater value from exceeding customer expectations and earning repeat business than it does from one-off transactions. (RX1027 (Deal Expert Report) ¶10); *see also* RX1027 (Deal Expert Report) ¶11 (“Having millions of short-term, dissatisfied customers who became victims of a ‘bait and switch’ program ... would eliminate future revenue streams from the deceived customers, would spread negative perceptions of Intuit, and would not be economically rational.”)).

90. Intuit seeks to maximize customer retention by delivering exceptional products that result in a positive consumer experience. (Ryan (Intuit) Tr. 834; GX150 (Goode (Intuit) IHT) at 121). Intuit’s “guiding approach” to retaining customers is to have products that delight customers so that they return year after year and tell others about their positive experience. (Johnson (Intuit) Tr. 626-627; Ryan (Intuit) Tr. 703; RX1018 (Golder Expert Report) ¶¶28, 33; GX152 (Johnson (Intuit) IHT) at 124; GX155 (Rubin (Intuit) IHT) at 175).

91. Intuit’s focus on customer retention has been successful. TurboTax maintains an industry-leading customer-retention rate of approximately 80%, meaning 8 out of 10 TurboTax customers return the following year. (Johnson (Intuit) Tr. 627-628; RX50 (Intuit) at -6548 to -6550; RX53 (Intuit) at 271; RX58 (Intuit) at 81; RX924-C (Intuit) at 96; GX144 (Soukas (Intuit)

Dep.) at 135-136, 139; GX150 (Goode (Intuit) IHT) at 131). In Tax Year 2018, Intuit's 80% retention rate was [REDACTED] [REDACTED] (RX704 (Intuit) at 8; RX59 (Intuit)).

92. Intuit's retention rate is even higher with its paying customers than with its customers who file for free, which is inconsistent with consumers who have to pay expecting that they could file for free. (Johnson (Intuit) Tr. 628-629; GX152 (Intuit) at 133; GX155 (Rubin (Intuit) IHT) at 213; RX36 (Intuit); RX59 (Intuit) at 3; RX765-A (Intuit); RX1018 (Golder Expert Report) ¶47; RX1017 (Hauser Expert Report) ¶131).

93. Nearly [REDACTED] of all TurboTax returns each year are filed by returning TurboTax customers. (RX54 (Intuit) at -2512; RX57-A (Intuit) at 2; RX765-A (Intuit) at 5).

94. Intuit's witnesses provided credible testimony that Intuit's strategy is *not* to deceive consumers into believing that they can file taxes for free with TurboTax when they cannot. (Johnson (Intuit) Tr. 603-604, 615, 622, 683; Ryan (Intuit) Tr. 702-704; Rubin (Intuit) Tr. 1529-1531; GX146 (Ryan (Intuit) Dep.) at 125-126).

95. Such a strategy, these witnesses explained, would be catastrophic for TurboTax's business. (Johnson (Intuit) Tr. 561-562; Ryan (Intuit) Tr. 704; Rubin (Intuit) Tr. 1525-1526). Intuit presented evidence that it has an incentive *not* to deceive customers both because such deception is easy for consumers to detect and because consumers can readily punish deception, including by switching to a competitor and sharing their negative experiences. (Johnson (Intuit) Tr. 561-562, 575-576; Ryan (Intuit) Tr. 704; Rubin (Intuit) Tr. 1525-1526; Deal (Intuit) Tr. 1319-1320).

96. Intuit's executives confirmed the negative repercussions that would result from a business strategy to mislead customers. (Rubin (Intuit) Tr. 1648). It would "erode trust" in the

TurboTax brand, result in negative word-of-mouth among consumers, and undercut Intuit's ability to retain customers, thereby preventing it from establishing the long-term relationships necessary to the success of its free-tax growth strategy. (Johnson (Intuit) Tr. 561-562, 575-576, 629; Rubin (Intuit) Tr. 1529-1530, 1648; RX577 (Intuit) at 8). As Mr. Johnson testified, "if when Intuit was marketing TurboTax Free Edition, it was creating an expectation among consumers who did not qualify to file for free that they could, in fact, do so," then consumers would have been "incredibly disappoint[ed]," and "would leave" TurboTax to find "another way of filing." (Johnson (Intuit) Tr. 575).

97. Unlike in a typical deception case, Complaint Counsel did not offer any evidence that the alleged theory of deception benefitted the defendant. Indeed, the record demonstrates that the deception alleged would have harmed the TurboTax business.

2. Intuit's Free-Tax Strategy Requires Intuit To Continuously Innovate And Improve Its Free Offerings

98. Intuit invests a significant amount of time, effort, and other resources in making its free tax-preparation software superior to any other in the market. (Johnson (Intuit) Tr. 564-565, 576, 586-588; Rubin (Intuit) Tr. 1539-1541; Ryan (Intuit) Tr. 799-800; RX702-A (Intuit) at 3; RX49 (Intuit) at 21-22; RX581 (Intuit) at 10; RX594 (Intuit) at -1390, -1392, -1396; RX597 (Intuit) at 9; RX804 (Intuit) at 15; RX803 (Intuit) at 2).

99. Intuit has improved TurboTax Free Edition by expanding both the scope of the free offer and the product's functionality over the years. (Johnson (Intuit) Tr. 610-611; Rubin (Intuit) Tr. 1539-1541; GX640 (Intuit) at 1; GX155 (Rubin (Intuit) IHT) at 64-65). Doing so cost Intuit millions of dollars in short-term revenue. (Rubin (Intuit) Tr. 1540; Johnson (Intuit) Tr. 586-588, 604; RX702-A at 17).

a. *Expanded Free-State-Return Offer*

100. Intuit has offered a free DIY tax-filing product to consumers since Tax Year 2006. (RX591 (Intuit) at 9). From Tax Year 2013 to 2016, TurboTax Free Edition was known as “Federal Free Edition.” (JX1 ¶9).

101. Before 2013, consumers with simple tax returns could use TurboTax Free Edition to file their federal income taxes for free; filing state returns required a fee. (Ryan (Intuit) Tr. 707; RX591 (Intuit) at 9; RX260 (FTC) at 3).

102. In Tax Year 2013, Intuit offered a discount to TurboTax Free Edition customers to prepare and file their state tax return(s) for free during a three-week promotional period. (GX640 at -3644). Intuit expanded this offer in Tax Year 2014 when it introduced Absolute Zero, which enabled TurboTax Free Edition customers to prepare and file their state tax returns for free during the first five weeks of the tax-filing season (later expanded to the first fifteen weeks of the tax filing season), and in Tax Year 2018 began offering free state returns to Free Edition customers for the entire year. (Ryan (Intuit) Tr. 711-712, 721; Johnson (Intuit) 557, 602-606; RX581 (Intuit) at 15-16; RX577 (Intuit) at 18, 39; RX578 (Intuit) at 7; RX300-A (Intuit) at 3).

103. Because “the name of [Intuit’s free] offer [was] Absolute Zero” from Tax Year 2014 to Tax Year 2017 (Johnson (Intuit) Tr. 606), Intuit used the “Absolute Zero” name in its advertising during that period.

104. Intuit was the first tax-preparation company to offer a free federal and state tax-filing option. (Johnson (Intuit) Tr. 602; GX640 (Intuit) at 1; GX402 (Intuit) at -7468). Following the introduction of Absolute Zero, many of Intuit’s competitors began offering similar free programs. (Johnson (Intuit) Tr. 602; GX581 (Intuit) at 15-16; GX640 (Intuit) at 1; RX577

(Intuit) at 18). Intuit’s leadership has therefore driven an expansion in free tax offerings across the industry. (GX640 (Intuit) at 1; RX1018 (Golder Expert Report) ¶¶235, 239).

b. *Expanded Features In Free Edition*

105. Intuit has consistently sought to improve TurboTax Free Edition by adding additional features, services, and functionality. (Johnson (Intuit) Tr. 564; Rubin (Intuit) Tr. 1539).

106. In Tax Year 2018, for example, Intuit provided TurboTax Free Edition customers the ability to import information from their prior year’s tax return (“YOY Data Transfer”) for free. (Rubin (Intuit) Tr. 1540). Before that, Free Edition customers could only access YOY Data Transfer if they purchased a separate add-on product. (Rubin (Intuit) Tr. 1540).

107. In Tax Year 2019, Intuit further enhanced TurboTax Free Edition by offering “Tax Return Access”— which allows customers to review their prior year(s)’ tax returns—for free. (GX640 (Intuit) at 1; Rubin (Intuit) Tr. 1540). Before that, Free Edition customers could only use Tax Return Access if they purchased a separate add-on product. (Rubin (Intuit) Tr. 1540; RX54 (Intuit) at -2511).

108. Intuit also has used artificial intelligence and machine learning to “simplify and streamline TurboTax Free Edition ... removing as many screens as we can and reducing the amount of time and effort that people put into using Free Edition.” (Rubin (Intuit) Tr. 1540-1541).

c. *Free-Assisted And Full-Service Products*

109. In Tax Year 2020, Intuit—having recognized that consumers with simple returns often paid for a small amount of live assistance—began offering TurboTax Live Basic for free for individuals with simple tax returns who filed from the start of the tax-filing season through

the end of March. (Ryan (Intuit) Tr. 742; Rubin (Intuit) Tr. 1542-1543). It did so as an extension of its free customer acquisition and retention strategy. (Ryan (Intuit) Tr. 742; Rubin (Intuit) Tr. 1503). The first year this free offer was available, over [REDACTED] taxpayers filed their taxes for free using Live Assisted Basic, a more than [REDACTED] increase over the number that paid to file with that SKU the prior year. (RX820 (Intuit)).

110. In Tax Year 2021, Intuit—through what it called its “\$0 Any Way” campaign—expanded its free assisted offer to include both Live Basic and Live Basic Full Service, allowing consumers with simple tax returns to file with a tax professional for free. (GX650 (Intuit) at 1; Ryan (Intuit) Tr. 749-750).

111. The “\$0 Any Way” offer was for a limited time; the advertisements for it always specified the end date. (Ryan (Intuit) Tr. 788, 796-798; GX650 (Intuit) at 1).

112. In Tax Years 2020 and 2021, more than [REDACTED] taxpayers ([REDACTED]) filed their federal and state tax returns for free using Live Basic or Basic Full Service. (RX820 (Intuit); RX821 (Intuit)).

3. Intuit’s Free-Tax Strategy Has Led To Over A Hundred Million Americans Filing For Free Using TurboTax Free Edition

113. Between Tax Years 2014 and 2021, [REDACTED] customers filed their federal tax returns for free using TurboTax Free Edition. The vast majority of those ([REDACTED]) also filed their state return(s) for free using TurboTax Free Edition. (RX820 (Intuit); RX821 (Intuit)). In each year during that period, between 11 and 14 million consumers used TurboTax Free Edition to prepare and file their taxes for free. (RX820 (Intuit); RX821 (Intuit)).

114. In 2022 alone, more than “13 million customers filed for absolutely zero dollars” using Free Edition. (Ryan (Intuit) Tr. 703; Johnson (Intuit) Tr. 576-577).

115. Between Tax Years 2014 and 2021, more TurboTax users filed with Free Edition (████) than with any other TurboTax SKU. (RX820 (Intuit); RX821 (Intuit)).

116. Between Tax Years 2014 and 2021, moreover, approximately █████ who filed using any online service (not just TurboTax) filed their federal taxes for free with TurboTax Free Edition. (RX820 (Intuit); RX821 (Intuit); RX1513 (Intuit) at 8; RX1514 (Intuit) at 9; RX1515 (Intuit) at 8; RX1516 (Intuit) at 8; RX327 (Intuit) at 2; RX694 (Intuit) at 8; RX518 (Intuit) at 8-9).

117. TurboTax Free Edition is not the only way a consumer can file their taxes for free using TurboTax. As discussed, *supra* ¶¶109-112, Intuit offered customers with simple returns the opportunity to file their taxes for free using TurboTax Live Basic and TurboTax Live Basic Full Service during certain promotional periods. Between Tax Years 2019 and 2021, █████ customers filed their federal and state taxes for free using Live Basic or Live Basic Full Service. (RX820 (Intuit); RX821 (Intuit)).

118. Intuit also offers a variety of coupons or discount codes that allow taxpayers without simple returns to prepare and file their federal and state taxes for free using a paid TurboTax SKU. For example, Intuit offered customers who drive for certain rideshare companies, including Uber and Lyft, to use TurboTax Self-Employed for free. (GX146 (Ryan (Intuit) Dep.) at 91; GX439 (Ryan (Intuit) Decl.) ¶13; GX428 (Intuit) at 45). And, as discussed below, Intuit has long allowed certain military personnel to file for free with TurboTax. (*Infra* ¶¶151-154). Between Tax Years 2014 and 2021, █████ customers filed their federal and state tax returns for free using a paid TurboTax DIY SKU, including TurboTax Deluxe, TurboTax Premier, and TurboTax Self-Employed. (RX820 (Intuit); RX821 (Intuit)).

B. Simple Tax Return Qualification

1. Intuit Uses The IRS's Definition Of "Simple Tax Returns"

119. The IRS classifies tax returns into three levels of complexity, based on a return's "accompanying schedules or additional forms associated with specific tax credits." (RX78 (Intuit) at 10; Ryan (Intuit) Tr. 728-729). "[S]imple returns" are those filed using the most basic form for an individual income-tax return, without any schedules. (Johnson (Intuit) Tr. 581; Ryan (Intuit) Tr. 719-720; RX77 (Intuit) at 19; RX18 (Intuit) at 10; RX49 (Intuit) at 19-20).

120. Before Tax Year 2018, the most basic IRS forms available were Forms 1040EZ and 1040A. (RX49 (Intuit) at 20; RX23 (Intuit); Ryan (Intuit) Tr. 718-719; RX77 (Intuit) at 19; RX587 (Intuit) at -1279; RX1522 (Intuit) at 1). A return filed using either form was thus a "simple tax return."

121. In response to the Tax Cuts and Jobs Act of 2017, the IRS discontinued Forms 1040EZ and 1040A and launched in their place a new Form 1040. (RX81 (Intuit); RX811 (Intuit) at 1; RX1522 (Intuit) at 1; JX1 ¶12). Form 1040—which previously had been for more complex returns—became the most basic individual tax form. (JX1 ¶12; *see also* Ryan (Intuit) Tr. 718-719).

122. In order to "easily communicate to customers which TurboTax product is right for their tax situations" and minimize consumer confusion, Intuit aligns the qualifications for TurboTax Free Edition to the IRS's definition of a "simple tax return." (Johnson (Intuit) Tr. 581, 584-587; Ryan (Intuit) Tr. 707-708, 720; 727, 744, 750; Rubin (Intuit) Tr. 1542-1547; RX804 (Intuit) at 20; GX298 (Intuit) at -6446, -6457; RX298 (Intuit) at -5088; RX81 (Intuit) at 1; RX78 (Intuit) at 14; RX49 (Intuit) at 19-20; GX155 (Rubin (Intuit) IHT) at 48-49, 55).

123. As Mr. Johnson testified, Intuit uses the term "simple tax return" "for comprehension, and just alignment and understanding ... to reflect the fact that this is the

simplest way to file using the IRS tax code.” (Johnson (Intuit) Tr. 581-582). As Ms. Ryan testified, “[REDACTED],” “[REDACTED]” and it “[REDACTED].” (Ryan (Intuit) Tr. 777).

124. Thus, before Tax Year 2018, taxpayers who filed on Forms 1040A or 1040EZ could file for free using TurboTax Free Edition. (Johnson (Intuit) Tr. 584; Ryan (Intuit) Tr. 707-708; RX77 (Intuit) at 19). Starting that year, taxpayers who filed using Form 1040 with no attached schedules could file for free using Free Edition. (JX1 ¶13).

125. Intuit had no control over the changes to the tax code, and if it had not aligned its definition of simple tax returns to the IRS’s definition after tax reform, no one would have qualified for TurboTax Free Edition. (Johnson (Intuit) Tr. 584-585).

126. Intuit truthfully describes TurboTax Free Edition in its advertisements and on its website as being for taxpayers with “simple tax returns only,” or similar language, as part of a comprehensive set of disclosures where space permits. (Johnson (Intuit) Tr. 582-584, 594-598, 620-621; Ryan (Intuit) Tr. 712, 716, 720, 721-722, 726-727, 734-735, 776-777; *infra* ¶¶215-217, 222, 226-227, 232-233, 248, 252, 257, 267-268, 272, 281-282, 294, 296, 306-308, 335, 337-347, 350, 359-362, 374, 376, 378-379, 381-382, 389-391, 400-401, 413-414, 416, 427, 435, 437).

127. Each year, more than 60 million taxpayers have simple returns and qualify to file for free with TurboTax Free Edition. (Rubin (Intuit) Tr. 1594-1596; RX814 (Intuit) at -6784). Of those, 38 million are online filers. (Rubin (Intuit) Tr. 1594-1596; RX814 (Intuit) at -6784).

128. In addition to the 60 million simple tax returns filed in Tax Year 2020 using the IRS’s most basic tax forms, millions of taxpayers with simple tax situations chose to file using non-simple forms or schedules. (Rubin (Intuit) Tr. 1594-1595; RX49 (Intuit) at 20; Ryan (Intuit) Tr. 718-719; RX77 (Intuit) at 19; RX587 (Intuit) at -1279; RX1522 (Intuit) at 1; JX1 ¶12; *see*

also Ryan (Intuit) Tr. 718-719). For example, Jack Rubin, Vice President of Marketing Strategy for Intuit's Consumer Group, credibly testified that there are individuals who may file a return as married filing jointly, who, if they filed separately, could have filed a simple tax return. (Rubin (Intuit) Tr. 1594-1595).

129. A majority of tax returns filed using online tax software are simple tax returns. (Johnson (Intuit) Tr. 592-593; Rubin (Intuit) Tr. 1596; RX814 at -6784). Approximately 75 million taxpayers use online tax-preparation software each year, and 38 million of those consumers—50.7%—have simple tax returns. (Johnson (Intuit) Tr. 592-593; Rubin (Intuit) Tr. 1596; RX814 at -6784).

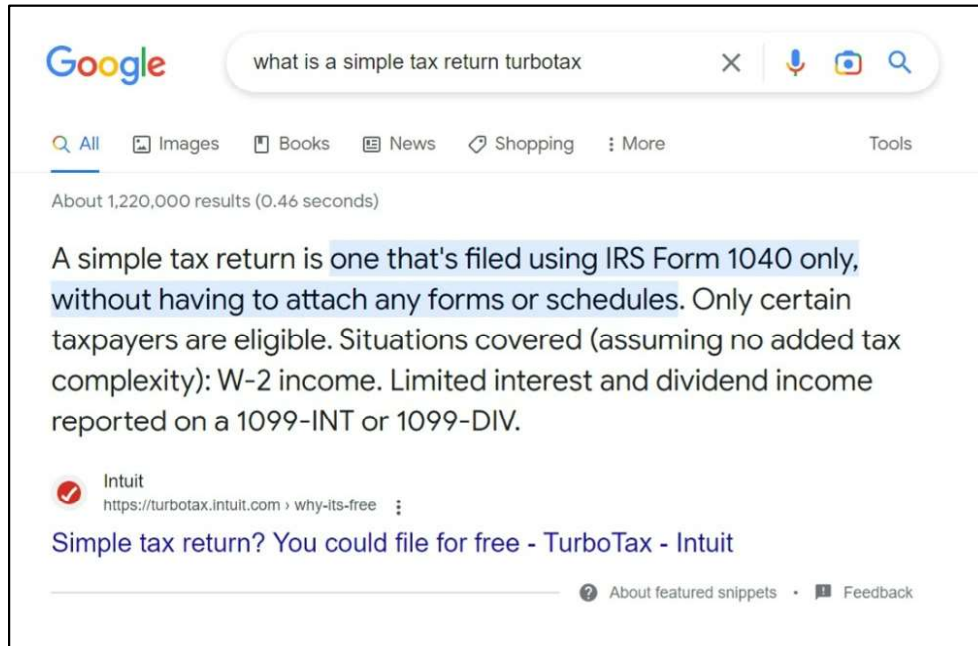
2. Reasonable Consumers Understand (Or Can Easily Learn) The Meaning of Simple Tax Returns

130. At trial, Complaint Counsel argued that reasonable consumers did not necessarily understand the meaning of “simple tax returns.” (Evans (FTC) Tr. 22, 45-46). Complaint Counsel failed to adequately support this theory: Their evidence rested primarily on the unreliable survey of Professor Nathan Novemsky, which as discussed below does not support the argument. (Novemsky (FTC) Tr. 372-73; *infra* ¶¶530-613).

131. Even if Complaint Counsel were correct that some reasonable consumers did not understand the phrase, that does not mean reasonable consumers were misled. Reasonable consumers who did not understand “simple tax return” would not leap to the conclusion that they had such a return, but rather, consistent with the testimony of Professor Peter Golder, would research whether their tax situation met Intuit's (and the IRS's) definition of “simple.” (Golder (Intuit) Tr. 1084-1085, 1120-1121; *see also* GX137 (DuKatz (Consumer) Dep.) at 64, 67; GX128 (Benbrook (Consumer) Dep.) at 28-29). Such research could take mere seconds, as the

answer to what constitutes a simple return was the very first search result for “what is a simple tax return turbotax.” (Rubin (Intuit) Tr. 1547-1548; RX1524 (Intuit)).

132. A screenshot of the first result from a Google search for “what is a simple tax return turbotax” is shown below. (RX1524 (Intuit)).



133. Furthermore, as Intuit’s fact witnesses credibly explained, the TurboTax website disclosed, repeatedly, that TurboTax Free Edition was for simple tax returns only, with detailed descriptions of what this meant that appeared so many times that it was difficult to keep track of the precise number. (Johnson (Intuit) Tr. 594-595; Ryan (Intuit) Tr. 776-777; Rubin (Intuit) Tr. 1564-1568).

134. There is still more evidence that consumers understood the meaning of “simple tax returns.” Intuit was motivated to ensure that consumers understood the term “simple tax return” because it would be damaging to the TurboTax business if consumers came to expect that they could file for free on TurboTax only to later find out while preparing their taxes that they

could not. (RX1018 (Golder Expert Report) ¶¶36-37, 50; Golder (Intuit) Tr. 1189-1191; Johnson (Intuit) Tr. 574-576, 582-583; Ryan (Intuit) Tr. 747-748; Rubin (Intuit) Tr. 1524-1526). Thus, Intuit tested consumer comprehension of “simple tax return” and found through a qualitative study that consumers found the phrase very “easy to understand.” (Rubin (Intuit) Tr. 1544-1546; RX304 (Intuit)). None of the participants in that study indicated that they were confused by the phrase or did not understand it. (RX304 (Intuit)). Further, Intuit does not receive customer feedback that “simple tax return” is confusing. (Ryan (Intuit) Tr. 812).

135. Consumers understand that “simple returns only” conveys that eligibility for free TurboTax SKUs or offers is qualified, as the words “simple” and “only” both communicate that a product or offer is not for “all.” (Golder (Intuit) Tr. 1119, 1122; RX1018 (Golder Expert Report) ¶105).

136. Consumers also understand that “simple returns only” in TurboTax ads conveys that the ability to use the free TurboTax SKU or offer depends on the complexity of the taxpayer’s return. (Golder (Intuit) Tr. 1115, 1119; Novemsky (FTC) Tr. 451 (testifying that “people took away a complexity or simplicity message” from TurboTax ads); RX1018 (Golder Expert Report) ¶105).

137. Complaint Counsel also argued both that more detail about what “simple tax return” meant was required in the advertisements themselves and that detailed disclosures behind a hyperlink needed to come out from behind the hyperlink. (Evans (FTC) Tr. 22, 37-38; Complaint Counsel’s Pretrial Brief at 38-44 (Feb. 17, 2023)). But Complaint Counsel presented no evidence to suggest that either step would improve consumer comprehension of the challenged ads.

138. To the contrary, providing more detailed information in ads about what a “simple tax return” is would be counter-productive to consumer understanding. (Johnson (Intuit) Tr. 583-584; Ryan (Intuit) Tr. 776-777; RX1018 (Golder Expert Report) ¶120). Complaint Counsel’s own expert, Professor Novemsky, conceded that this was true because of the phenomenon of “information overload.” (Novemsky (FTC) Tr. 1819-1820).

139. Indeed, consumers testified that “simple tax returns” is more comprehensible than describing specific IRS forms in understanding qualifications. (GX138 (Adamson (Consumer) Dep.) at 72-73; RX369 (Goldstein (Consumer) Dep.) at 90). During trial, Complaint Counsel characterized references to individual tax forms as “inscrutable.” (Evans (FTC) Tr. 38).

140. Intuit has found that “simplicity works” when communicating information about qualifications and recommendations for TurboTax SKUs that are most likely to meet taxpayers’ needs. (RX42 (Intuit) at 12). For example, user testing performed on the SKU Selector showed that the “wordiness of the tiles” used in that tool lowered interactions with the selector by consumers. (RX42 (Intuit) at 12). And a qualitative analysis of consumer feedback related to the SKU Selector also confirmed that consumers appreciate TurboTax disclosures that do not contain “complicated tax terminology” and are worded in “laymen’s terms.” (RX47 (Intuit) at 17).

141. Intuit also is not alone in using the “simple tax returns” description for its free product. Each of Intuit’s major competitors also offers a free tax-preparation product—and each describes that product as being for taxpayers with simple tax returns. (Johnson (Intuit) Tr. 581-582; Ryan (Intuit) Tr. 708, 777; Golder (Intuit) Tr. 1121-1122; RX1018 (Golder Expert Report) ¶¶108-112; RX79 (Intuit) at 1; RX97 (Intuit) at 1; RX98 (Intuit) at 1; GX789 (Intuit) at 1). H&R Block’s DIY “Free Online” product is limited to taxpayers with “simple returns” (RX97 (Intuit);

RX1339 (Intuit); RX1341 (Intuit); Golder (Intuit) Tr. 1089). TaxSlayer’s “Simply Free” is limited to qualifying “simple tax situations.” (RX427 (Intuit); RX697 (Intuit); GX824 (Intuit); RX1338 (Intuit)). And TaxAct’s “Free” online tax-preparation product is described as “perfect for simple federal filers.” (RX422 (Intuit); GX789 (Intuit)). Use of the term “simple tax returns” is thus “industry convention.” (Johnson (Intuit) Tr. 582).

142. California’s Franchise Tax Board similarly stated that its ReadyReturn pre-filled tax forms were available to “taxpayers who file simple returns,” explaining that the program (now discontinued) would cover individuals with “[i]ncome only from wages” and taking the “[s]tandard deduction.” (RX79 (Intuit)).

143. The ubiquity in the industry, common usage, and clear meaning of “simple tax returns” are facts the Court appropriately weighs in evaluating whether reasonable consumers were likely to be misled by the challenged advertisements. (RX1018 (Golder Expert Report) ¶¶106, 113).

144. As Professor Golder explained, competitors’ widespread use of “simple tax returns” is “critically important” for showing consumers understood the term. (Golder (Intuit) Tr. 1063-1064, 1090-1091, 1121-1122).

145. It is unlikely that government and industry actors alike would, over many years, rely on a term that taxpayers do not understand. (GX156 (Ryan (Intuit) IHT) at 40, 55). Thus, Intuit’s consistent use of the phrase “simple tax returns only” (Johnson (Intuit) Tr. 566, 582-584, 594-598, 614-615; Ryan (Intuit) Tr. 707-708, 720), is strong evidence that consumers would not believe that TurboTax was “free for them” unless they in fact had a simple tax return.

3. Intuit's Expansion of Free Eligibility Beyond Simple Tax Returns Does Not Impact Consumer Comprehension

146. Intuit has occasionally expanded eligibility for free TurboTax offerings beyond “simple tax returns.” (Ryan (Intuit) Tr. 705-706, 800-801). It has forgone substantial near-term revenue on each such occasion (Ryan (Intuit) Tr. 800-801; Rubin (Intuit) Tr. 1540), because doing so was “the right thing” for its customers. (Ryan (Intuit) Tr. 706).

147. In expanding eligibility for free TurboTax offerings, Intuit did not alter the definition of “simple tax returns.” (Ryan (Intuit) Tr. 720; Johnson (Intuit) Tr. 584-585; GX155 (Rubin (Intuit) IHT) at 50-51; RX3 (Intuit)).

148. For instance, in Tax Year 2020, Intuit, recognizing the severe impact of the COVID-19 pandemic, allowed taxpayers who had to file a Schedule 1 in order to report unemployment benefits to prepare and file their taxes for free with TurboTax. (Ryan (Intuit) Tr. 705-706, 800-801 (testifying that [REDACTED]; [REDACTED]); RX1293 (Intuit)). As a result, a taxpayer with an “[REDACTED]” would not “[REDACTED].” (Ryan (Intuit) Tr. 800-801).

149. Similarly, in Tax Year 2021, during “the height of student loan defaults,” Intuit allowed taxpayers claiming the student-loan-interest deduction to file their taxes for free. (Ryan (Intuit) Tr. 706; RX435 (Intuit)).

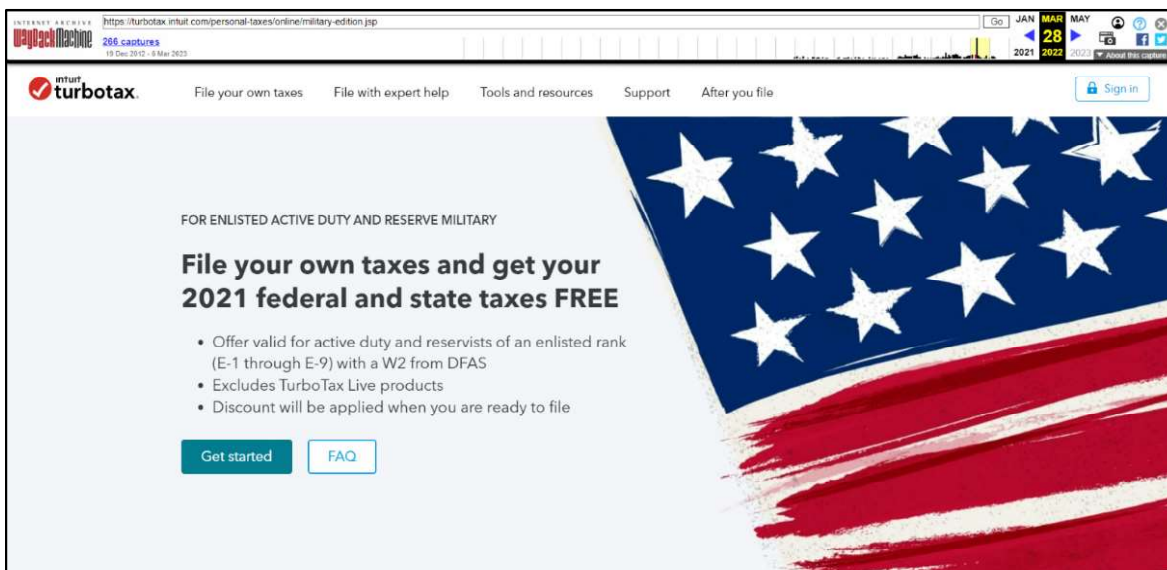
150. Intuit has never expanded eligibility for Free Edition or other free offers “in an effort to mislead consumers” (Ryan (Intuit) Tr. 706), and Complaint Counsel presented no evidence that Intuit’s expansion of eligibility for its free products was intended to deceive, or that

any expansion did deceive (or was likely to have deceived) any significant number of reasonable consumers (whether considered in isolation or in conjunction with Intuit’s other conduct).

C. Free Tax-Preparation Services For Enlisted Servicemembers

151. Intuit has long allowed certain military personnel to file for free with TurboTax. (Johnson (Intuit) Tr. 578-579; Ryan (Intuit) Tr. 705; GX155 (Rubin (Intuit) IHT) at 61, 63). Intuit does so “because it is the right thing to do.” (Ryan (Intuit) Tr. 705).

152. In recognition of their service to the county, all enlisted military members (E-1 to E-9) can use any DIY TurboTax SKU for free, regardless of the complexity of their tax situation. (Johnson (Intuit) Tr. 578-579, 653; Rubin (Intuit) Tr. 1522; GX155 (Rubin (Intuit) IHT) at 63-64). RX1550 (Intuit), shown in part below, is a screenshot of the TurboTax military discount landing webpage. (RX1550 (Intuit); Johnson (Intuit) Tr. 579).



153. TurboTax automatically applies the discount when qualifying servicemembers enter “[their] military W-2.” (Johnson (Intuit) Tr. 580; RX329 (Intuit) at -0005; RX948 (Intuit) at 2; RX1550 (Intuit) at 2).

154. In 2022, of the estimated 1.7 million military servicemembers who qualified to file for free using the TurboTax military discount, 627,000 (over one third) did so. (Rubin (Intuit) Tr. 1522).

VI. TURBOTAX ADVERTISING

155. Companies use a variety of advertising strategies to attract and retain customers, often depending on where each customer is in their purchase decision-making process. (RX560 at 141; RX1018 (Golder Expert Report) ¶152).

156. The widely recognized “marketing funnel” concept reflects how companies use different advertising strategies and channels to reach different audiences at the various stages of a consumer’s process in making a purchasing decision. (RX560 (Intuit) at 141; RX1018 (Golder Expert Report) ¶¶153-154; *see also* Golder (Intuit) Tr. 1065-1069). At the top of the marketing funnel, for example, there may be more consumers who are targeted for general brand awareness or sentiment, whereas at the bottom of the funnel a company is often targeting a smaller number of consumers who may be nearing their purchase decision to select a product. (RX1018 (Golder Expert Report) ¶153; *see also* RX560 (Intuit) at 141). Companies align their advertising and consumer outreach to the marketing funnel, including through advertising designed to “build brand awareness, build brand equity, enhance consideration, educate consumers, direct consumers to the website, or to engage with prior customers.” (RX1018 (Golder Expert Report) ¶¶153-154). In furtherance of these specific strategies, companies target their advertising to reach consumers at specific steps in the marketing funnel. (RX1018 (Golder Expert Report) ¶152; *see also* RX560 (Intuit) at 141).

157. Intuit aligns its TurboTax marketing strategies to its own marketing funnel. (RX582 (Intuit) at -1293). A version of the TurboTax marketing funnel is shown below.

(RX1018 (Golder Expert Report) fig. 23).

	Target/Audience	Tactics	Key Metrics
BRAND ADVERTISING	PY Assisted Simple Filers	TV, Audio, Video	Breakthrough, Consideration
PERFORMANCE MEDIA	Net New Customers, Targeted Audiences (eg SE)	Display, Social, Mobile, Affiliate	Conversion Rates (Traffic & Installs via view, click; Auths)
SEARCH MARKETING	In-market consumers	PPC, SEO, Content	Conversion Rates (Traffic via view, click, Auth rates)
EMAIL	Existing customers, Win-backs	Segmentation, Marketing and Reminder Emails	Conversion Rates (open, click, Auth rates)
TRAFFIC	All visitors	Personalization, Content	Conversion Rates (V2L, T2N, bounce)
TTO LOGINS	New/Existing	Conversion Optimization	Conversion Rates (Login, Create Account % new)

158. Intuit tailors its marketing strategies to the TurboTax online marketing funnel by targeting specific audiences at different points in the tax-preparation purchase process through specific marketing channels. (RX582 (Intuit) at -1293).

159. At the top of the TurboTax marketing funnel, for example, Intuit targets larger numbers of consumers for general awareness of the TurboTax brand and its products. (RX582 (Intuit) at -1291, -1293; GX146 (Ryan (Intuit) Dep.) at 22; RX1018 (Golder Expert Report) ¶153). Moving down the funnel, Intuit targets its advertising to reach a smaller number of consumers, many of whom who have already engaged with TurboTax marketing or products, who are nearing their purchase decision. (RX582 (Intuit) at -1291, -1293; RX1018 (Golder Expert Report) ¶¶152-154).

160. Intuit also presents increasingly detailed information to consumers as they near their purchase decision and move through the marketing funnel. (RX1018 (Golder Expert Report) ¶153; *see also* RX560 (Intuit) at 141). Intuit provides shorter disclosures in TV or social

media ads, for example, when consumers are likely to be in earlier stages of the buying process (such as information search, *infra* ¶¶503-513), compared to more detailed disclosures available on the TurboTax website, when consumers are likely nearing their purchase decision. (Golder (Intuit) Tr. 1105-1107, 1120, 1129-1130).

A. Development Of TurboTax Advertisements

161. Intuit advertises free TurboTax SKUs to encourage consumers with simple tax returns to file their taxes for free using TurboTax. (GX144 (Soukas (Intuit) Dep.) at 52, 135, 137; GX145 (Berger (Intuit) Dep.) at 156; GX146 (Ryan (Intuit) Dep.) at 123; GX150 (Goode (Intuit) IHT) at 120; RX56 (Intuit) at 6; RX588 (Intuit) at 40; RX1018 (Golder Expert Report) ¶236).

162. The goal of Intuit's free TurboTax advertising campaigns is not to attract customers who do not qualify for the free SKU, but instead to attract those who do. (Johnson (Intuit) Tr. 574-575, 618; Ryan (Intuit) Tr. 726, 746-747; Rubin (Intuit) Tr. 1524-1525).

163. Intuit develops TurboTax advertisements through a months-long iterative process that involves several rounds of review from multiple stakeholders. (Ryan (Intuit) Tr. 699-701; GX159 (Ryan (Intuit) Dep.) at 46-49). During this process, ads are carefully reviewed—by Intuit's marketing team, outside ad agencies, and legal team—to ensure they are not deceptive or misleading. (Ryan (Intuit) Tr. 700-701).

164. The development of TurboTax advertisements begins with the marketing team's drafting of a creative brief that describes the objectives for the advertising campaign, which then is provided to an outside advertising agency. (Ryan (Intuit) Tr. 699; GX159 (Ryan (Intuit) Dep. at 7; RX365 (Intuit); RX368 (Intuit)). Intuit works with advertising agencies because they have expertise in creating compelling advertising concepts. (Ryan (Intuit) Tr. 698-699).

165. After receiving the creative brief, the advertising agency brainstorms how to accomplish Intuit's stated objectives and generates creative concepts for the advertisements. (Ryan (Intuit) Tr. 699-700). The agency revises the concepts based on Intuit's feedback and sends the revised advertisements to Intuit for further review, with the iterative back-and-forth process often taking five to nine months. (Ryan (Intuit) Tr. 699-700).

166. TurboTax advertising concepts are reviewed by the TurboTax advertising team, Intuit's advertising partners, and the Intuit legal team. (Ryan (Intuit) Tr. 700). In addition, advertising agencies review TurboTax advertising concepts to ensure that their disclosures are clear and legible. (GX159 (Ryan (Intuit) Dep.) at 45-49). In some cases, concepts are also tested on consumers. (Ryan (Intuit) Tr. 700).

167. Intuit seeks to communicate "in a believable way" with consumers in its advertisements because it is "critical" that Intuit "actually say what [it's] going to do"—i.e., have a high "say:do ratio"—in order to "build future growth and have a healthy franchise." (Johnson (Intuit) Tr. 623-624). Mr. Rubin similarly testified that Intuit does "a lot of work to be clear with [its] customers" in its ads. (Rubin (Intuit) Tr. 1599).

168. At every stage of the creative process, Intuit considers whether a concept could be deceptive or misleading. (Ryan (Intuit) Tr. 701). If any reviewer believes a concept is deceptive or misleading, Intuit "would immediately address it" by seeking to understand and address the reason why. (Ryan (Intuit) Tr. 701).

169. Ms. Ryan and Mr. Rubin testified credibly that Intuit would never run ads that stakeholders consider deceptive or misleading. (Ryan (Intuit) Tr. 702; Rubin (Intuit) Tr. 1599). As Ms. Ryan testified, if there is any concern that an ad could be deceptive or misleading, that ad would "absolutely not" ever make it on air. (Ryan (Intuit) Tr. 702). Mr. Rubin similarly

testified that Intuit “wouldn’t run” any ad it had reason to believe was deceptive. (Rubin (Intuit) Tr. 1599).

170. Intuit never intended to deceive consumers by conveying in any TurboTax advertisement (or otherwise) that all TurboTax SKUs are free or that TurboTax is free for everyone. (Ryan (Intuit) Tr. 700-702, 704, 712, 716, 718, 722, 727, 734, 741, 743, 749, 753, 758, 760; GX156 (Ryan (Intuit) IHT) at 110; Johnson (Intuit) Tr. 582, 618, 623-624; GX146 (Ryan Dep.) at 125-126; RX298 (Intuit)).

171. Rather, Intuit’s intent in running advertisements about free TurboTax SKUs has always been to convey that specific TurboTax SKUs are free for consumers who qualify, and that consumers can see if they qualify on the TurboTax website. (Johnson (Intuit) Tr. 574-575, 617-618; Ryan (Intuit) Tr. 726, 747; Rubin (Intuit) Tr. 1524-1525).

172. Intuit conveys its intent to outside agencies who develop TurboTax advertisements. (Johnson (Intuit) Tr. 620-621; Ryan (Intuit) Tr. 797; GX654 (Intuit) at 2; RX365 (Intuit) at -7442; RX368 (Intuit) at -7750). As Mr. Johnson testified, Intuit gives the agencies “mandatory” instructions that the ads should “drive absolute clarity around who ... TurboTax Free Edition was meant for.” (Johnson (Intuit) Tr. 620-621).

173. For example, Intuit directs agencies to include on television ads the language “TurboTax Free Edition is for simple U.S. returns only” and “See if you qualify at turbotax.com,” as well as include a “blue end card with [the] TurboTax Free Edition logo ... as a way of being clear on what product we were advertising, versus other products that we offer.” (Johnson (Intuit) Tr. 620-621; GX654 (Intuit) at 1). A similar mandate governed TurboTax Live Basic video ads. (GX309 (Intuit); GX614 (Intuit); Ryan (Intuit) Tr. 797). Intuit instructs agencies to [REDACTED] in email

ads, and on the TurboTax website [REDACTED].
(RX365 (Intuit); RX368 (Intuit); GX654 (Intuit)).

174. If Intuit at any point believed that a TurboTax advertisement was deceptive or misleading, Intuit immediately “would have stopped [running] the ad,” (Johnson (Intuit) Tr. 615, 622-624, 683; Ryan (Intuit) Tr. 701-702; Rubin (Intuit) Tr. 1599; GX146 (Ryan (Intuit) Dep.) at 124-125), and never would have run an ad that it believed to be deceptive in the first place. (Ryan (Intuit) Tr. 702; Rubin (Intuit) Tr. 1599).

175. Complaint Counsel have not offered any evidence that Intuit intended to convey the claims they allege or to mislead or deceive consumers with the challenged ads. Indeed, the FTC’s designee testified that there is no evidence Intuit intentionally tried to deceive consumers. (RX161 (Maxson (FTC) Dep.) at 173-174).

176. Intuit’s intent and effort to be clear with consumers in its free TurboTax advertising, and its intent not to deceive consumers by conveying in any TurboTax advertisement (or otherwise) that all TurboTax SKUs are free or that TurboTax is free for everyone, demonstrates that Intuit acted in good faith in developing and distributing the challenged ads. (*Supra* ¶¶33-38, 162-175).

177. Complaint Counsel have not offered any evidence that Intuit acted in bad faith in developing or distributing the challenged ads.

B. TurboTax Advertising Channels

178. Intuit advertises all its TurboTax SKUs, as well as the TurboTax brand generally, through four primary advertising channels: (1) “brand” advertising; (2) display advertising; (3) direct marketing (or CRM); and (4) holistic search marketing. (Ryan (Intuit) Tr. 691-696). Each

of these channels focuses on consumers at different places in the marketing funnel. (RX582 (Intuit) at -1293; RX1018 (Golder Expert Report) ¶153 & fig. 23; *supra* ¶¶155-160).

179. Brand advertising encompasses advertising for the TurboTax SKUs and brand “at broadcast scale,” such as television, radio, and streaming services like Hulu and Spotify. (GX156 (Ryan (Intuit) IHT) at 41-42; Ryan (Intuit) Tr. 691-692).

180. Intuit’s objective with TurboTax brand advertising is to break through with top-of-funnel consumers to “[d]rive awareness and consideration” of the TurboTax brand and products. (RX582 (Intuit) at -1291, -1304; GX146 (Ryan (Intuit) Dep.) at 22-23). To accomplish this, Intuit designs its brand advertising to ensure consumers remember the advertisement, the message, and the brand, and that the advertisement increases a consumer’s consideration of the TurboTax brand in general. (RX582 (Intuit) at -1306). As Professor Golder explained, such top-of-funnel advertising is meant to “move [consumers] from being unaware to being aware” of their different tax filing options. (Golder (Intuit) Tr. 1106; *see also* Golder (Intuit) Tr. 1065-1069).

181. Display advertising includes traditional online ads, such as banners displayed on websites, and social media advertisements like TikTok, Facebook, or Snapchat. (Ryan (Intuit) Tr. 693; GX156 (Ryan (Intuit) IHT) at 27). TurboTax display advertising aligns to the “Performance Media” stage of the TurboTax marketing funnel in order to convert viewers into customers, as well as to increase awareness and consideration of the TurboTax brand. (RX582 (Intuit) at -1291, -1293, -1318). Intuit also uses TurboTax display advertising to re-engage customers and move them down the marketing funnel toward a completed tax return. (RX582 (Intuit) at -1320).

182. Holistic search marketing refers to marketing strategies for search-engine results. (Ryan (Intuit) Tr. 696). Intuit markets TurboTax through two categories of holistic search marketing: paid-search advertising, often referred to as pay-per-click (“paid-search”) advertising, and organic search marketing, also known as search engine optimization (“SEO”). (Ryan (Intuit) Tr. 696; GX156 (Ryan (Intuit) IHT) at 29-30).

183. Intuit aligns TurboTax holistic search marketing to the next level down in its marketing funnel and uses search marketing to increase conversion among consumers who are already in the market for online tax-preparation products generally, or who may be searching for information about TurboTax specifically. (RX582 (Intuit) at -1291, -1293; RX1018 (Golder Expert Report) ¶159).

184. For paid-search advertising, Intuit does not control when or how those ads appear on the search engine’s results page. (Ryan (Intuit) Tr. 697; GX439 (Ryan (Intuit) Decl.) ¶23). Instead, Intuit bids on a variety of keywords in an auction marketplace, and if Intuit is the highest bidder, a TurboTax advertisement would appear at the top of the search results page when consumers search for those keywords. (Ryan (Intuit) Tr. 696-697; GX151 (Ison (Intuit) IHT) at 61-63; GX156 (Ryan (Intuit) IHT) at 31; Hauser (Intuit) Tr. 973-974). Intuit submits components of the advertising copy that should appear when a paid-search ad is shown, but ultimately the search engine (e.g., Google or Bing) compiles and presents the advertisement based on the search performed and the information the search engine has about the particular consumer who performed the search. (Ryan (Intuit) Tr. 697).

185. As for SEO, Intuit uses different techniques, such as modifying the content on webpages, to get the TurboTax website to rank highly in organic search results and help

consumers find the TurboTax SKU that best fits their tax needs. (Rubin (Intuit) Tr. 1548-1549, 1551-1552; Ryan (Intuit) Tr. 697-698, 805).

186. Direct marketing (also referred to as CRM marketing) encompasses advertisements sent directly to individual consumers, such as email, mobile push notifications, SMS notifications, and direct mail. (Ryan (Intuit) Tr. 695-696; GX146 (Ryan (Intuit) Dep.) at 14).

187. In the context of the TurboTax marketing funnel, direct marketing aims to “drive business through direct-to-customer messaging” and increase conversion, retention, and ongoing engagement of existing and prior customers. (RX582 (Intuit) at -1291, -1293, -1325; RX1018 (Golder Expert Report) ¶160). By leveraging customer data and predictive models, Intuit delivers targeted advertisements and offers that are “are personalized to the individual consumer.” (Ryan (Intuit) Tr. 695-696; RX582 (Intuit) at -1325).

C. Targeting Of TurboTax Advertisements

188. Intuit presents increasingly targeted information to consumers as they near their purchase decision and descend through the marketing funnel. ((RX582 (Intuit) at -1291, -1293; RX1018 (Golder Expert Report) ¶153; RX560 (Intuit) at 141).

189. At the top of the funnel, for example, Intuit targets larger numbers of consumers for general awareness of the TurboTax brand and its products. (RX582 (Intuit) at -1291; GX146 (Ryan (Intuit) Dep.) at 22; RX1018 (Golder Expert Report) ¶153). Moving down the funnel, Intuit makes use of demographic and exclusionary targeting to reach a smaller number of more relevant audiences who are likely to engage with TurboTax advertising to find the product most appropriate for their tax filing situation. (Ryan (Intuit) Tr. 704-705; Rubin (Intuit) Tr. 1597-1598; RX1018 (Golder Expert Report) ¶¶152-153).

190. At every point in the TurboTax marketing funnel, to the extent it is able, Intuit targets ads for individual TurboTax SKUs toward the audiences most likely to qualify use those products. (Ryan (Intuit) Tr. 704-705, 732, 785-786, 797; GX146 (Ryan (Intuit) Dep.) at 124-125). As Ms. Ryan testified, Intuit wants TurboTax ads to “be relevant” to their audience so that “people ... get started in the product that’s right for them.” (Ryan (Intuit) Tr. 705).

191. Intuit targets advertisements for free TurboTax SKUs, for instance, to individuals likely to have simple tax returns and therefore qualify to use those free products. (Ryan (Intuit) Tr. 702, 704, 732; Rubin (Intuit) Tr. 1597; RX287 (Intuit) at -8826). Intuit does so to increase consumer awareness that Intuit offers a free tax-preparation product, to inform filers with simple returns that it is “completely free to file” using TurboTax Free Edition, and to increase the number of returns filed using TurboTax Free Edition. (Johnson (Intuit) Tr. 574, 605-606; Ryan (Intuit) Tr. 702-703; Rubin (Intuit) Tr. 1525).

192. Intuit targets ads for free TurboTax SKUs to customers likely to have simple tax returns both by targeting specific demographics of taxpayers more likely to have simple tax returns and developing creative content that appeals to such consumers. (Ryan (Intuit) Tr. 704, 783, 785-786, GX146 (Ryan (Intuit) Dep.) at 124).

193. For example, Intuit targets ads for free TurboTax SKUs toward individuals ages 18 to 35 because those people are relatively likely to have simple tax returns. (Ryan (Intuit) Tr. at 702, 704, 783; Rubin (Intuit) Tr. 1597; GX654 (Intuit); GX688 (Wieden+Kennedy (WK)) at -4848, -4851, -4854; GX689 (WK); RX804 (Intuit) at -6481). That fact is borne out by Intuit’s customer data, which show that consumers with simple tax returns who file using TurboTax Free Edition tend to be younger than the average taxpayer. (Rubin (Intuit) Tr. 1597-1598; *supra* ¶85).

194. Intuit targets the 18- to 35-year-old demographic by advertising its free SKUs through “media channels and platforms that skew heavily towards that population [18 to 35 year-olds] ... like Snapchat and TikTok.” (Ryan (Intuit) Tr. 732-733). It also targets them by using creative concepts that “would resonate” with those individuals. (Ryan (Intuit) Tr. 732-733). For example, Intuit’s “Young Love” and “Echo” ads for TurboTax Free Edition were developed and aired due to their perceived appeal to younger audiences. (GX690 (WK) at -4965, -4970); GX688 (WK) at -4848, -4874).

195. Intuit also targets advertising for free TurboTax SKUs to 18-to-35-year-olds by using young people “as the creative inspiration for the campaign idea” (Ryan (Intuit) Tr. 704), for example, by partnering “with a broad range of YouTube and Instagram influencers” in its social media advertising, (GX688 (WK) at -4892); GX689 (WK) at -4943 to -4946).

196. Intuit runs ads for free TurboTax SKUs at the beginning of each tax season (during what it terms “First Peak”), such as Super Bowl ads, as that is “when the majority of Simple Filers prepare and file their taxes.” (RX804 at -6482; Rubin (Intuit) Tr. 1597-1598; Johnson (Intuit) Tr. 655).

197. Intuit also uses a marketing strategy called “exclusionary targeting” to avoid showing ads to consumers for whom they are irrelevant. (Ryan (Intuit) Tr. 704-705; GX146 (Ryan (Intuit) Dep.) at 124-125); GX149 (Crosby (Intuit) Dep.) at 118-120. For example, if Intuit has an indication that a consumer bought or sold cryptocurrency, Intuit will not show that consumer an advertisement for a free TurboTax SKU. (GX149 (Crosby (Intuit) Dep.) at 118-119). Similarly, Intuit will not show someone an advertisement for a free TurboTax SKU if it knows that the consumer has self-employment income from a job at Uber. (Ryan (Intuit) Tr. 704-705). Conversely, Intuit will target consumers with self-employment income for

advertisements for TurboTax Self-Employed, highlighting the benefits of that SKU for those consumers. (Ryan (Intuit) Tr. 705).

198. Intuit similarly uses direct marketing (e.g., email marketing) to send advertisements for free TurboTax SKUs only to consumers who are relatively likely to have simple tax returns, such as consumers who filed with TurboTax Free Edition the previous year, or those who have entered information into TurboTax Free Edition in the current year. (Ryan (Intuit) Tr. 769; *see also* RX582 (Intuit) at -1293, -1325).

199. Finally, through SEO, Intuit attempts to direct its marketing for specific TurboTax SKUs to consumers who have indicated that the promoted SKU would be right for their tax situation. (Rubin (Intuit) Tr. 1549, 1550-1551). Intuit optimizes content on the TurboTax website so that search engines list specific pages on the TurboTax website “based on relevancy of that page to a user’s query.” (Ryan (Intuit) Tr. 697-698; GX156 (Ryan (Intuit) IHT) at 31-32).

200. For instance, if a consumer searches “TurboTax Free” on the internet, Intuit’s SEO strategy will result in her being served with more prominent results related to TurboTax Free Edition, including the Free Edition landing page (where qualifications are discussed in detail), TurboTax blog posts about Free Edition and its qualifications, press releases about Free Edition, and other webpages discussing what qualifies as a simple tax return. (Rubin (Intuit) Tr. 1548-1549, 1551, 1591).

201. If a consumer searches phrases such as “TurboTax sold new investments” or “TurboTax rental property” on the internet, Intuit’s SEO strategy will result in her not being served with high-ranking results for TurboTax Free Edition because the sale of investments “doesn’t fit on a simple tax return”; instead, that consumer would “see content for TurboTax

Premier appearing in those search results,” because that product covers investments and rental properties. (Rubin (Intuit) Tr. 1549-1551).

202. Similarly, if a consumer searches “TurboTax Form 1099,” Intuit’s SEO efforts mean that he will not be served with prominent results for TurboTax Free Edition, but will instead be provided high-ranking results for TurboTax Deluxe, Premier, or Self-Employed, which all cover IRS Form 1099 income. (Rubin (Intuit) Tr. 1549-1550). And if a consumer searches “TurboTax, itemize my deductions,” he will not be served prominent results for TurboTax Free Edition but will see high-ranking results for TurboTax Deluxe, which covers itemized deductions. (Rubin (Intuit) Tr. 1550).

203. Intuit’s efforts to target its ads for free TurboTax SKUs toward consumers who qualify for those products helps ensure that consumers who do not qualify for free SKUs are not seeing those ads, making it unlikely that a significant minority of consumers would be deceived by those ads. (Ryan (Intuit) Tr. 704-705; GX146 (Ryan (Intuit) Dep.) at 124-125).

204. Intuit’s efforts to target its advertising also reinforce that its intent in marketing free TurboTax SKUs was to communicate that there was a legitimate free offer for those consumers who qualified. (Johnson (Intuit) Tr. 606, 618; Ryan (Intuit) Tr. 704-705). If Intuit had intended to deceive consumers into believing TurboTax was free for them when it was not, it would not have gone to such lengths to ensure (as best it could) that consumers seeing advertising for free TurboTax SKUs were likely to qualify for those products. (Johnson (Intuit) Tr. 606, 618; Ryan (Intuit) Tr. 727, 735, 754).

D. The Challenged Advertisements

205. Complaint Counsel contend that certain advertisements for free TurboTax SKUs (the “challenged ads”) are deceptive because they conveyed either that all TurboTax SKUs were

free or that TurboTax was free for the viewer when it was not. (Evans (FTC) Tr. 17, 19, 33; Complaint Counsel's Pretrial Brief at 30, 48 (Feb. 17, 2023); RX600 (FTC) at 36).

206. Complaint Counsel maintain that this "is an express claim case." (Anguizola (FTC) Tr. 1837). But Complaint Counsel cannot even agree on the claim or claims they believe the ads conveyed, shifting their allegations throughout this litigation. Sometimes they said the ads conveyed that "TurboTax is free." (Complaint Counsel's Motion for Summary Decision at 36 (May 6, 2022); Complaint Counsel's Pretrial Brief at 48 (Feb. 17, 2023). Other times they said the ads conveyed to consumers that "TurboTax is free *for them*." (Complaint Counsel's Reply in Support of Motion for Summary Decision at 3). At trial, they again shifted course, arguing at some points that the ads conveyed that "TurboTax will be free for the consumer watching the ad" (Evans (FTC) Tr. 17), and at other points that the ads claimed that TurboTax is "free for the consumer watching the ad" (Evans (FTC) Tr. 6-8). Then on the last day of trial, Professor Novemsky offered another, new, alleged claim supposedly made in the challenged ads: that consumers "could not just file, but file and get [their] full refund" for free. (Novemsky (FTC) Tr. 1790-1791). When pressed to clarify their position, Complaint Counsel said they "don't see a lot of daylight between" these various claims allegedly made by the challenged ads. (Anguizola (FTC) Tr. 1837-1838).

207. Complaint Counsel have also largely focused on claims allegedly conveyed by challenged video ads (i.e., the 131 brand video ads at issue), while failing to explain how challenged non-video ads (108 display ads (including video display ads), 17 paid-search ads, 24 email ads, and 4 radio ads)—which constitute the majority of the ads at issue in this case—are deceptive. (Evans (FTC) Tr. 18-19; Complaint Counsel's Pretrial Brief at 30 & App'x B (Feb. 17, 2023)).

208. And Complaint Counsel and their witnesses at times have ignored various elements of the challenged ads. During their opening statement, for instance, Complaint Counsel repeatedly skipped over the “simple returns only” qualification included in the ads (Evans (FTC) Tr. 44-45), prompting the Court to interject and point out that the ads included that text (Chappell (ALJ) Tr. 45). And when asked to confirm that the phrase ““see if you qualify at turbotax.com’ was included” in one ad, Complaint Counsel’s expert replied, “If you say so” and “I don’t recall.” (Novemsky (FTC) Tr. 1814; *see also* RX1396 (Yoeli (FTC) Dep.) at 180 (responding “That language sounds familiar, but I’m not sure”)).

209. When considering all constituent elements of the challenged ads, and the specific components of the different kinds of ads at issue (including the display, paid-search, email, and radio ads at issue), it is plain that the ads did not convey—expressly or impliedly—any of the claims asserted by Complaint Counsel.

210. None of the challenged ads expressly conveyed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel.

211. Nor did any of the challenged ads impliedly convey that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel.

212. Instead, the challenged ads conveyed that the TurboTax SKU being advertised was free for consumers who qualify.

213. Moreover, Intuit no longer runs TurboTax ads that repeat the term “free”—which comprise less than one quarter of the challenged ads—and has agreed “not [to] publish, or cause to be published, in any medium (1) its ‘free, free, free’ Video Advertisements ... and (2) Video

Advertisements that are substantially similar in their repetition of the word free.” (Ryan (Intuit) Tr. 754-755; Rubin (Intuit) Tr. 1555; RX261 (Intuit) at 8; GX352 (FTC) at 2; RX73 (Intuit) at 25; GX438 (Intuit) ¶16).

1. Brand Video Advertisements

214. Complaint Counsel contend that 131 TurboTax brand video ads that ran between Tax Years 2014 and 2021 (and one exhibit containing brand video scripts) were deceptive to reasonable consumers. (Complaint Counsel’s Pretrial Brief at App’x B (Feb. 17, 2023)).

215. Every one of the 131 challenged brand video ads stated that the free offer being advertised applied to a specific TurboTax SKU, either TurboTax Free Edition or TurboTax Live Basic. Every challenged brand video ad also stated in writing that the free offer being advertised was available only to taxpayers with “simple returns only,” or similar language indicating that the offer was qualified. All the challenged brand video ads also included language—like “see if you qualify” or “see details at TurboTax.com”—that invited consumers to visit the TurboTax website to learn more about the free offer and whether they qualified for that offer. (GX59 (FTC); GX200 (FTC); GX202 (FTC); GX204 (FTC); GX206 (FTC); GX208 (FTC); GX299 (Intuit); GX300 (Intuit); GX307 (FTC); GX309 (FTC); GX321 (FTC); GX323 (FTC); GX324 (Intuit); GX325 (Intuit); GX326 (FTC); GX327 (FTC); GX328 (Intuit); GX329 (Intuit); GX330 (Intuit); GX331 (Intuit); GX332 (FTC); GX344 (Intuit); GX345 (Intuit); GX346 (Intuit); GX347 (Intuit); GX348 (Intuit); GX349 (Intuit); GX350 (Intuit); GX351 (Intuit); GX356 (Intuit); GX601 (Intuit); GX602 (Intuit); GX603 (Intuit); GX604 (Intuit); GX605 (Intuit); GX606 (Intuit); GX607 (Intuit); GX608 (Intuit); GX609 (Intuit); GX610 (Intuit); GX611 (Intuit); GX612 (Intuit); GX613 (Intuit); GX614 (Intuit); GX615 (Intuit); GX616 (Intuit); GX619 (Intuit); GX620 (Intuit); GX621 (Intuit); GX622 (Intuit); GX623 (Intuit); GX624 (Intuit);

GX625 (Intuit); GX626 (Intuit); GX628 (Intuit); GX629 (Intuit); GX668 (Intuit); GX669 (Intuit); GX670 (Intuit); GX671 (Intuit); GX672 (Intuit); GX691 (FTC); GX692 (FTC); GX693 (FTC); GX694 (FTC); GX695 (FTC); GX696 (FTC); GX697 (FTC); GX698 (FTC); GX699 (FTC); GX700 (FTC); GX701 (FTC); GX702 (FTC); GX703 (FTC); GX704 (FTC); GX705 (FTC); GX706 (FTC); GX707 (FTC); GX708 (FTC); GX709 (FTC); GX710 (FTC); GX711 (FTC); GX712 (FTC); GX713 (FTC); GX714 (FTC); GX715 (FTC); GX716 (FTC); GX717 (FTC); GX718 (FTC); GX719 (FTC); GX720 (FTC); GX721 (FTC); GX722 (FTC); GX774 (FTC); GX775 (FTC); GX776 (FTC); GX777 (FTC); GX778 (FTC); GX779 (FTC); GX785 (FTC); GX786 (FTC); GX800 (FTC); GX802 (FTC); GX803 (FTC); GX804 (FTC); GX805 (FTC); GX806 (FTC); GX807 (FTC); GX811 (FTC); GX815 (FTC); GX816 (FTC); GX820 (FTC); GX821 (FTC); GX822 (FTC); GX825 (FTC); GX826 (FTC); GX827 (FTC); GX828 (FTC); GX829 (FTC); GX835 (FTC); GX836 (FTC); GX837 (FTC); GX838 (FTC); GX844 (FTC); GX848 (FTC); GX849 (FTC); GX855 (FTC); GX856 (FTC); RX32 (Intuit); RX200 (Intuit); RX201 (Intuit); RX202 (Intuit); Johnson (Intuit) Tr. 606; Ryan (Intuit) Tr. 753-754).

216. A screenshot of the title card from a challenged Tax Year 2021 brand video ad, showing the TurboTax Free Edition logo and the qualifications “TurboTax Free Edition is for simple U.S. returns only” and “See if you qualify at [turobtax.com](https://turbotax.com),” is provided below. (RX202 (Intuit)).



217. Beginning in Tax Year 2020 and 2021, certain video ads also stated verbally that the advertised free offer was for “simple returns.” (GX307 (Intuit); GX309 (Intuit); GX601 (Intuit); GX602 (Intuit); GX603 (Intuit); GX607 (Intuit); GX614 (Intuit); GX616 (Intuit); GX619 (Intuit); GX622 (Intuit); GX828 (Intuit); GX838 (Intuit); GX844 (Intuit); GX856 (Intuit)).

218. In Tax Year 2021, the challenged brand video ads also encouraged consumers to visit the TurboTax website through a spoken voiceover that stated “see details at turbotax.com.” (GX200 (Intuit); GX202 (Intuit); GX204 (Intuit); GX206 (Intuit); GX208 (Intuit); GX620 (Intuit); GX621 (Intuit); GX623 (Intuit); GX625 (Intuit); GX711 (Intuit); GX712 (Intuit); GX713 (Intuit); GX714 (Intuit); GX715 (Intuit); GX722 (Intuit); RX202 (Intuit)).

219. The only “evidence” Complaint Counsel offer for their express-claim theory is the repetition of the word “free” in some of the challenged video ads, which Complaint Counsel say constitutes an express claim that *all* consumers viewing those ads can necessarily file their taxes

for free using TurboTax. (Evans (FTC) Tr. 19; Complaint Counsel’s Pretrial Brief at 30 (Feb. 17, 2023)). But the repetition of the word free does not establish that the challenged brand video ads, let alone all challenged ads, expressly conveyed that all TurboTax SKUs are free.

220. To start, the repetition of the word “free” is missing from many of the challenged video ads, and the vast majority (more than two-thirds) of all challenged ads, including most challenged display ads and all paid-search and email ads. (*Cf.* Complaint Counsel’s Pretrial Brief at App’x B (Feb. 17, 2023); *infra* ¶223).

221. Moreover, the word “free” by itself is not a claim about TurboTax at all. The FTC’s designee testified that the word “free” in ads is not an express claim because its meaning “depends [on] whether there is any other context for the person that is hearing [it].” (GX161 (Maxson (FTC) Dep.) at 239).

222. The “other context” provided by the challenged brand video ads was that a specific TurboTax SKU was free, that the SKU was available for simple tax returns only, and that further details were available on the TurboTax website. (*Supra* ¶¶215-218; Shiller (FTC) Tr. 234-239).

223. Indeed, the challenged brand video ads that repeated the word “free” did not state *anything* about TurboTax without supplying that context. Those 101 challenged brand video ads did not even mention “TurboTax” until the end of the ad, when they informed viewers that the free offer applied to a specific TurboTax SKU that had qualifications. (GX156 (Ryan (Intuit) IHT) at 130-131; Shiller (FTC) Tr. 235; GX59 (Intuit); GX200 (Intuit); GX202 (Intuit); GX204 (Intuit); GX206 (Intuit); GX208 (Intuit); GX299 (Intuit); GX300 (Intuit); GX326 (Intuit); GX327 (Intuit); GX328 (Intuit); GX329 (Intuit); GX330 (Intuit); GX331 (Intuit); GX332 (Intuit); GX348 (Intuit); GX349 (Intuit); GX350 (Intuit); GX351 (Intuit); GX356 (Intuit);

GX604 (Intuit); GX605 (Intuit); GX606 (Intuit); GX608 (Intuit); GX609 (Intuit); GX610 (Intuit); GX611 (Intuit); GX612 (Intuit); GX613 (Intuit); GX615 (Intuit); GX620 (Intuit); GX621 (Intuit); GX623 (Intuit); GX624 (Intuit); GX625 (Intuit); GX626 (Intuit); GX628 (Intuit); GX629 (Intuit); GX669 (Intuit); GX670 (Intuit); GX671 (Intuit); GX672 (Intuit); GX691 (Intuit); GX692 (Intuit); GX693 (Intuit); GX694 (Intuit); GX695 (Intuit); GX696 (Intuit); GX697 (Intuit); GX698 (Intuit); GX699 (Intuit); GX700 (Intuit); GX701 (Intuit); GX702 (Intuit); GX703 (Intuit); GX704 (Intuit); GX705 (Intuit); GX706 (Intuit); GX707 (Intuit); GX708 (Intuit); GX709 (Intuit); GX710 (Intuit); GX711 (Intuit); GX712 (Intuit); GX713 (Intuit); GX714 (Intuit); GX715 (Intuit); GX716 (Intuit); GX717 (Intuit); GX718 (Intuit); GX719 (Intuit); GX720 (Intuit); GX721 (Intuit); GX722 (Intuit); GX778 (Intuit); GX779 (Intuit); GX800 (Intuit); GX802 (Intuit); GX803 (Intuit); GX804 (Intuit); GX805 (Intuit); GX806 (Intuit); GX807 (Intuit); GX811 (Intuit); GX815 (Intuit); GX816 (Intuit); GX820 (Intuit); GX821 (Intuit); GX822 (Intuit); GX825 (Intuit); GX826 (Intuit); GX827 (Intuit); GX829 (Intuit); GX835 (Intuit); GX836 (Intuit); GX837 (Intuit); GX848 (Intuit); GX849 (Intuit); GX855 (Intuit); RX201 (Intuit); RX202 (Intuit); *see also* Shiller (FTC) Tr. 235 (Ms. Shiller agreeing that the challenged “Free, Free, Free” video ads did not say anything about TurboTax until qualifications were provided and testifying that those ads first made viewers aware that the ads were for TurboTax only when a voiceover stated “TurboTax *Free Edition* is free” and invited viewers to “see details at TurboTax.com”).

224. Copy testing of certain of the challenged ads confirmed that consumers did not associate challenged brand video ads that repeated the word “free” with TurboTax until “TurboTax Free Edition” was mentioned at the end of the ad. (GX460 (Intuit) at 8, 24; Shiller (FTC) Tr. 235).

225. Moreover, Intuit no longer runs TurboTax ads that repeat “free” and has agreed, in a legally binding Consent Order, “not [to] publish, or cause to be published, in any medium (1) its ‘free, free, free’ Video Advertisements ... and (2) Video Advertisements that are substantially similar in their repetition of the word free.” (RX261 (Intuit) at 8; Ryan (Intuit) Tr. 754-755; Rubin (Intuit) Tr. 1555; GX352 (FTC) at 2; RX73 (Intuit) at 25; GX438 (Intuit) at 3-4).

226. It is not correct that one challenged brand video ad—“Boston Tea Party” (RX200 (Intuit))—expressly tells consumers, “You can file on TurboTax for absolutely nothing.” In fact, when the quoted words were spoken, the ad displayed not only the name of the specific product and time-limited offer being advertised—“Federal Free Edition” and “Absolute Zero”—but also text stating that “TurboTax Federal Free Edition is for simple U.S. returns only” and inviting consumers to “See offer details at TurboTax.com.” (RX200 (Intuit)).

227. It is also not correct that most of the challenged ads never mention Free Edition, or that many of the challenged ads stated only that “TurboTax Free is free.” In fact, all the challenged video advertisements that stated “TurboTax Free is free” also stated in writing that they were for the “Free Edition product only” or that “Free Edition is for simple U.S. returns only.” (Rubin (Intuit) Tr. 1561; *supra* ¶¶215-217, 223, 226; *infra* ¶244). And more broadly, all of the challenged brand video advertisements stated that the free offer being advertised applied to a specific TurboTax SKU—often by expressly referencing “Free Edition.” (*Supra* ¶¶212, 215, 222-223; *infra* ¶¶228, 244, 250-251, 261, 275, 281, 290, 294, 299).

228. Moreover, the reference to “TurboTax Free,” with the word “Free” appearing in lighter font weight than the “TurboTax” brand, was consistent with Intuit’s logo branding for all SKUs that year. (Rubin (Intuit) Tr. 1561-1562). The word “Edition” was not used in the ads for *any* of the various TurboTax SKUs. (Rubin (Intuit) Tr. 1561-1562). The reference to

“TurboTax Free” was thus meant to convey the specific SKU being advertised, as reflected in the written disclosure appearing on the same title card at the end of the advertisements. (Rubin (Intuit) Tr. 1561-1562).

229. Complaint Counsel contend that in challenged TurboTax brand video advertisements, “simple tax returns” and other disclosure language was too small for consumers to see. (Evans (FTC) Tr. 20-22). But Complaint Counsel—who did not make the same argument about any non-brand-video ads—produced no evidence that this was true. In fact, the disclosures in the challenged ads were larger and clearer than those run by many benchmark companies. (Golder (Intuit) Tr. 1150-1155). Moreover, as Intuit witnesses credibly explained, Intuit consistently placed those disclosures where consumers would expect to see them. (Ryan (Intuit) Tr. 775-777; Golder (Intuit) Tr. 1111-1114, 1153-1155).

230. Complaint Counsel did not offer evidence demonstrating that consumers could not see or read the written qualifications in challenged brand video ads.

231. Complaint Counsel did not offer evidence demonstrating that consumers could not hear the verbal qualifications in the challenged brand video ads.

232. The evidence instead establishes that the written and verbal qualifications in the challenged brand video ads—such as “TurboTax Free Edition is for simple U.S. returns only” and “See if you qualify at turobtax.com”—were noticeable, legible or audible, and in a location where consumers would expect to find them. (*Supra* ¶¶215-218, 223; Golder (Intuit) Tr. 1138-1144, 1147-1155; Shiller (FTC) Tr. 246-247; GX159 (Ryan (Intuit) Dep.) at 45-49).

233. Complaint Counsel’s witness acknowledged that the challenged brand video ads contained visible and/or audible qualifying language, including a specific product name, that the

product was for simple tax returns only, and/or that consumers could see if they qualified at TurboTax.com. (Shiller (FTC) Tr. 246-247).

234. Professor Peter Golder’s disclosure benchmarking analysis, which compared video ads for free TurboTax SKUs with ads from 18 benchmark companies across four industries, demonstrates that the qualifications in the challenged brand video ads were visible and consistent with disclosures in comparable ads. (Golder (Intuit) Tr. 1133-1136, 1138-1144, 1147-1155; RX1018 (Golder Expert Report) ¶¶127-137).

235. Professor Golder’s analysis was based on seven metrics identified in the FTC’s “.com Disclosures” guidelines for “How to Make Effective Disclosures in Digital Advertising”: height, color, duration, proximity, placement, distracting factors, and repetition. (Golder (Intuit) Tr. 1137-1141; RX1018 (Golder Expert Report) ¶¶125, 130-136; *see also* Novemsky (FTC) Tr. 1799-1800). The metrics considered by Professor Golder’s analysis were responsive to Complaint Counsel’s criticisms of TurboTax ads and the relief sought in this proceeding. (Golder (Intuit) Tr. 1137-1141; RX1018 (Golder Expert Report) ¶¶130-135; RX260 (FTC) ¶¶21-36).

236. In his disclosure benchmarking analysis, Professor Golder analyzed prominence by measuring the average height of disclosures as a percentage of the total screen height and comparing the color of the disclosure text to the background of the ad. (RX1018 (Golder Expert Report) ¶132). He analyzed duration by measuring the amount of time a disclosure appeared on-screen. (RX1018 (Golder Expert Report) ¶135). He analyzed proximity and placement by examining whether the disclosures were on-screen at the same time as the relevant claim, as well as where the disclosures were placed on the ads. (RX1018 (Golder Expert Report) ¶131). He analyzed distracting factors by reviewing whether—and for how long—disclosures were on a

solid screen and whether multiple disclosures that discussed the cost of a product or eligibility requirements were present in an ad. (RX1018 (Golder Expert Report) ¶133). He analyzed repetition by examining whether the ad included a spoken voiceover of the exact written disclosure, and whether the ad disclosures were repeated on the company's website. (RX1018 (Golder Expert Report) ¶134).

237. Disclosures about qualifications for free products in TurboTax television ads were comparable or superior to disclosures in benchmark companies' advertisements. (Golder (Intuit) Tr. 1148-1155). TurboTax's disclosures were superior to other companies' disclosures in terms of height and duration, and the difference in height and duration was statistically significant. (RX1018 (Golder Expert Report) ¶¶132, 135; Golder (Intuit) Tr. 1149-1152).

238. The disclosures in Intuit's television (i.e., brand video) ads for free TurboTax SKUs were consistent with the FTC's guidelines and were presented in the form and manner that consumers expect. (RX1018 (Golder Expert Report) ¶¶137, 231; Golder (Intuit) Tr. 1148-1155).

239. Intuit's disclosures in ads for free TurboTax SKUs were sufficient to put reasonable consumers on notice that TurboTax's free SKUs are qualified, regardless of whether consumers read or understood the disclosures. (Golder (Intuit) Tr. 1111-1112, 1119-1120).

240. The fact that TurboTax's disclosures were comparable or superior to benchmark companies' disclosures is inconsistent with Complaint Counsel's theory of deception. (RX1018 (Golder Expert Report) ¶¶124, 137, 231; Golder (Intuit) Tr. 1148-1155).

241. The disclosures in the challenged brand video ads, considered as a whole, were also appropriate for the audience targeted and consistent with the video advertising medium. (Ryan (Intuit) Tr. 776-777; Golder (Intuit) Tr. 1105-1107, 1116-1117, 1120, 1129-1132). The challenged brand video ads provided the appropriate amount of information about the existence

and category of the relevant qualifications, at a level of detail that allowed consumers to process that information, while directing consumers to the TurboTax website for more information.

(Golder (Intuit) Tr. 1116-1117, 1120, 1129-1130).

242. None of the challenged brand video ads expressly conveyed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (GX59 (FTC); GX200 (FTC); GX202 (FTC); GX204 (FTC); GX206 (FTC); GX208 (FTC); GX299 (Intuit); GX300 (Intuit); GX307 (FTC); GX309 (FTC); GX321 (FTC); GX323 (FTC); GX324 (Intuit); GX325 (Intuit); GX326 (FTC); GX327 (FTC); GX328 (Intuit); GX329 (Intuit); GX330 (Intuit); GX331 (Intuit); GX332 (FTC); GX344 (Intuit); GX345 (Intuit); GX346 (Intuit); GX347 (Intuit); GX348 (Intuit); GX349 (Intuit); GX350 (Intuit); GX351 (Intuit); GX356 (Intuit); GX601 (Intuit); GX602 (Intuit); GX603 (Intuit); GX604 (Intuit); GX605 (Intuit); GX606 (Intuit); GX607 (Intuit); GX608 (Intuit); GX609 (Intuit); GX610 (Intuit); GX611 (Intuit); GX612 (Intuit); GX613 (Intuit); GX614 (Intuit); GX615 (Intuit); GX616 (Intuit); GX619 (Intuit); GX620 (Intuit); GX621 (Intuit); GX622 (Intuit); GX623 (Intuit); GX624 (Intuit); GX625 (Intuit); GX626 (Intuit); GX628 (Intuit); GX629 (Intuit); GX668 (Intuit); GX669 (Intuit); GX670 (Intuit); GX671 (Intuit); GX672 (Intuit); GX691 (FTC); GX692 (FTC); GX693 (FTC); GX694 (FTC); GX695 (FTC); GX696 (FTC); GX697 (FTC); GX698 (FTC); GX699 (FTC); GX700 (FTC); GX701 (FTC); GX702 (FTC); GX703 (FTC); GX704 (FTC); GX705 (FTC); GX706 (FTC); GX707 (FTC); GX708 (FTC); GX709 (FTC); GX710 (FTC); GX711 (FTC); GX712 (FTC); GX713 (FTC); GX714 (FTC); GX715 (FTC); GX716 (FTC); GX717 (FTC); GX718 (FTC); GX719 (FTC); GX720 (FTC); GX721 (FTC); GX722 (FTC); GX774 (FTC); GX775 (FTC); GX776 (FTC); GX777 (FTC); GX778 (FTC); GX779 (FTC); GX785 (FTC); GX786

(FTC); GX800 (FTC); GX802 (FTC); GX803 (FTC); GX804 (FTC); GX805 (FTC); GX806 (FTC); GX807 (FTC); GX811 (FTC); GX815 (FTC); GX816 (FTC); GX820 (FTC); GX821 (FTC); GX822 (FTC); GX825 (FTC); GX826 (FTC); GX827 (FTC); GX828 (FTC); GX829 (FTC); GX835 (FTC); GX836 (FTC); GX837 (FTC); GX838 (FTC); GX844 (FTC); GX848 (FTC); GX849 (FTC); GX855 (FTC); GX856 (FTC); RX32 (Intuit); RX200 (Intuit); RX201 (Intuit); RX202 (Intuit)).

243. None of the challenged brand video ads impliedly conveyed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (GX59 (FTC); GX200 (FTC); GX202 (FTC); GX204 (FTC); GX206 (FTC); GX208 (FTC); GX299 (Intuit); GX300 (Intuit); GX307 (FTC); GX309 (FTC); GX321 (FTC); GX323 (FTC); GX324 (Intuit); GX325 (Intuit); GX326 (FTC); GX327 (FTC); GX328 (Intuit); GX329 (Intuit); GX330 (Intuit); GX331 (Intuit); GX332 (FTC); GX344 (Intuit); GX345 (Intuit); GX346 (Intuit); GX347 (Intuit); GX348 (Intuit); GX349 (Intuit); GX350 (Intuit); GX351 (Intuit); GX356 (Intuit); GX601 (Intuit); GX602 (Intuit); GX603 (Intuit); GX604 (Intuit); GX605 (Intuit); GX606 (Intuit); GX607 (Intuit); GX608 (Intuit); GX609 (Intuit); GX610 (Intuit); GX611 (Intuit); GX612 (Intuit); GX613 (Intuit); GX614 (Intuit); GX615 (Intuit); GX616 (Intuit); GX619 (Intuit); GX620 (Intuit); GX621 (Intuit); GX622 (Intuit); GX623 (Intuit); GX624 (Intuit); GX625 (Intuit); GX626 (Intuit); GX628 (Intuit); GX629 (Intuit); GX668 (Intuit); GX669 (Intuit); GX670 (Intuit); GX671 (Intuit); GX672 (Intuit); GX691 (FTC); GX692 (FTC); GX693 (FTC); GX694 (FTC); GX695 (FTC); GX696 (FTC); GX697 (FTC); GX698 (FTC); GX699 (FTC); GX700 (FTC); GX701 (FTC); GX702 (FTC); GX703 (FTC); GX704 (FTC); GX705 (FTC); GX706 (FTC); GX707 (FTC); GX708 (FTC); GX709 (FTC); GX710 (FTC); GX711 (FTC); GX712

(FTC); GX713 (FTC); GX714 (FTC); GX715 (FTC); GX716 (FTC); GX717 (FTC); GX718 (FTC); GX719 (FTC); GX720 (FTC); GX721 (FTC); GX722 (FTC); GX774 (FTC); GX775 (FTC); GX776 (FTC); GX777 (FTC); GX778 (FTC); GX779 (FTC); GX785 (FTC); GX786 (FTC); GX800 (FTC); GX802 (FTC); GX803 (FTC); GX804 (FTC); GX805 (FTC); GX806 (FTC); GX807 (FTC); GX811 (FTC); GX815 (FTC); GX816 (FTC); GX820 (FTC); GX821 (FTC); GX822 (FTC); GX825 (FTC); GX826 (FTC); GX827 (FTC); GX828 (FTC); GX829 (FTC); GX835 (FTC); GX836 (FTC); GX837 (FTC); GX838 (FTC); GX844 (FTC); GX848 (FTC); GX849 (FTC); GX855 (FTC); GX856 (FTC); RX32 (Intuit); RX200 (Intuit); RX201 (Intuit); RX202 (Intuit)).

244. Instead, the disclosures in the challenged brand video ads left the impression (1) that the ad was for a specific TurboTax SKU that was free, (2) that a consumer's ability to use the free SKU was tied to the complexity of that consumer's tax return, and (3) that there was additional information about the SKU and its qualifications on the TurboTax website. (GX59 (FTC); GX200 (FTC); GX202 (FTC); GX204 (FTC); GX206 (FTC); GX208 (FTC); GX299 (Intuit); GX300 (Intuit); GX307 (FTC); GX309 (FTC); GX321 (FTC); GX323 (FTC); GX324 (Intuit); GX325 (Intuit); GX326 (FTC); GX327 (FTC); GX328 (Intuit); GX329 (Intuit); GX330 (Intuit); GX331 (Intuit); GX332 (FTC); GX344 (Intuit); GX345 (Intuit); GX346 (Intuit); GX347 (Intuit); GX348 (Intuit); GX349 (Intuit); GX350 (Intuit); GX351 (Intuit); GX356 (Intuit); GX601 (Intuit); GX602 (Intuit); GX603 (Intuit); GX604 (Intuit); GX605 (Intuit); GX606 (Intuit); GX607 (Intuit); GX608 (Intuit); GX609 (Intuit); GX610 (Intuit); GX611 (Intuit); GX612 (Intuit); GX613 (Intuit); GX614 (Intuit); GX615 (Intuit); GX616 (Intuit); GX619 (Intuit); GX620 (Intuit); GX621 (Intuit); GX622 (Intuit); GX623 (Intuit); GX624 (Intuit); GX625 (Intuit); GX626 (Intuit); GX628 (Intuit); GX629 (Intuit); GX668 (Intuit); GX669

(Intuit); GX670 (Intuit); GX671 (Intuit); GX672 (Intuit); GX691 (FTC); GX692 (FTC); GX693 (FTC); GX694 (FTC); GX695 (FTC); GX696 (FTC); GX697 (FTC); GX698 (FTC); GX699 (FTC); GX700 (FTC); GX701 (FTC); GX702 (FTC); GX703 (FTC); GX704 (FTC); GX705 (FTC); GX706 (FTC); GX707 (FTC); GX708 (FTC); GX709 (FTC); GX710 (FTC); GX711 (FTC); GX712 (FTC); GX713 (FTC); GX714 (FTC); GX715 (FTC); GX716 (FTC); GX717 (FTC); GX718 (FTC); GX719 (FTC); GX720 (FTC); GX721 (FTC); GX722 (FTC); GX774 (FTC); GX775 (FTC); GX776 (FTC); GX777 (FTC); GX778 (FTC); GX779 (FTC); GX785 (FTC); GX786 (FTC); GX800 (FTC); GX802 (FTC); GX803 (FTC); GX804 (FTC); GX805 (FTC); GX806 (FTC); GX807 (FTC); GX811 (FTC); GX815 (FTC); GX816 (FTC); GX820 (FTC); GX821 (FTC); GX822 (FTC); GX825 (FTC); GX826 (FTC); GX827 (FTC); GX828 (FTC); GX829 (FTC); GX835 (FTC); GX836 (FTC); GX837 (FTC); GX838 (FTC); GX844 (FTC); GX848 (FTC); GX849 (FTC); GX855 (FTC); GX856 (FTC); RX32 (Intuit); RX200 (Intuit); RX201 (Intuit); RX202 (Intuit)).

245. Because the challenged brand video ads effectively disclosed the qualifications of the free TurboTax SKU advertised, coupled with the background knowledge and understanding of reasonable consumers in this industry, none of the challenged brand video ads misled consumers into believing that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (Golder (Intuit) Tr. 1104-1105, 1113-1116, 1153-1155; *supra* ¶¶215-218, 222-223, 226-228, 230-244).

246. Accordingly, even a facial analysis of the challenged brand video ads establishes that none of those ads were deceptive.

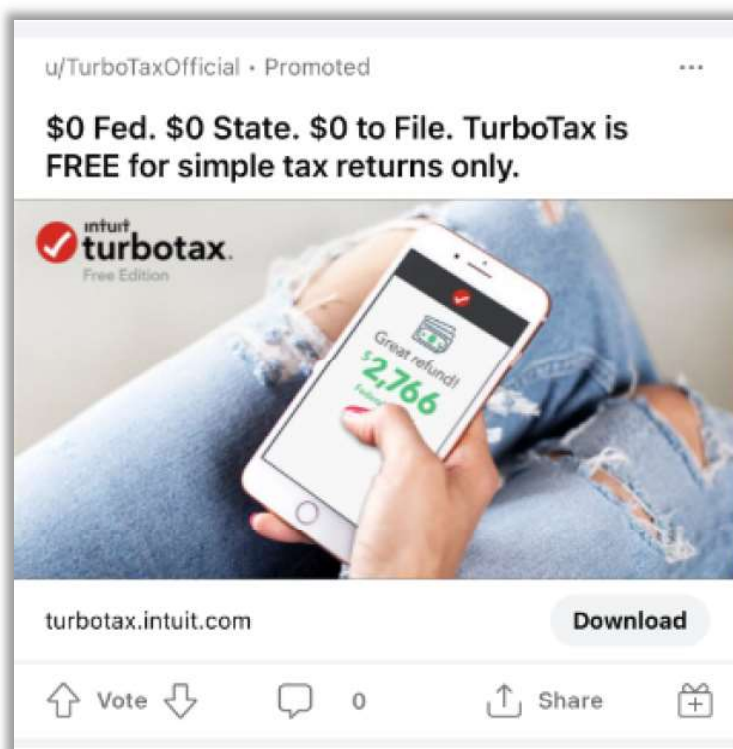
2. Display Advertisements

247. Complaint Counsel contend that 54 video display ads from Tax Years 2020 and 2021, and 54 static display advertisements from Tax Years 2015 to 2022, were deceptive to reasonable consumers. (Complaint Counsel’s Pretrial Brief at App’x B (Feb. 17, 2023)).

248. Every one of the 108 challenged display ads stated in writing—using the phrases “simple tax returns only,” “simple U.S. returns only,” or “simple tax returns”—that the free TurboTax offer being advertised was only available to consumers with simple tax returns. (GX173 (FTC); GX174-A (FTC); GX175-A (FTC); GX187 (FTC); GX188 (FTC); GX189 (FTC); GX196 (FTC); GX197 (FTC); GX198 (FTC); GX199 (FTC); GX505 (Intuit); GX506 (Intuit); GX507 (Intuit); GX508 (Intuit); GX509 (Intuit); GX510 (Intuit); GX511 (Intuit); GX512 (Intuit); GX513 (Intuit); GX514 (Intuit); GX515 (Intuit); GX516 (Intuit); GX517 (Intuit); GX518 (Intuit); GX519 (Intuit); GX520 (Intuit); GX521 (Intuit); GX522 (Intuit); GX523 (Intuit); GX524 (Intuit); GX525 (Intuit); GX526 (Intuit); GX527 (Intuit); GX528 (Intuit); GX529 (Intuit); GX530 (Intuit); GX531 (Intuit); GX532 (Intuit); GX533 (Intuit); GX534 (Intuit); GX535 (Intuit); GX536 (Intuit); GX537 (Intuit); GX538 (Intuit); GX539 (Intuit); GX540 (Intuit); GX541 (Intuit); GX542 (Intuit); GX543 (Intuit); GX544 (Intuit); GX545 (Intuit); GX546 (Intuit); GX547 (Intuit); GX548 (Intuit); GX549 (Intuit); GX550 (Intuit); GX551 (Intuit); GX552 (Intuit); GX553 (Intuit); GX554 (Intuit); GX555 (Intuit); GX556 (Intuit); GX557 (Intuit); GX558 (Intuit); GX559 (Intuit); GX560 (Intuit); GX561 (Intuit); GX562 (Intuit); GX563 (Intuit); GX564 (Intuit); GX565 (Intuit); GX566 (Intuit); GX567 (Intuit); GX568 (Intuit); GX569 (Intuit); GX570 (Intuit); GX571 (Intuit); GX572 (Intuit); GX573 (Intuit); GX574 (Intuit); GX575 (Intuit); GX576 (Intuit); GX577 (Intuit); GX578 (Intuit); GX579 (Intuit); GX580 (Intuit); GX581 (Intuit); GX582 (Intuit); GX583

(Intuit); GX584 (Intuit); GX585 (Intuit); GX586 (Intuit); GX587 (Intuit); GX588 (Intuit); GX589 (Intuit); GX590 (Intuit); GX591 (Intuit); GX592 (Intuit); GX593 (Intuit); GX594 (Intuit); GX595 (Intuit); GX596 (Intuit); GX597 (Intuit); GX598 (Intuit); GX599 (Intuit); GX600 (Intuit); GX843 (Intuit); RX139 (Intuit)).

249. A screenshot of a challenged static display ad is provided below. (GX197 (Intuit)).



250. Most of the challenged display ads (70) also stated in writing that the advertisement was for a specific TurboTax SKU, either TurboTax Free Edition or TurboTax Live Basic. (GX173 (Intuit); GX174-A (Intuit); GX175-A (Intuit); GX187 (Intuit); GX188 (Intuit); GX189 (Intuit); GX196 (Intuit); GX197 (Intuit); GX198 (Intuit); GX199 (Intuit); GX505 (Intuit); GX506 (Intuit); GX507 (Intuit); GX508 (Intuit); GX509 (Intuit); GX511 (Intuit); GX512 (Intuit); GX513 (Intuit); GX514 (Intuit); GX515 (Intuit); GX516 (Intuit);

GX517 (Intuit); GX519 (Intuit); GX520 (Intuit); GX521 (Intuit); GX523 (Intuit); GX524 (Intuit); GX525 (Intuit); GX526 (Intuit); GX527 (Intuit); GX528 (Intuit); GX529 (Intuit); GX530 (Intuit); GX531 (Intuit); GX532 (Intuit); GX533 (Intuit); GX534 (Intuit); GX535 (Intuit); GX536 (Intuit); GX537 (Intuit); GX538 (Intuit); GX542 (Intuit); GX543 (Intuit); GX545 (Intuit); GX546 (Intuit); GX547 (Intuit); GX549 (Intuit); GX550 (Intuit); GX551 (Intuit); GX552 (Intuit); GX553 (Intuit); GX554 (Intuit); GX556 (Intuit); GX557 (Intuit); GX558 (Intuit); GX559 (Intuit); GX561 (Intuit); GX562 (Intuit); GX563 (Intuit); GX564 (Intuit); GX566 (Intuit); GX569 (Intuit); GX583 (Intuit); GX584 (Intuit); GX585 (Intuit); GX586 (Intuit); GX588 (Intuit); GX600 (Intuit); GX843 (Intuit); RX139 (Intuit)).

251. Another 25 challenged display ads communicated that the free TurboTax offer being advertised only applied to certain SKUs. (GX539 (Intuit); GX548 (Intuit); GX560 (Intuit); GX565 (Intuit); GX567 (Intuit); GX568 (Intuit); GX570 (Intuit); GX571 (Intuit); GX572 (Intuit); GX573 (Intuit); GX576 (Intuit); GX577 (Intuit); GX578 (Intuit); GX579 (Intuit); GX581 (Intuit); GX582 (Intuit); GX586 (Intuit); GX589 (Intuit); GX590 (Intuit); GX592 (Intuit); GX593 (Intuit); GX594 (Intuit); GX595 (Intuit); GX597 (Intuit); GX598 (Intuit)). An example is provided below. (GX573 (Intuit)).



252. Nearly all of the challenged video display ads with audible free claims also included a voiceover stating that the free offer was available for “simple tax returns only.” (GX510 (Intuit); GX511 (Intuit); GX512 (Intuit); GX513 (Intuit); GX514 (Intuit); GX515 (Intuit); GX516 (Intuit); GX517 (Intuit); GX518 (Intuit); GX519 (Intuit); GX525 (Intuit); GX526 (Intuit); GX540 (Intuit); GX541 (Intuit); GX542 (Intuit); GX544 (Intuit); GX547 (Intuit); GX558 (Intuit); GX581 (Intuit); GX582 (Intuit); GX589 (Intuit); GX590 (Intuit); GX591 (Intuit); GX592 (Intuit); GX593 (Intuit); GX843 (Intuit)). Indeed, in many of the challenged video display ads, the first audio presented to consumers is a voiceover stating, “simple tax returns only.” (Baburek (FTC) Tr. 334-336; GXD2 (FTC) at 8-17).

253. Any consumer who clicked on a challenged display ad—video or static—was also taken directly to relevant webpages on the TurboTax website, where they would see detailed information about the free offer’s qualifications. (Ryan (Intuit) Tr. 757; Johnson (Intuit) 595-596; Rubin (Intuit) 1563-1565; JX1 ¶¶59-61; *infra* ¶¶364-441). For challenged display ads for TurboTax Free Edition, for example, consumers who clicked on the ads were taken directly to the TurboTax Free Edition landing page, where they would see detailed information about Free Edition’s qualifications. (Johnson (Intuit) 595-596; Rubin (Intuit) 1563-1565; JX1 ¶¶59-61).

254. Reasonable consumers understood that clicking on the challenged display ads would take the consumer to a website with more information about the advertised free offer. (Golder (Intuit) Tr. 1116-1117; RX1018 (Golder Expert Report) ¶182). Thus, by linking directly to the TurboTax website, the challenged display ads incorporated the information on the TurboTax website. (Golder (Intuit) Tr. 1124-1126).

255. Complaint Counsel did not offer evidence demonstrating that consumers could not see or read the written qualifications in the challenged display ads.

256. Complaint Counsel did not offer evidence demonstrating that consumers could not hear the verbal qualifications in the challenged video display ads.

257. The evidence instead establishes that the written and verbal qualifications in the challenged display ads were noticeable, legible or audible, and in a location where consumers would expect to find them. (*Supra* ¶¶248-252; Ryan (Intuit) Tr. 733-734; Golder (Intuit) Tr. 1163; Shiller (FTC) Tr. 248-249; Baburek (FTC) Tr. 330-336; RX73 (Intuit) at 36 (Judge Breyer observing that challenged display ad “says ‘TurboTax Free Edition, for simple returns only’”); RX1018 (Golder Expert Report) ¶138; *see also* Ryan (Intuit) Tr. 747; GX651 (Intuit) at 15). Complaint Counsel’s witnesses, for instance, repeatedly acknowledged that the challenged display ads contained visible and/or audible qualifying language, including a specific product name, that the product was for simple tax returns only, and/or that consumers could see if they qualified at TurboTax.com. (Shiller (FTC) Tr. 248-249; Baburek (FTC) Tr. 330-336). Indeed, the Court properly observed that challenged display ads contained prominent qualifying language stating “simple returns only.” (Chappell (ALJ) Tr. 45).

258. Professor Golder’s disclosure benchmarking analysis further demonstrates that the qualifications in the challenged display ads were visible and consistent with disclosures in comparable ads. (Golder (Intuit) Tr. 1156-1163; RX1018 (Golder Expert Report) ¶138). Similar to his analysis of TurboTax TV ads, Professor Golder compared TurboTax social media ads (i.e., display ads) to the social media ads of benchmark companies using the seven metrics drawn from the FTC’s “.com Disclosures” guidelines on “How to Make Effective Disclosures in Digital Advertising.” (Golder (Intuit) Tr. 1156-1163; RX1018 (Golder Expert Report) ¶138).

259. That benchmarking analysis revealed that disclosures about qualifications for free products in TurboTax social media ads were comparable to disclosures in benchmark companies’

advertisements on every metric. (Golder (Intuit) Tr. 1159-1163); Golder Expert Report) ¶138). Based on that analysis, Professor Golder concluded that the disclosures in Intuit's social-media ads were (1) consistent with FTC guidelines and (2) presented in the form and manner that consumers expect. (Golder (Intuit) Tr. 1163).

260. None of the challenged display ads expressly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (GX173 (FTC); GX174 (FTC); GX175-A (FTC); GX179 (FTC); GX187 (FTC); GX188 (FTC); GX189 (FTC); GX196 (FTC); GX197 (FTC); GX198 (FTC); GX199 (FTC); GX505 (Intuit); GX506 (Intuit); GX507 (Intuit); GX508 (Intuit); GX509 (Intuit); GX510 (Intuit); GX511 (Intuit); GX512 (Intuit); GX513 (Intuit); GX514 (Intuit); GX515 (Intuit); GX516 (Intuit); GX517 (Intuit); GX518 (Intuit); GX519 (Intuit); GX520 (Intuit); GX521 (Intuit); GX522 (Intuit); GX523 (Intuit); GX524 (Intuit); GX525 (Intuit); GX526 (Intuit); GX527 (Intuit); GX528 (Intuit); GX529 (Intuit); GX530 (Intuit); GX531 (Intuit); GX532 (Intuit); GX533 (Intuit); GX534 (Intuit); GX535 (Intuit); GX536 (Intuit); GX537 (Intuit); GX538 (Intuit); GX539 (Intuit); GX540 (Intuit); GX541 (Intuit); GX542 (Intuit); GX543 (Intuit); GX544 (Intuit); GX545 (Intuit); GX546 (Intuit); GX547 (Intuit); GX548 (Intuit); GX549 (Intuit); GX550 (Intuit); GX551 (Intuit); GX552 (Intuit); GX553 (Intuit); GX554 (Intuit); GX555 (Intuit); GX556 (Intuit); GX557 (Intuit); GX558 (Intuit); GX559 (Intuit); GX560 (Intuit); GX561 (Intuit); GX562 (Intuit); GX563 (Intuit); GX564 (Intuit); GX565 (Intuit); GX566 (Intuit); GX567 (Intuit); GX568 (Intuit); GX569 (Intuit); GX570 (Intuit); GX571 (Intuit); GX572 (Intuit); GX573 (Intuit); GX574 (Intuit); GX575 (Intuit); GX576 (Intuit); GX577 (Intuit); GX578 (Intuit); GX579 (Intuit); GX580 (Intuit); GX581 (Intuit); GX582 (Intuit); GX583 (Intuit); GX584

(Intuit); GX585 (Intuit); GX586 (Intuit); GX587 (Intuit); GX588 (Intuit); GX589 (Intuit); GX590 (Intuit); GX591 (Intuit); GX592 (Intuit); GX593 (Intuit); GX594 (Intuit); GX595 (Intuit); GX596 (Intuit); GX597 (Intuit); GX598 (Intuit); GX599 (Intuit); GX600 (Intuit); GX843 (Intuit); RX139 (Intuit)).

261. None of the challenged display ads impliedly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (GX173 (FTC); GX174 (FTC); GX175 (FTC); GX176 (FTC); GX179 (FTC); GX187 (FTC); GX188 (FTC); GX189 (FTC); GX196 (FTC); GX197 (FTC); GX198 (FTC); GX199 (FTC); GX505 (Intuit); GX506 (Intuit); GX507 (Intuit); GX508 (Intuit); GX509 (Intuit); GX510 (Intuit); GX511 (Intuit); GX512 (Intuit); GX513 (Intuit); GX514 (Intuit); GX515 (Intuit); GX516 (Intuit); GX517 (Intuit); GX518 (Intuit); GX519 (Intuit); GX520 (Intuit); GX521 (Intuit); GX522 (Intuit); GX523 (Intuit); GX524 (Intuit); GX525 (Intuit); GX526 (Intuit); GX527 (Intuit); GX528 (Intuit); GX529 (Intuit); GX530 (Intuit); GX531 (Intuit); GX532 (Intuit); GX533 (Intuit); GX534 (Intuit); GX535 (Intuit); GX536 (Intuit); GX537 (Intuit); GX538 (Intuit); GX539 (Intuit); GX540 (Intuit); GX541 (Intuit); GX542 (Intuit); GX543 (Intuit); GX544 (Intuit); GX545 (Intuit); GX546 (Intuit); GX547 (Intuit); GX548 (Intuit); GX549 (Intuit); GX550 (Intuit); GX551 (Intuit); GX552 (Intuit); GX553 (Intuit); GX554 (Intuit); GX555 (Intuit); GX556 (Intuit); GX557 (Intuit); GX558 (Intuit); GX559 (Intuit); GX560 (Intuit); GX561 (Intuit); GX562 (Intuit); GX563 (Intuit); GX564 (Intuit); GX565 (Intuit); GX566 (Intuit); GX567 (Intuit); GX568 (Intuit); GX569 (Intuit); GX570 (Intuit); GX571 (Intuit); GX572 (Intuit); GX573 (Intuit); GX574 (Intuit); GX575 (Intuit); GX576 (Intuit); GX577 (Intuit); GX578 (Intuit); GX579 (Intuit); GX580 (Intuit); GX581 (Intuit); GX582 (Intuit); GX583

(Intuit); GX584 (Intuit); GX585 (Intuit); GX586 (Intuit); GX587 (Intuit); GX588 (Intuit); GX589 (Intuit); GX590 (Intuit); GX591 (Intuit); GX592 (Intuit); GX593 (Intuit); GX594 (Intuit); GX595 (Intuit); GX596 (Intuit); GX597 (Intuit); GX598 (Intuit); GX599 (Intuit); GX600 (Intuit); GX843 (Intuit); RX139 (Intuit)).

262. Instead, the challenged display ads left the impression (1) that the ad was for a specific TurboTax SKU or a limited set of TurboTax SKUs, (2) that consumers' ability to use the SKU or SKUs was tied to the complexity of their tax returns, and (3) that there was additional information about the SKU or SKUs and the qualifications to use them available on the TurboTax website. (GX173 (FTC); GX174 (FTC); GX175 (FTC); GX176 (FTC); GX179 (FTC); GX187 (FTC); GX188 (FTC); GX189 (FTC); GX196 (FTC); GX197 (FTC); GX198 (FTC); GX199 (FTC); GX505 (Intuit); GX506 (Intuit); GX507 (Intuit); GX508 (Intuit); GX509 (Intuit); GX510 (Intuit); GX511 (Intuit); GX512 (Intuit); GX513 (Intuit); GX514 (Intuit); GX515 (Intuit); GX516 (Intuit); GX517 (Intuit); GX518 (Intuit); GX519 (Intuit); GX520 (Intuit); GX521 (Intuit); GX522 (Intuit); GX523 (Intuit); GX524 (Intuit); GX525 (Intuit); GX526 (Intuit); GX527 (Intuit); GX528 (Intuit); GX529 (Intuit); GX530 (Intuit); GX531 (Intuit); GX532 (Intuit); GX533 (Intuit); GX534 (Intuit); GX535 (Intuit); GX536 (Intuit); GX537 (Intuit); GX538 (Intuit); GX539 (Intuit); GX540 (Intuit); GX541 (Intuit); GX542 (Intuit); GX543 (Intuit); GX544 (Intuit); GX545 (Intuit); GX546 (Intuit); GX547 (Intuit); GX548 (Intuit); GX549 (Intuit); GX550 (Intuit); GX551 (Intuit); GX552 (Intuit); GX553 (Intuit); GX554 (Intuit); GX555 (Intuit); GX556 (Intuit); GX557 (Intuit); GX558 (Intuit); GX559 (Intuit); GX560 (Intuit); GX561 (Intuit); GX562 (Intuit); GX563 (Intuit); GX564 (Intuit); GX565 (Intuit); GX566 (Intuit); GX567 (Intuit); GX568 (Intuit); GX569 (Intuit); GX570 (Intuit); GX571 (Intuit); GX572 (Intuit); GX573 (Intuit); GX574 (Intuit); GX575

(Intuit); GX576 (Intuit); GX577 (Intuit); GX578 (Intuit); GX579 (Intuit); GX580 (Intuit); GX581 (Intuit); GX582 (Intuit); GX583 (Intuit); GX584 (Intuit); GX585 (Intuit); GX586 (Intuit); GX587 (Intuit); GX588 (Intuit); GX589 (Intuit); GX590 (Intuit); GX591 (Intuit); GX592 (Intuit); GX593 (Intuit); GX594 (Intuit); GX595 (Intuit); GX596 (Intuit); GX597 (Intuit); GX598 (Intuit); GX599 (Intuit); GX600 (Intuit); GX843 (Intuit); RX139 (Intuit)).

263. None of the challenged display ads misled reasonable consumers into believing that all TurboTax products were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (Golder (Intuit) Tr. 1104-1105, 1163; *supra* ¶¶248-252).

264. Accordingly, even a facial analysis of the challenged display ads establishes that none of those ads were deceptive.

3. Paid-Search Advertisements

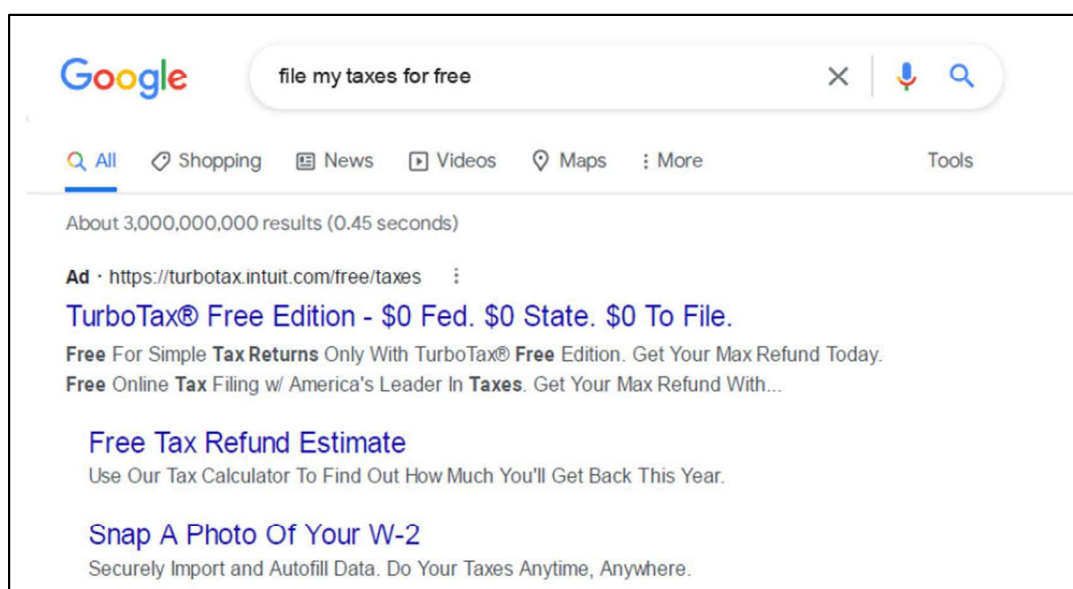
265. Complaint Counsel contend that 17 paid-search ads from Tax Years 2019 to 2021 were deceptive to reasonable consumers. (Complaint Counsel’s Pretrial Brief at App’x B (Feb. 17, 2023)).

266. Nearly all of the challenged paid-search ads stated in writing—next to or below the hyperlink to the TurboTax website—that the free offer being advertised was for “TurboTax Free Edition” and conveyed that the offer was available only to consumers who qualify. (GX167 (FTC); GX168-A (FTC); GX169 (FTC); GX170 (FTC); GX178 (FTC); GX179 (FTC); GX190 (FTC); GX191 (FTC); GX192 (FTC); GX193 (FTC); GX194 (FTC); GX195 (FTC); GX496 (FTC); GX497 (FTC); GX666 (FTC)).

267. In most of the challenged paid-search ads, the ad conveyed that there were qualifications by stating in writing that it was for “simple tax returns only.” GX178 (FTC);

GX179 (FTC); GX180 (FTC); GX190 (FTC); GX191 (FTC); GX192 (FTC); GX193 (FTC); GX194 (FTC); GX195 (FTC); GX496 (FTC); GX497 (FTC); GX666 (FTC)). In other challenged paid-search ads, the qualifications were communicated by stating that “Over 50 million Americans can file with TurboTax Free Edition.” (GX167; GX168-A; GX169; GX170).

268. A screenshot of an example of a challenged paid-search ad is provided below. (GX195 (Intuit)).



269. Any consumer who clicked on a challenged paid-search ad for TurboTax Free Edition was taken directly to the TurboTax Free Edition landing page, where they would see detailed information about Free Edition’s qualifications. (Johnson (Intuit) Tr. 595-596; Ryan (Intuit) Tr. 697; GX167 (FTC); GX168-A (FTC); GX169 (FTC); GX170 (FTC); GX178 (FTC); GX179 (FTC); GX180 (FTC); GX190 (FTC); GX191 (FTC); GX192 (FTC); GX193 (FTC); GX194 (FTC); GX195 (FTC); GX496 (FTC); GX666 (FTC); *infra* ¶¶364-441; *see also* Rubin (Intuit) 1563-1565; JX1 ¶62).

270. Reasonable consumers understood that clicking on the challenged paid-search ads would take the consumer to a website with more information about the advertised free offer. (Golder (Intuit) Tr. 1116-1117, 1126; RX1018 (Golder Expert Report) ¶159). Thus, by linking directly to the TurboTax website, the challenged paid-search ads incorporated the information on the TurboTax website. (Golder (Intuit) Tr. 1123-1126).

271. Complaint Counsel did not offer evidence demonstrating that consumers could not see or read the written qualifications in the challenged paid-search ads.

272. The evidence instead establishes that all written qualifications in the challenged paid-search ads were noticeable and legible. (GX167 (FTC); GX168-A (FTC); GX169 (FTC); GX170 (FTC); GX178 (FTC); GX179 (FTC); GX180 (FTC); GX190 (FTC); GX191 (FTC); GX192 (FTC); GX193 (FTC); GX194 (FTC); GX195 (FTC); GX496 (FTC); GX497 (FTC); GX666 (FTC); Ryan (Intuit) Tr. 696-698, 701-702; Shiller (FTC) Tr. 262-263; Chappell (ALJ) Tr. 45 (observing that challenged “Google ad said ‘simple returns only’”); Evans (FTC) Tr. 49 (reading paid-search ad stating “TurboTax Free Edition, zero dollars fed, zero dollars state, zero dollars to file. Free for simple tax returns only”).

273. None of the challenged paid-search ads expressly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (GX167 (FTC); GX168-A (FTC); GX169 (FTC); GX170 (FTC); GX177 (FTC); GX178 (FTC); GX179 (FTC); GX180 (FTC); GX190 (FTC); GX191 (FTC); GX192 (FTC); GX193 (FTC); GX194 (FTC); GX195 (FTC); GX496 (FTC); GX497 (FTC); GX666 (FTC)).

274. None of the challenged paid-search ads impliedly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free

for the viewer, or any of the other claims asserted by Complaint Counsel. (GX167 (FTC); GX168-A (FTC); GX169 (FTC); GX170 (FTC); GX177 (FTC); GX178 (FTC); GX179 (FTC); GX180 (FTC); GX190 (FTC); GX191 (FTC); GX192 (FTC); GX193 (FTC); GX194 (FTC); GX195 (FTC); GX496 (FTC); GX497 (FTC); GX666 (FTC)).

275. Instead, the challenged paid-search ads left the impression (1) that the ad was for a specific TurboTax SKU, (2) that consumers' ability to use the SKU was qualified based on the complexity of the consumers' tax returns, and (3) that there was additional information about the SKU and its qualifications on the TurboTax website. (Ryan (Intuit) Tr. 741; Golder (Intuit) Tr. 1274; GX167 (FTC); GX168-A (FTC); GX169 (FTC); GX170 (FTC); GX178 (FTC); GX179 (FTC); GX180 (FTC); GX190 (FTC); GX191 (FTC); GX192 (FTC); GX193 (FTC); GX194 (FTC); GX195 (FTC); GX496 (FTC); GX497 (FTC); GX666 (FTC)).

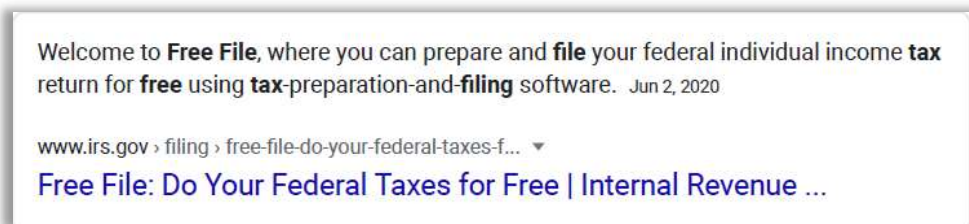
276. None of the challenged paid-search ads misled reasonable consumers into believing that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (*Supra* ¶¶266-275; *infra* 277-286; Golder (Intuit) Tr. 1116-1117, 1126; RX1018 (Golder Expert Report) ¶¶98, 159, fig. 12 n.2; *see also* Ryan (Intuit) Tr. 740-741).

277. Accordingly, even a facial analysis of the challenged paid-search ads establishes that none of those ads were deceptive.

278. Testimony from Ms. Shiller characterizing a search result for the IRS Free File program—with no disclosure language—as not deceptive bolsters the finding that Intuit's paid-search advertisements were not deceptive. At trial, Ms. Shiller was presented with a screenshot of a Google search for "free file taxes ONLINE" with a result for the IRS Free File website that stated: "Welcome to Free File, where you can prepare and file your federal individual income tax

return for free using tax-preparation-and-filing software,” but that did not disclose that only qualifying taxpayers with a certain adjusted gross income could use the IRS Free File offer. (Shiller (FTC) Tr. 258-261; GX168-A (Intuit)). When asked whether the Free File search ad was deceptive, Ms. Shiller initially responded “I don’t know,” before then suggesting it was not deceptive because “it says you can file your taxes for free by going to that website, and I do believe taxpayers can file their taxes for free going through the Free File Program.” (Shiller (FTC) Tr. 262). When Ms. Shiller was reminded that “taxpayers can file for free [by] going to the TurboTax website,” she said that was only true of “[s]ome taxpayers,” but acknowledged that similarly, “only some taxpayers can file for free if they go to IRS.gov” “depending on their qualification” and that the snippet did not include that limitation. (Shiller (FTC) Tr. 262).

279. A screenshot of the IRS Free File search result that Ms. Shiller was shown at trial is provided below. (GX168-A (Intuit)).




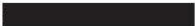
4. Email Advertisements

280. Complaint Counsel contend that 24 email ads for free TurboTax SKUs that were sent from Tax Years 2015 to 2021 were deceptive to reasonable consumers. (Complaint Counsel’s Pretrial Brief at App’x B (Feb. 17, 2023)).

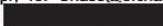
281. The challenged email ads all included disclosure language indicating that the free TurboTax offer was only available to consumers who qualify, through language such as “TurboTax Free Edition, for simple tax returns only. See if you qualify,” or “Pay \$0 to file your

simple federal taxes with TurboTax Free Edition (1040EZ/1040A returns)”—with the qualifications often written in different ways in multiple locations in a single email. Most of the challenged email ads also expressly identified the TurboTax SKU being advertised. (GX171 (FTC); GX172 (FTC); GX181 (FTC); GX182 (FTC); GX371 (FTC); GX374 (FTC); GX375 (FTC); GX376 (FTC); GX377 (FTC); GX378 (FTC); GX379 (FTC); GX380 (FTC); GX381 (FTC); GX383 (FTC); GX386 (FTC); GX387 (FTC); GX388 (FTC); GX389 (FTC); GX390 (FTC); GX477 (FTC); GX480 (FTC); RX127 (Intuit); RX128 (Intuit); RX129 (Intuit); *see also* Ryan (Intuit) Tr. 768).


282. A screenshot of an example challenged email ad is provided below. (GX371 (FTC)).

 Rohit Bansal 

File your taxes for \$0 with TurboTax Free Edition
1 message

Chase <Chase@e.chase.com> Wed, Apr 11, 2018 at 10:30 AM
 Reply-To: "Chase@e.chase.com" <Chase-HP2v400000162b5c2445c98fd1c6e9666b528214@e.chase.com>
 To: 


Pay \$0 to file your simple federal taxes with TurboTax.
[View in browser](#) | [Email Security Information](#)

SAVING FEELS GOOD
 REACHING YOUR GOALS FEELS EVEN BETTER.
 #SavingIt


File by the April 17th tax deadline and save

**FILE YOUR SIMPLE
FED RETURN FOR \$0**

TurboTax Free Edition, 1040EZ/1040A



File Now

PREPARE AND FILE YOUR TAXES
with TurboTax®, the #1 Best-Selling Brand.

PAY \$0 TO PREPARE AND FILE YOUR SIMPLE FEDERAL TAXES
with TurboTax Free Edition (1040EZ/1040A returns).

REACH YOUR SAVINGS GOALS FASTER AND EASIER
when you e-file and direct deposit your refund.

IMPORTANT INFORMATION

TurboTax Free Edition: \$0 federal (forms 1040EZ/1040A) offer only available with TurboTax Free Edition; State filing charges apply. TurboTax online and mobile pricing is based on your tax situation and varies by product. Actual prices are determined at the time of print or e-file and are subject to change without notice.

#1 Best-Selling Brand: Based on aggregated sales data for all tax year 2016 TurboTax products.

Fastest tax refund with e-file and direct deposit; tax refund times will vary.

Visit <https://turbotax.intuit.com/lp/yoy/guarantees.jsp> for TurboTax product guarantees and other important information. Intuit, TurboTax and TurboTax Online, among others, are registered trademarks and/or service marks of Intuit Inc. in the United States and other countries.

283. The challenged email ads were sent to TurboTax customers who previously used TurboTax Free Edition or had started their return in TurboTax Free Edition but had yet to complete it. (Ryan (Intuit) Tr. 769; Shiller (FTC) Tr. 256; *see also* RX1018 (Golder Expert Report) ¶160).

284. Any consumer who clicked on any of the challenged email ads, all of which contain visible hyperlinks, would also be taken directly to the TurboTax website, where they would find detailed information about TurboTax Free Edition qualifications. (GX171 (FTC); GX172 (FTC); GX181 (FTC); GX182 (FTC); GX371 (FTC); GX374 (FTC); GX375 (FTC); GX376 (FTC); GX377 (FTC); GX378 (FTC); GX379 (FTC); GX380 (FTC); GX381 (FTC); GX383 (FTC); GX386 (FTC); GX387 (FTC); GX388 (FTC); GX389 (FTC); GX390 (FTC); GX477 (FTC); GX480 (FTC); RX127 (Intuit); RX128 (Intuit); RX129 (Intuit); Johnson (Intuit) 595-596; JX1 ¶63; *infra* ¶¶364-441).

285. Reasonable consumers understood that clicking on the challenged email ads would take the consumer to a website with more information about the advertised free offer. (Golder (Intuit) Tr. 1116-1117). Thus, by linking directly to the TurboTax website, the challenged email ads incorporated the information on the TurboTax website. (Golder (Intuit) Tr. 1124-1126).

286. Complaint Counsel did not offer evidence demonstrating that consumers could not see or read the written qualifications in challenged email ads.

287. The evidence instead establishes that the written qualifications in the challenged email ads were noticeable and legible. (Shiller (FTC) Tr. 252-254; RX1390 (Shiller (FTC) Dep.) at 200-201; GX171 (FTC); GX172 (FTC); GX181 (FTC); GX182 (FTC); GX371 (FTC); GX374 (FTC); GX375 (FTC); GX376 (FTC); GX377 (FTC); GX378 (FTC); GX379 (FTC); GX380

(FTC); GX381 (FTC); GX383 (FTC); GX386 (FTC); GX387 (FTC); GX388 (FTC); GX389 (FTC); GX390 (FTC); GX477 (FTC); GX480 (FTC); RX127 (Intuit); RX128 (Intuit); RX129 (Intuit); *see also* Ryan (Intuit) Tr. 768).

288. None of the 24 challenged email ads expressly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (GX171 (FTC); GX172 (FTC); GX181 (FTC); GX182 (FTC); GX371 (FTC); GX374 (FTC); GX375 (FTC); GX376 (FTC); GX377 (FTC); GX378 (FTC); GX379 (FTC); GX380 (FTC); GX381 (FTC); GX383 (FTC); GX386 (FTC); GX387 (FTC); GX388 (FTC); GX389 (FTC); GX390 (FTC); GX477 (FTC); GX480 (FTC); RX127 (Intuit); RX128 (Intuit); RX129 (Intuit)).

289. None of the 24 challenged email ads impliedly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (GX171 (FTC); GX172 (FTC); GX181 (FTC); GX182 (FTC); GX371 (FTC); GX374 (FTC); GX375 (FTC); GX376 (FTC); GX377 (FTC); GX378 (FTC); GX379 (FTC); GX380 (FTC); GX381 (FTC); GX383 (FTC); GX386 (FTC); GX387 (FTC); GX388 (FTC); GX389 (FTC); GX390 (FTC); GX477 (FTC); GX480 (FTC); RX127 (Intuit); RX128 (Intuit); RX129 (Intuit)).

290. Instead, the challenged email ads left the impression (1) that consumers' ability to use the free TurboTax offer advertised was qualified, (2) that there was additional information about the free offer and its qualifications on the TurboTax website, and nearly always (3) that the ad was for a specific TurboTax SKU. (GX171 (FTC); GX172 (FTC); GX181 (FTC); GX182 (FTC); GX371 (FTC); GX374 (FTC); GX375 (FTC); GX376 (FTC); GX377 (FTC); GX378 (FTC); GX379 (FTC); GX380 (FTC); GX381 (FTC); GX383 (FTC); GX386 (FTC); GX387

(FTC); GX388 (FTC); GX389 (FTC); GX390 (FTC); GX477 (FTC); GX480 (FTC); RX127 (Intuit); RX128 (Intuit); RX129 (Intuit)).

291. None of the challenged email ads misled reasonable consumers into believing that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (Shiller (FTC) Tr. 252-254; RX1390; Shiller (FTC) Dep.) at 200-201; *supra* ¶¶281-282, 287-290; *see also* Ryan (Intuit) Tr. 768).

292. Accordingly, even a facial analysis of the challenged email ads establishes that none of those ads were deceptive.

5. Radio Advertisements

293. Complaint Counsel contend that four TurboTax radio advertisements that aired in Tax Years 2020 and 2021 were deceptive to reasonable consumers. (Complaint Counsel's Pretrial Brief at App'x B (Feb. 17, 2023)).

294. All challenged radio ads stated that the TurboTax SKU being advertised was "TurboTax Free Edition" or the "Free Edition product," and that the SKU was "only for simple U.S. returns" or "for simple U.S. returns only." Every challenged radio ad also said that consumers could find more information on the TurboTax website by stating, "See if you qualify at turbotax.com" or "See details at turbotax.com." (GX617 (Intuit); GX618 (Intuit); GX627 (Intuit); GX630 (Intuit)).

295. Complaint Counsel did not offer evidence demonstrating that consumers could not hear the qualifications in the challenged radio ads.

296. The evidence instead establishes that the qualifications in the challenged radio ads were noticeable and audible. (GX617 (FTC); GX618 (FTC); GX627 (FTC); GX630 (FTC);

Evans (FTC) Tr. 57 (Complaint Counsel playing challenged radio ad that stated “TurboTax Free Edition is for simple U.S. returns only. See if you qualify at turbotax.com”).

297. None of these challenged radio ads expressly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (GX617 (FTC); GX618 (FTC); GX627 (FTC); GX630 (FTC)).

298. None of these challenged radio ads impliedly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (GX617 (FTC); GX618 (FTC); GX627 (FTC); GX630 (FTC)).

299. Instead, the challenged radio ads left the impression (1) that the ad was for a specific TurboTax SKU, (2) that consumers’ ability to use the SKU was tied to the complexity of consumers’ tax returns, and (3) that there was additional information about the SKU and its qualifications on the TurboTax website. (GX617 (FTC); GX618 (FTC); GX627 (FTC); GX630 (FTC)).

300. None of the challenged radio ads misled reasonable consumers into believing that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. (*Supra* ¶¶294-299).

301. Accordingly, even a facial analysis of the challenged radio ads establishes that none of those ads were deceptive.

6. Complaint Counsel's Concessions Confirm That The Ads Did Not Convey The Claims Asserted By Complaint Counsel

302. Complaint Counsel's failure to prove that the ads impliedly or expressly conveyed the claims alleged, or that consumers were deceived by those claims, is reinforced by their concessions both before and during trial. (Complaint Counsel's Responses and Objections to Intuit's Statement of Material Facts ¶17 (Sept. 8, 2022); Complaint Counsel's Pretrial Brief at App'x B (Feb. 17, 2023); Shiller (FTC) Tr. 240; GX161 (Maxson (FTC) Dep.) at 71). Through those representations, Complaint Counsel have in essence conceded that none of the ads made the express claim Complaint Counsel contend.

303. Complaint Counsel conceded during summary decision that "Intuit's Free Edition advertisements do not expressly contain the phrase 'all consumers can file their taxes for free with TurboTax.'" (Complaint Counsel's Responses and Objections to Intuit's Statement of Material Facts ¶17 (Sept. 8, 2022)).

304. Moreover, Appendix B to Complaint Counsel's pretrial brief, which lists the express claims purportedly made by each challenged ad, fails to identify a single ad that expressly stated that "TurboTax is free" or any of the other claims alleged. (Complaint Counsel's Pretrial Brief at App'x B (Feb. 17, 2023)).

305. The FTC's rule 3.33(c)(1) agency designee could not identify a single TurboTax "advertisement saying TurboTax is free" or that "consumers can file their taxes for free using TurboTax," and he acknowledged that the word "free" must be understood in the context of its use. (GX161 (Maxson (FTC) Dep.) at 71, 238-239).

306. The FTC's investigator, and Complaint Counsel's lead witness, testified that the challenged ads do not state that "everyone can file for free using TurboTax Free Edition" or "say

all TurboTax products are free,” but rather convey that a specific TurboTax product is free, that the product is available for simple tax returns only, and that further details are available on the TurboTax website. (Shiller (FTC) Tr. 234-243). Indeed, Ms. Shiller repeatedly acknowledged that the TurboTax ads contained in her declaration consistently included both written and voiceover disclosures identifying the specific TurboTax product or offer that was being advertised (such as TurboTax Free Edition), disclosing that the product or offer was available only for consumers with simple tax returns, and instructing consumers to visit the TurboTax website for more information. (Shiller (FTC) Tr. 222-224, 233, 237, 247, 249, 253-254, 256, 262-263; *see also* Shiller (FTC) Tr. 239 (reading aloud 20-second Tax Year 2021 video containing a voiceover stating that “anyone with a simple tax return can get help from an expert for free” and that “[f]or a limited time TurboTax is free for simple returns no matter how you file”).

307. FTC data analyst Megan Baburek acknowledged that challenged TurboTax ads state that free offers are for “simple tax returns only.” (Baburek (FTC) Tr. 330, 336).

308. Complaint Counsel similarly acknowledged in the statement of facts for their motion for summary decision that the challenged ads included the “simple tax returns only” qualification (RX600 (FTC) at Statement of Material Facts ¶¶25-37, 49-59, 90, 94-95, 100-118, 121, 123-131), and at trial Complaint Counsel conceded that “there is a simple tax returns only” qualifier in “most, if not all” of the challenged TurboTax advertisements (Evans (FTC) Tr. 45-46).

7. The Challenged Ads Did Not Mislead Reasonable Consumers

309. Complaint Counsel contend that the disclosures in the challenged ads are insufficient to prevent deception. (Complaint Counsel’s Pretrial Brief at 44-50 (Feb. 17, 2023)).

In so doing, Complaint Counsel have focused solely on the disclosures in challenged video ads (*see* Evans (FTC) Tr. 18-19; Complaint Counsel’s Pretrial Brief at 30 (Feb. 17, 2023)), and largely disregarded challenged display ads, paid-search ads, email ads, and radio ads, even though the Commission’s order denying summary decision—which also “focused heavily on [Intuit’s] video ads” (Opinion and Order Denying Summary Decision at 8 (Jan. 31, 2023))—called for “the analysis of [the] other, equally important ads [to] be further developed during the course of trial.” Complaint Counsel failed to “develop” the analysis of the challenged non-video ads—i.e., the display (both static and video), paid-search, email, and radio ads—“during the course of trial,” offering next to no analysis of those “equally important ads.” (Opinion and Order Denying Summary Decision at 8 (Jan. 31, 2023)).

310. As discussed, all challenged ads—video, display, paid-search, email, and radio—included disclosures that sufficiently informed consumers that there were qualifications for the free TurboTax SKUs being advertised, the nature and character of those qualifications, and where additional detail was available. (*Supra* ¶¶214-301).

311. Moreover, Complaint Counsel failed to introduce evidence that even without the disclosures, consumers were misled by the challenged ads.

312. The challenged ads communicated to reasonable consumers the qualifications of free TurboTax offers, and it would not have been reasonable in light of the nature of the advertisements, their format, and the surfeit of available information for reasonable consumers to unequivocally conclude that they qualified to use TurboTax’s free SKUs based on the use of the phrase “simple tax returns only” unless consumers did, in fact, have a simple tax return. (Johnson (Intuit) Tr. 582-583; Golder (Intuit) Tr. 1115, 1119-1122, 1127-1131; *supra* ¶¶214-301).

313. The disclosures in the challenged ads, considered as a whole, were appropriate for the audience targeted and consistent with the form or medium of advertising that was presented to consumers. (Golder (Intuit) Tr. 1105-1107, 1116-1117, 1120, 1129-1132).

314. Just the existence of those noticeable disclosures was enough to put reasonable consumers on notice that the offer was qualified, regardless of whether consumers read or understood them. (Golder (Intuit) Tr. 1111-1112, 1119-1120, 1122). That alone renders the challenged ads not deceptive, because it means consumers viewing the ads could not reasonably have been misled into believing that all TurboTax SKUs were free or that they necessarily could file for free using TurboTax regardless of their tax situation.

315. Beyond communicating the existence of qualifications, the challenged ads also made consumers aware of the category of qualification and where to get more information, and did so at the level of detail appropriate for where consumers are in the buying process. (Golder (Intuit) Tr. 1104-1105, 1113-1116).

316. In providing that information, the ads satisfied the “key criteria” of “effective disclosure[s]” by (1) communicating that the disclosures and qualifications existed; (2) informing consumers about the nature of the qualifications; (3) informing consumers where they should go to learn more about the qualifications; and (4) being appropriate for where consumers who viewed the ads were in the buying process. (Golder (Intuit) Tr. 1104-1106, 1113-1116).

317. By identifying the specific free TurboTax SKU being offered, ads for free TurboTax SKUs inform consumers that the advertised offer does not apply to all TurboTax SKUs, but rather only the specific product being advertised. (Golder (Intuit) Tr. 1118-1120; RX96 (FTC) at 5; GX156 (Ryan (Intuit) IHT) at 130-131; Shiller (FTC) Tr. 237-243, 247, 249-

257 (Ms. Shiller conceding that ads conveyed that they were for a specific, identified product or offer).

318. Just as Merriam-Webster defines the word “edition” to mean “one of the forms in which something is presented” (RX85 (Intuit) at 1), the inclusion of “TurboTax Free Edition” or other specific TurboTax SKU name in an advertisement tells consumers that only the single version of TurboTax mentioned in the ad is being offered for free (Golder (Intuit) Tr. 1118-1120; RX96 (FTC) at 5; GX156 (Ryan (Intuit) IHT) at 130-131).

319. The challenged ads’ inclusion of the product name alone was sufficient to prevent reasonable consumers from being misled into believing that all TurboTax SKUs were free because it made clear to reasonable consumers that there were multiple TurboTax SKUs and that only the one being advertised was free. (Golder (Intuit) Tr. 1118-1119; *see also* RX85 (Intuit) at 1).

320. The inclusion of the product name in the challenged ads not only makes for an effective disclosure, but also is critical under the FTC’s “.com Disclosures” guidelines, which specify that “[w]hen identifying the[] claims” in an ad, the analysis must “consider the ad as a whole, including the ... product name.” (RX96 (FTC) at 5).

321. Complaint Counsel offered no contrary evidence suggesting that the inclusion of the name of the TurboTax SKU being advertised was not an effective disclosure.

322. By stating that free TurboTax SKUs are available for consumers with “simple tax returns only” (or similar qualifying language), the challenged ads also informed consumers that TurboTax Free Edition is not free for everyone, and that eligibility is contingent on the complexity of the consumer’s tax return—i.e., that the free offer was only for taxpayers with “simple tax returns.” (Shiller (FTC) Tr. 237-263; Golder (Intuit) Tr. 1113-1115, 1118-1120;

RX600 (FTC) at Statement of Material Facts ¶5; GX159 (Ryan (Intuit) Dep.) at 45; GX156 (Ryan (Intuit) IHT) at 135). And because the term “simple tax return” is used across the tax-preparation industry, it also allows consumers to assess their eligibility across tax-preparation products. (*Supra* ¶¶122-123, 141-144, 454, 458-459).

323. Further, by instructing consumers to “see if you qualify” and “see details at TurboTax.com,” the challenged ads conveyed to consumers that not every taxpayer qualifies for the TurboTax SKU advertised and that consumers can find more information about qualifications on the TurboTax website. (Golder (Intuit) Tr. 1123-1124).

324. As Professor Golder explained, the “see if you qualify” language “presents the existence of the disclosure” by “clearly” informing consumers “that there will be some restrictions.” (Golder (Intuit) Tr. 1123-1124).

325. The “see if you qualify” and “see details at TurboTax.com” language also told consumers precisely where to go to find additional information about eligibility qualifications, satisfying yet another important criterion for effective disclosures. (Golder (Intuit) Tr. 1123-1124).

326. The challenged ads’ instruction to visit the website was also appropriate for the stage in the buying process at which consumers viewed the challenged ads. (Golder (Intuit) Tr. 1105-1107). That invitation reinforced what consumers already knew to do, and what they routinely do for “high-involvement” products like tax-preparation software (especially products that consumers use or purchase online): go to the product’s website for further details. (Golder (Intuit) Tr. 1070-1071, 1105-1107).

327. Complaint Counsel offered no contrary evidence suggesting that the inclusion of “see details at trubotax.com” or “see if you qualify at turbotax.com” was not an effective disclosure.

328. Moreover, because the challenged ads “specifically invoked” the website, or linked directly to it, the TurboTax website content was effectively “integrated” into the ads themselves. (Golder (Intuit) Tr. 1124-1126; RX1018 (Golder Expert Report) ¶103).

329. Indeed, the website is *completely* integrated into the TurboTax product experience, as consumers must visit it (or the mobile application) to use TurboTax Free Edition. (Johnson (Intuit) Tr. 593, Golder (Intuit) Tr. 1125-1126, 1068).

330. Considering the detailed information about the qualifications for free TurboTax SKUs provided on the TurboTax website makes clear that reasonable consumers were not deceived by the challenged ads. (*Infra* ¶¶364-441).

331. Complaint Counsel failed to offer evidence that providing additional or more detailed disclosures in ads for free TurboTax SKUs would be helpful to consumers.

332. Rather, evidence shows that providing a more detailed description of qualifications for free TurboTax SKUs in ads with space and time constraints—such as brand video, display, paid-search, and radio ads—would confuse consumers by providing too much information for them to process. (Ryan (Intuit) Tr. 776-777; Golder (Intuit) Tr. 1105-1107, 1173-1174, 1177; RX1018 (Golder Expert Report) ¶231).

333. Intuit executives explained that “[c]onsumers don’t really understand tax speak” (Johnson (Intuit) Tr. 599), and consequently detailing the tax forms covered by free TurboTax SKUs in ads with limited space and duration would be “[REDACTED]” (Ryan

(Intuit) Tr. 777); Rubin (Intuit) Tr. 1543-1544 (testifying that it would be “confusing for consumers” to list tax forms in ads)).

334. Looking at the challenged advertisements as a whole, reasonable consumers understand that not all TurboTax SKUs are free and that TurboTax is not necessarily free for them. (Golder (Intuit) Tr. 1095-1097; Rubin (Intuit) Tr. 1524; Johnson (Intuit) Tr. 605; RX1018 (Golder Expert Report) ¶167).

E. Current TurboTax Advertisements

335. Intuit’s current (i.e., Tax Year 2022) ads for free TurboTax SKUs all clearly and prominently disclose qualifications to file for free and invite consumers to see if they qualify at the TurboTax website. Nearly all of the ads, for example, specify that the free offer is for “simple tax returns only.” (*Infra* ¶¶337-338, 340-347, 350, 362). And all of the ads invite consumers to “see if you qualify” on the TurboTax website. (*Infra* ¶¶337-338, 340-347, 349-350, 362).

336. Complaint Counsel concede that current ads are not “at issue” for purposes of determining Intuit’s liability. (Anguizola (FTC) Tr. 1002, 1838-1839). Neither of Complaint Counsel’s fact witnesses—Ms. Shiller and Ms. Baburek—testified about Intuit’s current advertising for free TurboTax SKUs.

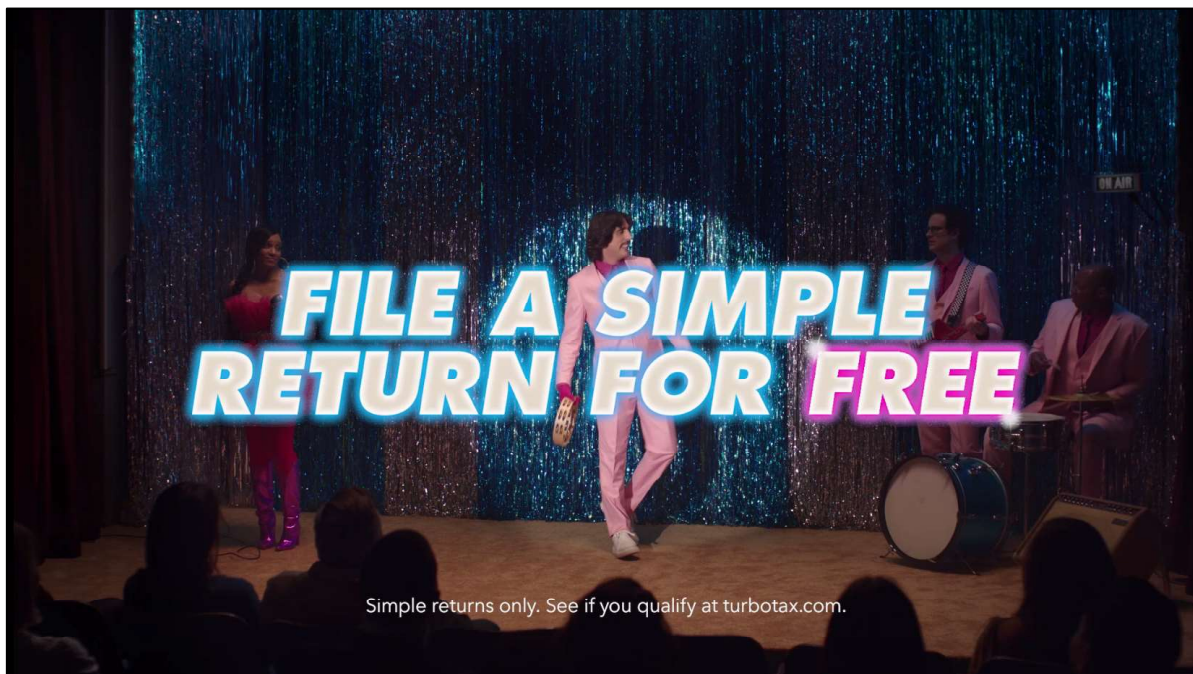
1. Brand Video Advertisements

337. Tax Year 2022 brand video ads for free TurboTax SKUs include prominent written disclosures stating, “Simple returns only. See if you qualify at TurboTax.com.” The ads also identify the specific SKU being advertised as free. (RX1444 (Intuit); RX1445 (Intuit); RX1446 (Intuit); RX1447 (Intuit); RX1449 (Intuit); RX1451 (Intuit); RX1452 (Intuit); RX1453 (Intuit); RX1547 (Intuit)).

338. Tax Year 2022 TurboTax brand video ads that include verbal “free” claims also include spoken voiceovers stating that free filing is available only to consumers “filing a simple return” and inviting consumers to “see if you qualify at turbotax.com.” (RX1444 (Intuit); RX1445 (Intuit); RX1449 (Intuit); RX1452 (Intuit); RX1547 (Intuit)).

339. Tax Year 2022 brand video ads for TurboTax Free Edition also include prominent text stating, “File A Simple Return For Free.” (RX1547 (Intuit)).

340. A screenshot of the Tax Year 2022 TurboTax Free Edition brand video ad (“Taxbourine”) with the text “File A Simple Return For Free” and a written disclosure that reads, “Simple returns only. See if you qualify at turbotax.com,” is shown below. (RX1547 (Intuit)).



341. A screenshot of the title card from the “Taxbourine” Tax Year 2022 TurboTax brand video ad showing both the name of the advertised SKU, TurboTax Free Edition, and a

disclosure that reads “Simple tax returns only. See if you qualify at turbotax.com,” is provided below. (RX1547 (Intuit)).



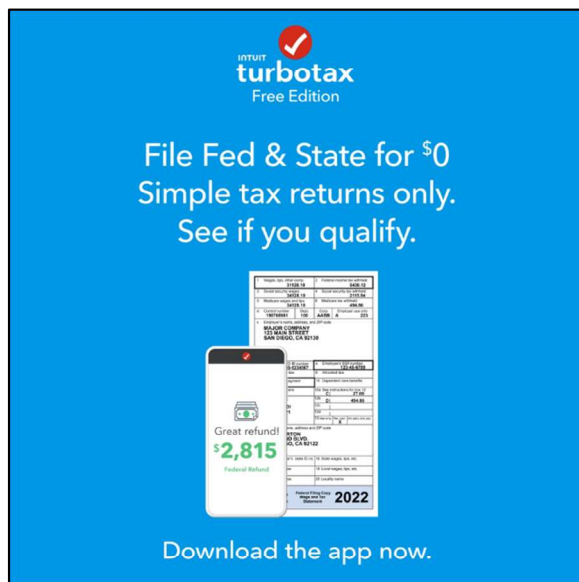
2. Display Advertisements

342. Intuit’s Tax Year 2022 video display ads for free TurboTax SKUs all include prominent written disclosures stating both “Simple tax returns only” and “See if you qualify.” They also all identify the product being advertised—TurboTax Free Edition or TurboTax Live Basic—by displaying the Free Edition logo on-screen during the ad. (GX730 (FTC); GX731 (FTC); GX732 (FTC); GX733 (FTC); GX734 (FTC); GX735 (FTC); GX736 (FTC); GX737 (FTC); GX738 (FTC); GX739 (FTC); GX740 (FTC); GX741 (FTC); RX1421 (Intuit); RX1423 (Intuit); RX1428 (Intuit); RX1429 (Intuit); RX1430 (Intuit); RX1454 (Intuit); RX1455 (Intuit); RX1456 (Intuit); RX1457 (Intuit); RX1458 (Intuit); RX1459 (Intuit); RX1460 (Intuit); RX1461 (Intuit); RX1462 (Intuit); RX1463 (Intuit); RX1464 (Intuit); RX1465 (Intuit); RX1466 (Intuit); RX1467 (Intuit); RX1468 (Intuit); RX1469 (Intuit); RX1470 (Intuit); RX1471 (Intuit); RX1472

(Intuit); RX1473 (Intuit); RX1474 (Intuit); RX1475 (Intuit); RX1476 (Intuit); RX1477 (Intuit); RX1478 (Intuit); RX1479 (Intuit); RX1480 (Intuit); RX1481 (Intuit); RX1482 (Intuit); RX1483 (Intuit); RX1484 (Intuit); RX1485 (Intuit); RX1486 (Intuit); RX1487 (Intuit); RX1488 (Intuit); RX1489 (Intuit); RX1480 (Intuit); RX1481 (Intuit); RX1482 (Intuit); RX1483 (Intuit); RX1484 (Intuit); RX1485 (Intuit); RX1486 (Intuit); RX1487 (Intuit); RX1488 (Intuit); RX1489 (Intuit)).

343. The Tax Year 2022 video display ads for free TurboTax SKUs that include verbal free claims also include a spoken voiceover stating that consumers can file “a simple return for free” or that free filing is available for “simple returns only.” All video display ads with verbal free claims also invite consumers to “see if you qualify” at the TurboTax website. (RX1421 (Intuit); RX1423 (Intuit); RX1428 (Intuit); RX1429 (Intuit); RX1430 (Intuit); RX1454 (Intuit); RX1455 (Intuit); RX1456 (Intuit); RX1457 (Intuit); RX1462 (Intuit); RX1463 (Intuit); RX1464 (Intuit); RX1465 (Intuit); RX1470 (Intuit); RX1471 (Intuit); RX1472 (Intuit); RX1473 (Intuit)).

344. A screenshot from an example Tax Year 2022 video display ad for a free TurboTax SKU is provided below. (RX1421 (Intuit)).



345. TurboTax’s Tax Year 2022 static display ads for free TurboTax SKUs all include prominent written disclosures stating “Simple tax returns only. See if you qualify,” and identify the product being advertised—TurboTax Free Edition or TurboTax Live Basic—by displaying the Free Edition or Live Basic logo. (GX730 (FTC); GX731 (FTC); GX732 (FTC); GX733 (FTC); GX734 (FTC); GX735 (FTC); GX736 (FTC); GX737 (FTC); GX738 (FTC); GX739 (FTC); GX740 (FTC); GX741 (FTC); RX1419 (Intuit); RX1420 (Intuit); RX1422 (Intuit); RX1424 (Intuit); RX1425 (Intuit); RX1426 (Intuit); RX1427 (Intuit); RX1431 (Intuit); RX1432 (Intuit); RX1433 (Intuit); RX1434 (Intuit); RX1435 (Intuit)). Consumers who click on any Tax Year 2022 display ad are taken to a TurboTax Free Edition or TurboTax Live Basic landing page, where they see detailed information about the SKU’s qualifications. (Ryan (Intuit) Tr. 757; Johnson (Intuit) 595-596; Rubin (Intuit) 1563-1565; *infra* ¶¶385-498; *see also* JX1 ¶61).

346. A screenshot of an exemplary Tax Year 2022 static display ad for a free TurboTax SKUs is provided below. (GX734 (FTC)).



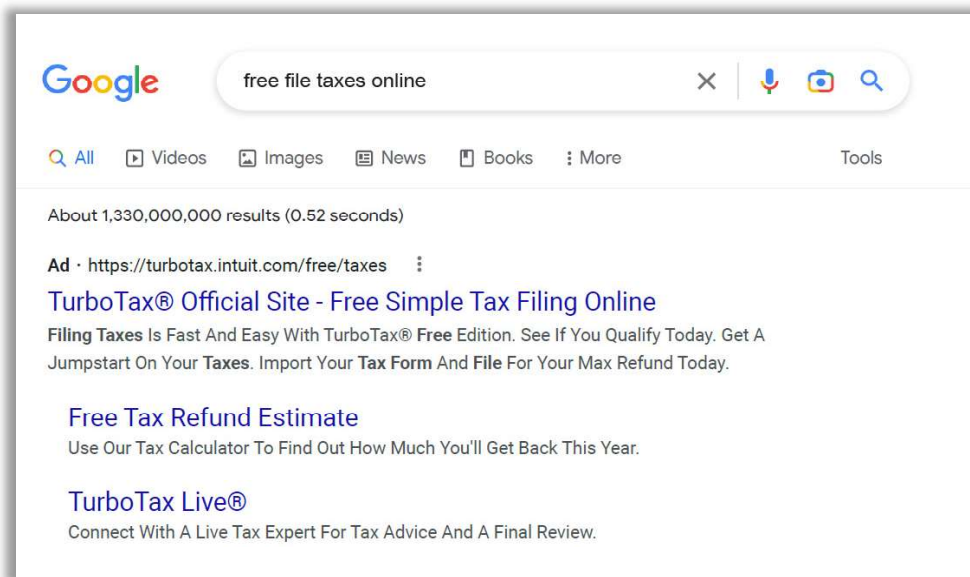
3. Paid-Search Advertisements

347. Intuit’s Tax Year 2022 paid-search ads for free TurboTax SKUs include prominent written disclosures stating, for example, “See if you qualify today” and “Free for Simple Tax Returns Only With TurboTax Free Edition.” They also indicate that the ad is for a specific SKU. (GX723 (FTC); GX724 (FTC); GX725 (FTC); GX726 (FTC); GX727 (FTC); GX728 (FTC); GX729 (Intuit); RX1436 (Intuit); RX1437 (Intuit); RX1438 (Intuit); RX1439 (Intuit); RX1440 (Intuit); RX1442 (Intuit); RX1443 (Intuit)).

348. Consumers who click on any of the Tax Year 2022 paid-search ads for free TurboTax SKUs are taken directly to a TurboTax Free Edition or TurboTax Live Basic landing

page, where they see detailed information about Free Edition’s qualifications. (Johnson (Intuit) 595-596; Ryan (Intuit) Tr. 697; Rubin (Intuit) 1563-1565; *infra* ¶¶385-398).

349. A screenshot of an exemplary Tax Year 2022 paid-search ad for a free TurboTax SKU is provided below. (RX1440 (Intuit)).



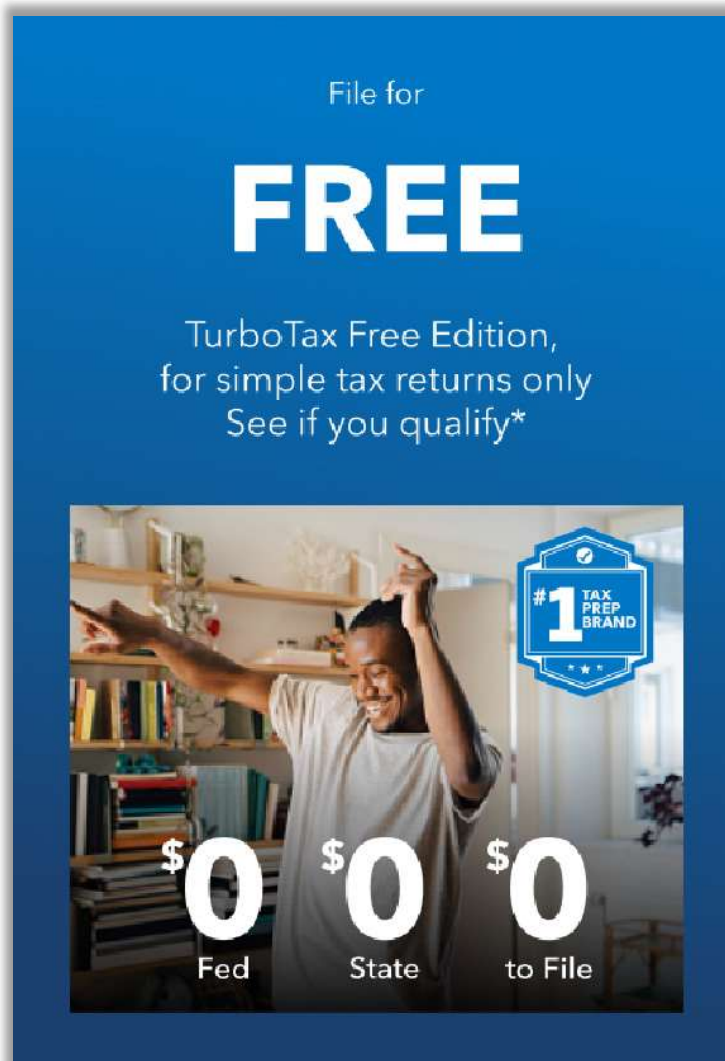
4. Email Advertisements

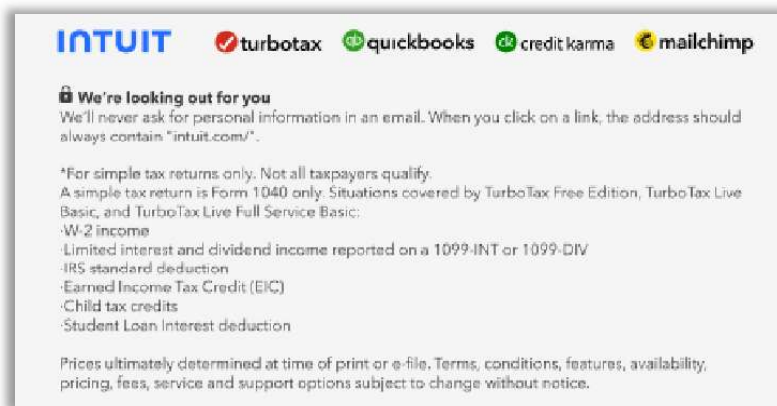
350. Intuit’s Tax Year 2022 email ads for free TurboTax SKUs include prominent written disclosures directly underneath the offer to file for free, stating “TurboTax Free Edition, for simple returns only. See if you qualify.” (RX1431 (Intuit); RX1432 (Intuit); RX1433 (Intuit); RX1434 (Intuit); RX1435 (Intuit)). The ads also include written disclosures stating that “Not all taxpayers” qualify and enumerating the eligibility qualifications for simple tax returns. (RX1431 (Intuit); RX1432 (Intuit); RX1433 (Intuit); RX1434 (Intuit); RX1435 (Intuit)).

351. The Tax Year 2022 email ads for free TurboTax SKUs also include hyperlinks, and consumers who click on the hyperlinks are taken to the TurboTax homepage, where they can

find detailed information about TurboTax Free Edition qualifications. (JX1 ¶¶63; RX1431 (Intuit); RX1432 (Intuit); RX1433 (Intuit); RX1434 (Intuit); RX1435 (Intuit); *infra* ¶¶364-441).

352. Screenshots of an exemplary Tax Year 2022 email ad for a free TurboTax SKU are provided below. (RX1431 (Intuit)).





F. Improvements In TurboTax Ads Over Time

353. Intuit always endeavors to improve the clarity of the disclosures in its ads for free TurboTax SKUs. (Ryan (Intuit) Tr. 706, 798, 810, 834; Rubin (Intuit) Tr. 1562; GX159 (Ryan (Intuit) Dep.) at 47, 50-51). Each year, Intuit evaluates new ways to do so. (Ryan (Intuit) Tr. 706, 798, 810, 834; Rubin (Intuit) Tr. 1562; GX159 (Ryan (Intuit) Dep.) at 50-51).

354. Intuit has revised its advertisements for free TurboTax SKUs to lessen the strength of the “free” claims in those advertisements. (Rubin (Intuit) Tr. 1562-1563; Ryan (Intuit) Tr. 726-727, 734-735).

355. Intuit has also revised its ads over the years to make the qualifications for the TurboTax free SKUs being advertised even clearer. (Johnson (Intuit) Tr. 620-621; Ryan (Intuit) Tr. 706, 712, 716, 721-722, 726-727, 734-735; Rubin (Intuit) Tr. 1562-1563). As part of those revisions, Intuit has made changes to the disclosures in advertisements for free TurboTax SKUs over time, including increasing the font size and contrast of written disclosures by using-high contrast colors, and adding spoken disclosures about qualifications to video ads. (Ryan (Intuit) Tr. 726-727, 735, 754, 758; Rubin (Intuit) Tr. 1562).

356. For example, in Tax Year 2018, Intuit’s brand video advertisements for free TurboTax SKUs began consistently using a title card that included qualifying language in a

white font that contrasted against a blue screen. (RX1102 (Intuit); RX1103 (Intuit); RX1104 (Intuit); RX1105 (Intuit); RX1106 (Intuit); RX1107 (Intuit); RX1108 (Intuit); RX1109 (Intuit); RX1110 (Intuit); RX1111 (Intuit); RX1113 (Intuit); RX1116 (Intuit); RX1117 (Intuit); RX1118 (Intuit); GX356 (Intuit)). Its video advertisements also began including a logo on the title card that identified the TurboTax SKU being advertised. (RX1102 (Intuit); RX1103 (Intuit); RX1104 (Intuit); RX1105 (Intuit); RX1106 (Intuit); RX1107 (Intuit); RX1108 (Intuit); RX1109 (Intuit); RX1110 (Intuit); RX1111 (Intuit); RX1113 (Intuit); RX1116 (Intuit); RX1117 (Intuit); RX1118 (Intuit); GX356 (Intuit)).

357. In Tax Year 2019, after a single year of using “TurboTax Free,” Intuit made further improvements to the disclosures in its video advertisements for TurboTax Free Edition by updating the logo on the title card to display “TurboTax Free Edition,” and by increasing the font size and contrast of the written disclosure. (Ryan (Intuit) Tr. 727; RX1112 (Intuit); RX1115 (Intuit); RX1398 (Intuit); RX1399 (Intuit); RX1400 (Intuit)). Intuit updated the video advertisements to have the logo say “TurboTax Free *Edition*” instead of “TurboTax Free” to make the ads even clearer. (Rubin (Intuit) Tr. 1562 (emphasis added)).

358. The next tax year, Tax Year 2020, Intuit revised the audio disclosures in video ads for free products to specify that a particular SKU—“TurboTax Free Edition” or “TurboTax Live Basic”—was free. (Ryan (Intuit) Tr. 735; GX204 (Intuit); RX598 (Intuit); RX1120 (Intuit); RX1122 (Intuit); RX1123 (Intuit); RX1124 (Intuit); RX1403 (Intuit); RX1404 (Intuit); RX1405 (Intuit); RX1407 (Intuit); RX1408 (Intuit); RX1409 (Intuit); RX1410 (Intuit); RX1412 (Intuit)).

359. In Tax Year 2020, Intuit also added spoken voiceovers to video display ads for free products, disclosing that consumers could “file a simple return for free” or that the offer applied to “simple returns only.” (Ryan (Intuit) Tr. 744; GX838 (Intuit); RX1125 (Intuit);

RX1126 (Intuit); RX1401 (Intuit); RX1402 (Intuit); RX1406 (Intuit); RX1411 (Intuit); GX510 (Intuit); GX511 (Intuit); GX512 (Intuit); GX513 (Intuit); GX514 (Intuit); GX515 (Intuit); GX516 (Intuit); GX517 (Intuit); GX518 (Intuit); GX519 (Intuit); GX523 (Intuit); GX524 (Intuit); GX525 (Intuit); GX526 (Intuit); GX528 (Intuit); GX529 (Intuit); GX530 (Intuit); GX531 (Intuit); GX532 (Intuit); GX540 (Intuit); GX541 (Intuit); GX542 (Intuit); GX544 (Intuit); GX546 (Intuit); GX547 (Intuit)).

360. Also in Tax Year 2020, Intuit updated its TurboTax paid-search advertisements for TurboTax Free Edition to state that such offers were “Free for Simple Tax Returns Only With TurboTax Free Edition.” (GX178 (FTC); GX179 (FTC); GX180 (FTC)).

361. In Tax Year 2021, Intuit incorporated additional audio disclosures to video ads for free products, including a spoken voiceover inviting consumers to “see details at turbotax.com,” as well as multiple audio disclosures in certain video ads stating that offers to file for free were for “simple returns.” (Ryan (Intuit) Tr. 754; RX584 (Intuit); RX590 (Intuit); RX1414 (Intuit); RX1415 (Intuit); RX1416 (Intuit); RX1417 (Intuit); RX1418 (Intuit); RX1119 (Intuit); RX1121 (Intuit)). These audio disclosures further enhanced consumer awareness of the free SKU’s qualifications. (GX159 (Ryan (Intuit) Dep.) at 49-51).

362. This tax year, Tax Year 2022, Intuit further expanded the audio disclosures in ads for free products, adding voiceovers in both video and display ads stating that offers for free filing were for “simple tax returns only” and inviting consumers to “see if you qualify.” (RX1444 (Intuit); RX1445 (Intuit); RX1446 (Intuit); RX1447 (Intuit); RX1449 (Intuit); RX1451 (Intuit); RX1452 (Intuit); RX1453 (Intuit); RX1454 (Intuit); RX1455 (Intuit); RX1456 (Intuit); RX1457 (Intuit); RX1458 (Intuit); RX1459 (Intuit); RX1460 (Intuit); RX1461 (Intuit); RX1462 (Intuit); RX1463 (Intuit); RX1464 (Intuit); RX1465 (Intuit); RX1466 (Intuit); RX1467 (Intuit);

RX1468 (Intuit); RX1469 (Intuit); RX1470 (Intuit); RX1471 (Intuit); RX1472 (Intuit); RX1473 (Intuit); RX1474 (Intuit); RX1475 (Intuit); RX1476 (Intuit); RX1477 (Intuit); RX1478 (Intuit); RX1479 (Intuit); RX1480 (Intuit); RX1481 (Intuit); RX1482 (Intuit); RX1483 (Intuit); RX1484 (Intuit); RX1485 (Intuit); RX1486 (Intuit); RX1487 (Intuit); RX1488 (Intuit); RX1547 (Intuit)).

363. Intuit's efforts over the years to improve the clarity of its advertisements exemplify and reinforce the company's stated intent to be clear with consumers. (Ryan (Intuit) Tr. 727, 735, 754). Those improvements cut against any suggestion that Intuit's goal in advertising its free TurboTax offers was to convey to consumers who did not qualify for those free offers that all TurboTax SKUs were free or that TurboTax necessarily would be free for them. (Ryan (Intuit) Tr. 727, 735, 754).

VII. THE TURBOTAX WEBSITE PROVIDES DETAILED INFORMATION ABOUT QUALIFICATIONS FOR FREE TURBOTAX SKUS AND ALL OTHER SKUS

364. Any consumer "interested in trying to use TurboTax," including TurboTax Free Edition, must "access the product through" the TurboTax website (or its mobile app equivalent). (Johnson (Intuit) Tr. 593; GX439 (Ryan (Intuit) Decl.) ¶28).

365. Intuit designed the TurboTax website to further its strategy of starting customers in the right SKU for them. (Johnson (Intuit) Tr. 567-568, 599; Rubin (Intuit) Tr. 1580-1581, 1583-1585; Ryan (Intuit) Tr. 705, 747-748; RX810 (Intuit) at -6751, -6772; RX42 (Intuit) at 11; GX152 (Johnson (Intuit) IHT) at 66-67, 128-129).

366. Consistent with its goal of starting consumers in the right SKU, the TurboTax website's disclosures related to the qualifications for its free SKUs were designed to be "direct and clear," "unavoidable" to consumers, and "link[ed] to eligibility criteria so it's easy to see if [consumers] qualify for Free Edition." (RX62 (Intuit) at 7-8; *see also* RX300-A (Intuit) at 17).

367. And in fact, the TurboTax website clearly, conspicuously, and repeatedly disclosed the qualifications of free TurboTax SKUs throughout the website (and the mobile application), before consumers entered any personal information. (Rubin (Intuit) Tr. 1565-1569, 1579-1581, 1583; Golder (Intuit) Tr. 1127-1128; RX1018 (Golder Expert Report) ¶¶179-180, 203, 210; RX62 (Intuit) at 7-8; *infra* ¶¶369-370, 374-377, 379-382, 388-389, 391-395, 397-398, 400-403, 414-416, 418, 437-438).

368. Complaint Counsel did not offer any trial testimony or other evidence that consumers were not informed of TurboTax Free Edition's qualifications on the TurboTax website nor any evidence that reasonable consumers would be unable to assess their qualifications for the free product before beginning their taxes.

369. Complaint Counsel and their witnesses instead recognized that the TurboTax website repeatedly disclosed TurboTax Free Edition's qualifications. (Novemsky (FTC) Tr. 406; RX1392 (Novemsky (FTC) Dep.) at 22, 43-44; RX1396 (Yoeli (FTC) Dep.) at 193-196; GX161 (Maxson (FTC) Dep.) at 128-129, 211-212). For example, Complaint Counsel expert Erez Yoeli acknowledged that it takes only seconds to locate the qualifications for TurboTax Free Edition and other free offers on the TurboTax website. (RX1396 (Yoeli (FTC) Dep.) at 33-35). Dr. Yoeli also recognized that the Tax Year 2022 landing page for TurboTax Free Edition includes the language "see if you qualify" in three locations and that two were clearly hyperlinks to further information. (RX1396 (Yoeli (FTC) Dep.) at 194-196). The official designee from the FTC Bureau of Consumer Protection, Will Maxson, likewise recognized that the eligibility qualifications for free TurboTax SKUs are readily available to consumers on the TurboTax website. (GX161 (Maxson (FTC) Dep.) at 128-129, 211-212).

370. Both Professor Novemsky and Dr. Yoeli also acknowledged that consumers could find details about qualifications on the website. (Novemsky (FTC) Tr. 406-407; RX1392 (Novemsky (FTC) Dep.) at 43-44; RX1396 (Yoeli (FTC) Dep.) at 256). Professor Novemsky conceded that consumers had ample opportunity to learn about the qualifications for free TurboTax SKUs on the TurboTax website before they prepared their return. (Novemsky (FTC) Tr. 406-407). Professor Novemsky even determined the qualifications for TurboTax Free Edition as used in his survey by visiting the TurboTax website. (Novemsky (FTC) Tr. 399, 408-410; RX1392 (Novemsky (FTC) Dep.) at 22).

371. Specific pages on the TurboTax website are discussed in the following subsections.

A. TurboTax Homepage

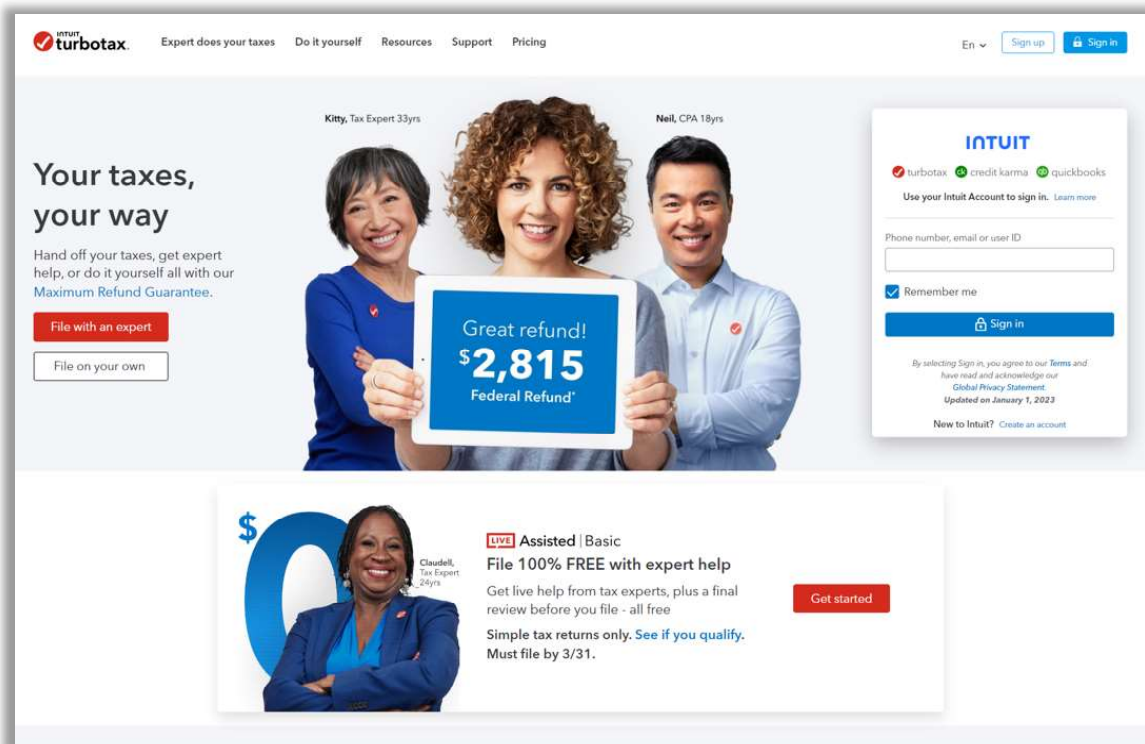
372. The TurboTax homepage is <https://turbotax.intuit.com>. (GX439 (Ryan (Intuit) Decl.) ¶30; *see also* Johnson (Intuit) Tr. 593).

373. Consumers can arrive at the TurboTax homepage in various ways, including by clicking on (1) links in online search results; (2) certain TurboTax display ads; (3) links on third-party websites, blogs, or media articles; or (4) links to the homepage on the TurboTax website, blogs, or press releases. (Ryan (Intuit) Tr. 697, 757; GX178 (Intuit); RX505 (Intuit) at 2, 4; RX93 (Intuit) at 1; RX64 (Intuit) at 3; *see also* Rubin (Intuit) Tr. 1564-1565).

374. Promotions for free TurboTax SKUs or offers on the Tax Year 2022 TurboTax homepage include disclosures stating that the product or offer is for “simple tax returns only” immediately followed by a color-contrasted hyperlink stating “see if you qualify.” (Johnson (Intuit) Tr. 593-594; RX367 (Intuit); RX1263-A; GX439 (Ryan (Intuit) Decl.) ¶30; RX260

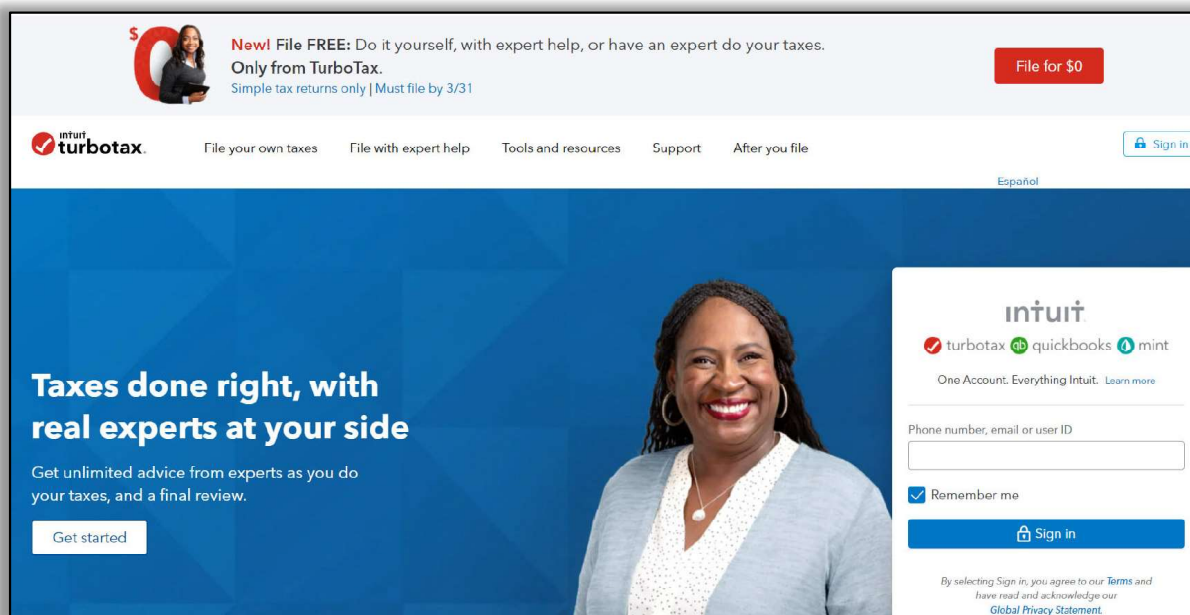
(FTC ¶42; RX19 (Intuit); RX20 (Intuit); RX21 (Intuit); RX22 (Intuit); RX23 (Intuit); RX24 (Intuit)).

375. RX1500, shown in part below, is a screenshot of the TurboTax homepage from Tax Year 2022. (RX1500 (Intuit)).



376. Prior to Tax Year 2022, the TurboTax homepage included similar disclosures stating free TurboTax SKUs or offers were for “simple tax returns only,” “simple tax returns,” or “Forms 1040EZ/1040A” that were either color-contrasted hyperlinks themselves or next to hyperlinked text stating “See why it’s free.” (RX1263-A (Intuit); RX1215 (Intuit); RX1214 (Intuit); RX1213 (Intuit); RX1212 (Intuit); RX1211 (Intuit); RX1210 (Intuit)).

377. RX367, shown in part below, is a screenshot of the TurboTax homepage from Tax Year 2021. (RX367 (Intuit) at 2; Johnson (Intuit) Tr. 593).

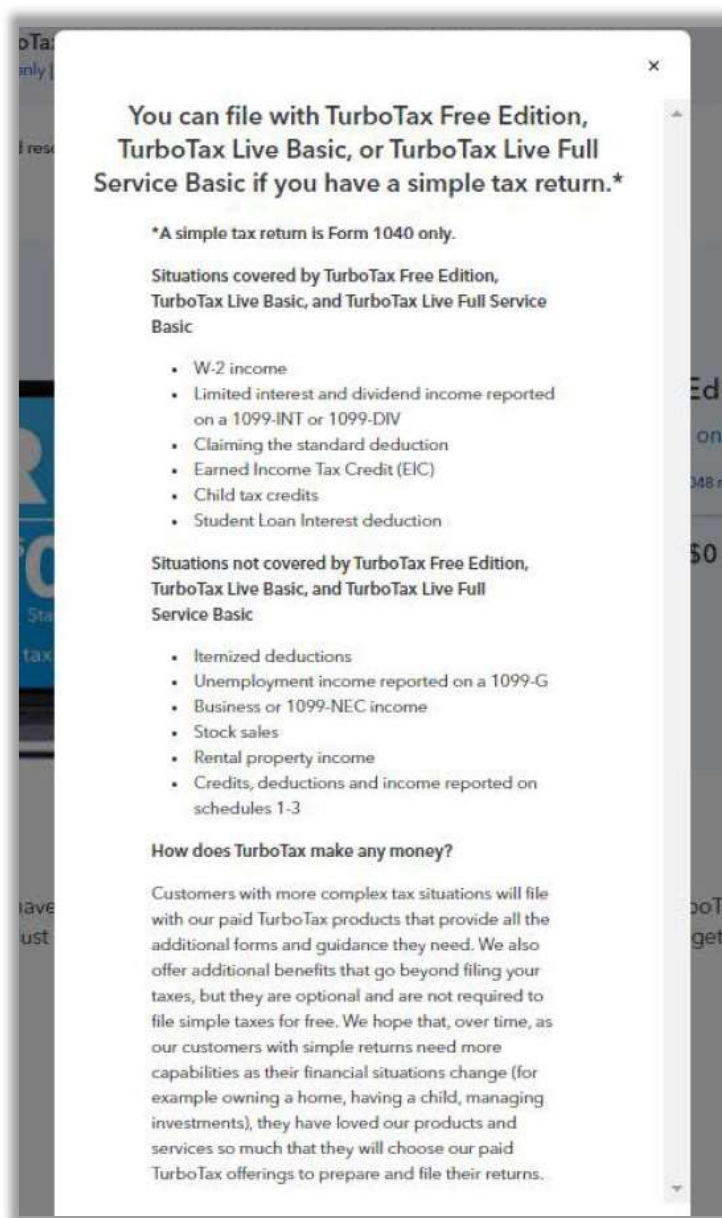


378. Intuit uses blue hyperlinked text on the TurboTax website for disclosures such as “simple tax returns only” to “draw [consumers’] attention to that term.” (Johnson (Intuit) Tr. 594).

379. Consumers who click the hyperlinked disclosure see a pop-up screen stating, “A simple tax return is Form 1040 only” and listing the situations covered (and not covered) by TurboTax Free Edition. (Johnson (Intuit) Tr. 594-595; RX3 (Intuit)). Complaint Counsel conceded that the pop-up screen provided consumers with “detailed information about the tax situations covered by Free Edition.” (Complaint Counsel’s Responses and Objections to Intuit Inc.’s Statement of Material Facts ¶40 (Sept. 8, 2022)). Providing detailed qualification information through the hyperlink allows “consumers [to] control the pace at which they see that

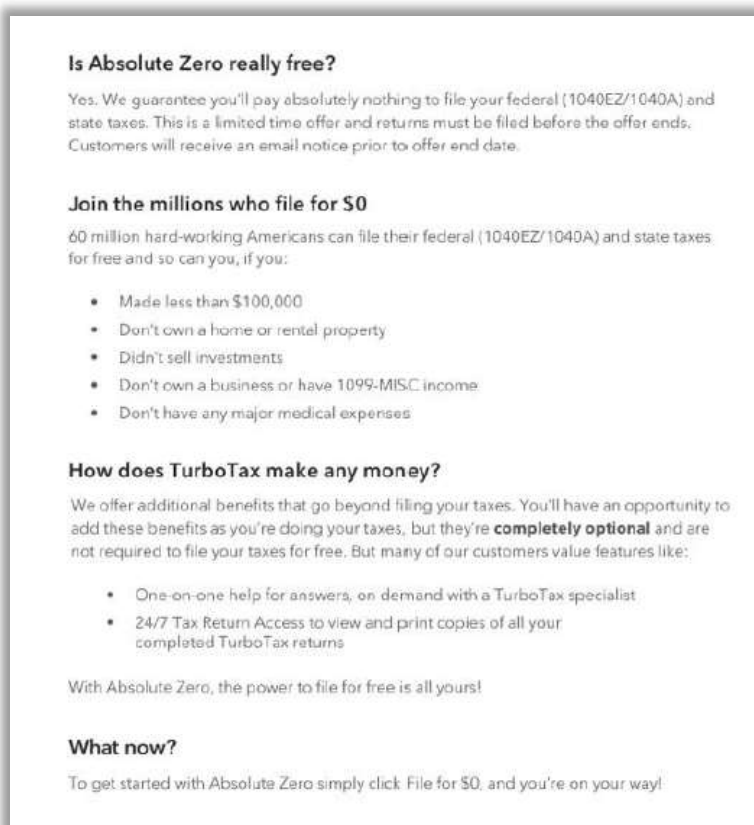
information,” making it less likely that they “tune out and not try to process something that’s an overwhelming message.” (Golder (Intuit) Tr. 1174, 1176).

380. RX3, shown in part below, is a screenshot of the pop-up screen from Tax Year 2021. (RX3 (Intuit)). Since Tax Year 2018, the pop-up has contained substantially the same content as RX3 (Intuit). (RX4 (Intuit); RX20 (Intuit); RX21 (Intuit); RX390 (Intuit)).



381. Prior to Tax Year 2017, the pop-up similarly disclosed that the Absolute Zero offer for TurboTax Free Edition covered tax forms “1040EZ/A.” (RX25 (Intuit); RX389 (Intuit); RX1271-A (Intuit)).

382. RX25, shown in part below, is a screenshot of the pop-up screen from Tax Year 2017. (RX25 (Intuit)).



383. Intuit uses links to a pop-up screen with additional qualification details because putting all the qualification details next to the TurboTax Free Edition offer would likely overload consumers with “too much information to really read and comprehend.” (Johnson (Intuit) Tr. 595). The pop-up is also “a way of disrupting the consumer’s viewing pattern to draw their attention to something that’s really important.” (Johnson (Intuit) Tr. 609).

384. Reasonable consumers who wished to understand whether they qualified to use TurboTax Free Edition or another free TurboTax SKU could do so easily on the TurboTax website *before* beginning their tax returns. Just as the ads promised, consumers were able to “see if they qualify” on TurboTax.com.

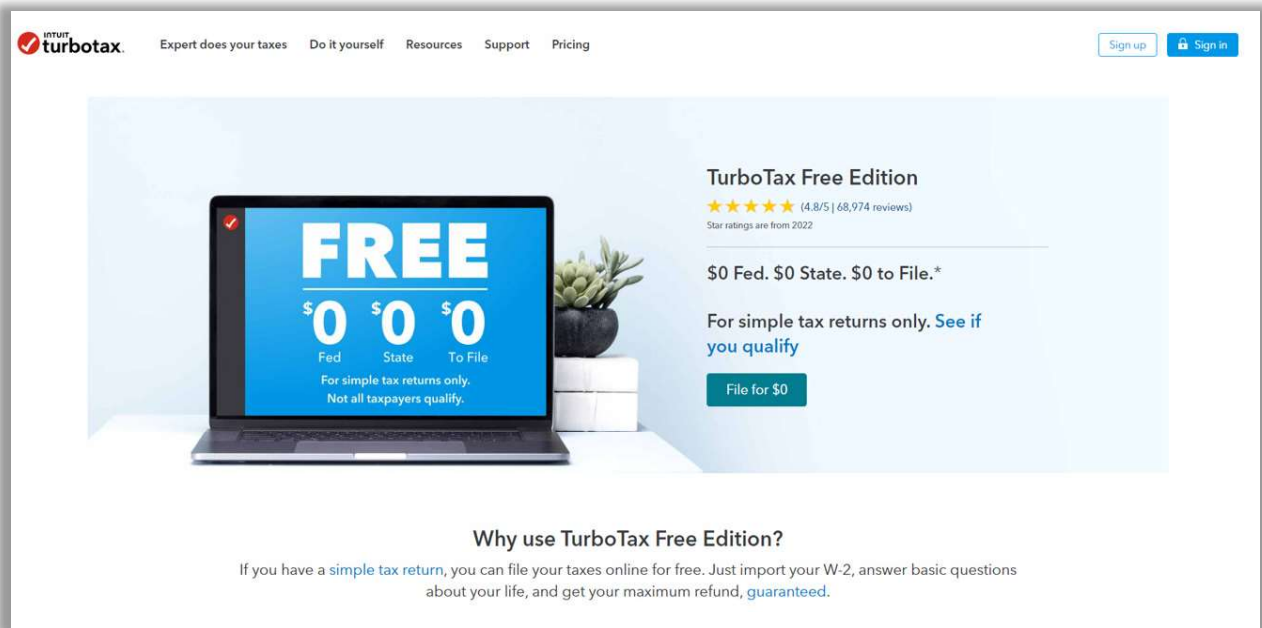
B. TurboTax Free Edition Landing Page

385. When consumers click on an online ad for a free TurboTax SKU, including display ads and paid-search ads, they are taken to that SKU’s landing page. (Rubin (Intuit) Tr. 1563-1564; Ryan (Intuit) Tr. 697; RX1420 (Intuit); RX1531 (Intuit)). Consumers can also access those SKUs’ landing pages by clicking on organic search results. (Ryan (Intuit) Tr. 697-698; Rubin (Intuit) Tr. 1548-1552, 1564-1565; Golder (Intuit) Tr. 1271-1272; RX1440 (Intuit)).

386. The landing page for TurboTax Free Edition is <https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp>. (RX1531 (Intuit); Johnson (Intuit) Tr. 595-596; Rubin (Intuit) Tr. 1564).

387. The TurboTax Free Edition landing page is accessible “through search results,” “TurboTax Blog content,” “press releases,” and “articles written by the media” (Rubin (Intuit) Tr. 1564-1565), as well as by clicking on links for TurboTax Free Edition on the TurboTax website or by clicking on online TurboTax Free Edition display ads. (Johnson (Intuit) Tr. 595-596; Rubin (Intuit) Tr. 1548-1552, 1563-1565; Ryan (Intuit) Tr. 697).

388. RX1531, shown in part below, is a screenshot of a TurboTax Free Edition landing page from Tax Year 2022. (RX1531 (Intuit)).



389. The Free Edition landing page contains, at the very top of the page, multiple disclosures discussing and describing TurboTax Free Edition’s qualifications, including: “For simple tax returns only. See if you qualify.”; “For simple tax returns only[.] Not all taxpayers qualify.”; and “Why use TurboTax Free Edition? If you have a simple tax return, you can file your taxes online for free.” (RX1527 (Intuit); RX1528 (Intuit); RX1529 (Intuit); RX1530 (Intuit); RX1531 (Intuit); *see also* Rubin (Intuit) Tr. 1565-1566).

390. Several of these disclosures are in color-contrasted, hyperlinked text, including “See if you qualify” and “simple tax return.” (RX1527 (Intuit); RX1528 (Intuit); RX1529 (Intuit); RX1530 (Intuit); RX1531 (Intuit)).

391. Consumers who click on one of these disclosures are shown a pop-up box which states, “what qualifies as a simple tax return” and explains which tax situations are and are not

covered by TurboTax Free Edition. (Rubin (Intuit) Tr. 1566-1567; RX1527 (Intuit); RX1528 (Intuit); RX1529 (Intuit); RX1530 (Intuit); RX1499 (Intuit)).

392. The TurboTax Free Edition landing page also includes a chart listing every TurboTax SKU and identifying which IRS tax forms and schedules each product covers. (RX1527 (Intuit); RX1528 (Intuit); RX1529 (Intuit); RX1530 (Intuit); RX1531 (Intuit); *see also* Rubin (Intuit) Tr. 1567-1568).

393. RX1531, shown in part below, is a screenshot of the section of the TurboTax Free Edition landing page from Tax Year 2022 that includes a portion of that chart. (RX1531 (Intuit)).

Commonly Filed Tax Forms and Schedules		Free Edition - Basic Live	Deluxe - Deluxe Live	Premier - Premier Live	Self-Employed - Self-Employed Live
1040	U.S. Individual Income Tax Return	●	●	●	●
Schedule EIC	Earned Income Credit	●	●	●	●
Schedule 1	Additional Income and Adjustments to Income	●*	●	●	●
Schedule D	Capital Gains and Losses	●**	●**	●	●
Schedule 2	Additional Taxes		●	●	●
Schedule 3	Additional Credits and Payments		●	●	●
Schedule A	Itemized Deductions		●	●	●
Schedule B	Interest and Dividend Income		●	●	●
Schedule C	Profit or Loss from Business (Income)		●***	●	●
Schedule SE	Self-Employment Tax		●	●	●
Schedule E	Supplemental Income and Loss, including rental property			●	●
Schedule C	Profit or Loss from Business (Expenses)				●

394. As the screenshot from RX1531 shows, the tax form chart located on the Free Edition landing page includes a “sort by product” option. (RX1531 (Intuit); RX1527 (Intuit); RX1528 (Intuit); RX1529 (Intuit); RX1530 (Intuit); *see also* Rubin (Intuit) Tr. 1568-1569).

395. The tax form chart located on the Free Edition landing page also includes a search bar that allows consumers to search for a particular form or tax situation and determine the TurboTax SKU that covers that situation. ((RX1527 (Intuit); RX1528 (Intuit); RX1529 (Intuit); RX1530 (Intuit); RX1531 (Intuit); *see also* Rubin (Intuit) Tr. 1568-1569). For example, consumers interested in determining whether profits and losses from their farm activity are covered by a particular product can type “farm” in the search bar and immediately determine the TurboTax SKU that covers those profits and losses. (Rubin (Intuit) Tr. 1568-1569).

396. The TurboTax Free Edition landing page, including the qualifying language, hyperlinked disclosures, and chart listing the tax forms supported by each SKU, is available to anyone who visits the TurboTax website, without the need to enter any personal information. (Rubin (Intuit) Tr. 1566-1567).

397. The page provided substantively similar qualifying language, hyperlinked disclosures, and details surrounding the IRS’s tax forms and schedules covered by each TurboTax SKU from Tax Year 2016 to Tax Year 2022. (RX1205 (Intuit); RX1206-A (Intuit); RX1527 (Intuit); RX1528 (Intuit); RX1529 (Intuit); RX1530 (Intuit); RX1531 (Intuit)).

398. The extensive detail on this page ensures that reasonable consumers who view and then click on TurboTax display and search advertisements are unlikely to be misled by those ads. And since this page also shows up prominently in organic search results related to free TurboTax and similar phrases (Rubin (Intuit) Tr. 1551-1552, 1564-1565; Ryan (Intuit) Tr. 696-698; RX1440 (Intuit) at 1), it guards against any deception more broadly.

C. TurboTax “See if you qualify” Webpage

399. The TurboTax website also includes a page dedicated to providing details concerning the qualifications for TurboTax’s free SKUs (the “See if you qualify” webpage), available at <https://turbotax.intuit.com/best-tax-software/why-its-free>. (RX6 (Intuit); RX1501 (Intuit); GX439 (Ryan (Intuit) Decl.) ¶39).

400. This “See if you qualify” page states, “Simple tax return? You could file for free[.] A simple return is one that’s filed using the IRS Form 1040 only, without attaching any schedules.” (RX6 (Intuit); RX1501 (Intuit)).

401. The page further states, “If you have a simple tax return, you could be eligible to file for \$0[.] Simple tax returns are those filed using IRS Form 1040 only, with no added complexity. Only certain tax situations qualify.” (RX6 (Intuit); RX1501 (Intuit)).

402. The page then goes on to detail the tax situations that are and are not covered by free TurboTax SKUs, and answers frequently asked questions, like “How does TurboTax make money?” (RX6 (Intuit); RX1501 (Intuit)).

403. RX1501, shown in part below, is a screenshot of a portion of the “See if you qualify” webpage from Tax Year 2022. (RX1501 (Intuit)).

If you have a simple tax return, you could be eligible to file for \$0

Simple tax returns are those filed using IRS Form 1040 only, with no added complexity. Only certain tax situations qualify.

Situations covered

- W-2 income
- Limited interest and dividend income reported on a 1099-INT or 1099-DIV
- IRS standard deduction
- Earned Income Tax Credit (EIC)
- Child tax credits
- Student loan interest deduction

[Get started](#)

Situations not covered

- Itemized deductions
- Unemployment income reported on a 1099-G
- Business or 1099-NEC income
- Stock sales
- Rental property income
- Credits, deductions and income reported on other forms or schedules (for example, income related to crypto transactions)

[See all products](#)

Frequently asked questions

How does TurboTax make money?

We want our customers to love our products and services. Because we have customers who pay for our premium products and services, we can offer [simple tax filing](#). We offer additional paid benefits that go beyond filing your simple taxes for free, but they're optional.

When financial situations aren't simple anymore (like owning a home, having a child, or managing investments), we hope our customers will choose to pay to prepare and file their returns with TurboTax.

404. Intuit publishes the “See if you qualify” webpage to provide consumers with details concerning the qualifications for free TurboTax SKUs. (Rubin (Intuit) Tr. 1588-1589).

405. Intuit uses SEO strategies to ensure that webpages that discuss the qualifications for free TurboTax SKUs, like the “See if you qualify” webpage, appear prominently in online

search results for free tax-preparation products. (Rubin (Intuit) Tr. 1548-1549, 1551, 1588-1591); *supra* ¶¶182, 185, 199-202).

406. The extensive detail on the “See if you qualify” webpage ensures that reasonable consumers who are searching for information about free TurboTax SKUs or who visit the webpage are unlikely to be misled by any challenged advertisements.

407. Intuit’s decision to create and publish the “See if you qualify” webpage, and its efforts to ensure that consumers can easily access that webpage, is inconsistent with an intent to deceive consumers into believing that all TurboTax is free or that TurboTax is free for a consumer when that is not the case.

D. TurboTax Products & Pricing Page

408. When consumers click a button on the TurboTax website to start preparing their taxes, such as the “File for \$0” button on the TurboTax Free Edition landing page, they are taken to the TurboTax Products & Pricing page. (Rubin (Intuit) Tr. 1570-1571; RX53 (Intuit) at 36; RX439-A (Intuit)).

409. This page is thus shown to all consumers before they start preparing their taxes with a TurboTax SKU. (Johnson (Intuit) Tr. 567; Rubin (Intuit) Tr. 1570-1571; RX52 (Intuit) at 36; RX578 (Intuit) at 71).

410. Nearly [REDACTED] view the Products & Pricing page before even creating a username and password. (RX52 (Intuit) at 36).

411. RX1532, shown in part below, is a screenshot of the Tax Year 2022 Products & Pricing page. (RX1532 (Intuit)).

The screenshot displays the TurboTax website's product and pricing page for Tax Year 2022. At the top, there are two main options: "Do it yourself" and "Real experts help or do it for you". The main heading is "America's #1 brand of tax software".

Four product editions are listed:

- Free Edition:** Simple tax returns only. See if you qualify. Price: \$0 Fed, \$0 State, \$0 to File.*. Star rating: 4.9 (48,974 reviews).
- Deluxe:** Maximize tax deductions and credits. Price: ~~\$59~~ \$39*. State additional. Star rating: 4.5 (63,463 reviews).
- Premier:** Investments and rental property. Price: ~~\$89~~ \$69*. State additional. Star rating: 4.4 (16,545 reviews).
- Self-Employed:** Personal & business income and expenses. Price: ~~\$119~~ \$89*. State additional. Star rating: 4.7 (18,644 reviews).

Each edition has a "Start for free" button with the text "Pay only when you file". Below the pricing, there are star ratings and a "More Details" link for each.

A section titled "File for \$0 with Free Edition" explains that users will pay nothing to file federal and state taxes if they have a simple tax return. It includes a "FREE" graphic and "0 \$0 \$0" for Fed, State, and To File. A list of benefits includes: free filing of simple federal and state tax returns; coverage of W-2 income, EIC, and child tax credits; hobby and rental income reporting; jumpstart with previous year's TurboTax info; audit support guarantee; and 24/7 expert support.

At the bottom, there are four columns detailing features included in each edition:

- Included in Free Edition:** Easy prep, print, and e-file; jumpstart with W-2 photo; hobby/rental income reporting.
- Everything in Free Edition, plus:** Searches 350+ tax deductions; maximizes mortgage and property tax deductions; turn donations into big deductions.
- Everything in Deluxe, plus:** Covers stocks, bonds, ESPPs, crypto, and other investments; auto-import crypto and stock activity; covers rental property income; accurately account for crypto gains/losses.
- Everything in Premier, plus:** Guidance for freelancers and small business owners; uncovers industry-specific deductions; upload 1099-NEC or 1099-K; audit assessment for confidence.

Each feature list has a "Learn more" button.

412. The Products & Pricing webpage from prior years included substantially similar content as the Tax Year 2022 webpage. (RX439-A (Intuit); RX13 (Intuit); RX381 (Intuit); RX122 (Intuit); RX8 (Intuit); RX138 (Intuit); RX210-A (Intuit); RX1532 (Intuit); Rubin (Intuit) Tr. 1571; RX1018 (Golder Expert Report) ¶194).

413. The Products & Pricing Page lists each TurboTax SKU, its price, and the relevant tax situations the SKU handles, so that before consumers begin their taxes, they are aware that all TurboTax products are not free, that there is a Free Edition for simple tax returns. (RX439-A (Intuit); RX13 (Intuit); RX381 (Intuit); RX122 (Intuit); RX8 (Intuit); RX138 (Intuit); RX210-A (Intuit); RX1532 (Intuit); Rubin (Intuit) Tr. 1571; RX1018 (Golder Expert Report) ¶194). The Products & Pricing page was designed “to make sure that [consumers] are aware of the qualifications and to make sure we get people in the right products, get consumers in the right products.” (Johnson (Intuit) Tr. 598).

414. The Products and Pricing page includes qualifying language for TurboTax Free Edition in multiple places, including hyperlinked statements that it is for “simple tax returns only,” “You’ll pay absolutely nothing to file your federal and state taxes if you have as simple tax return only,” and “Free filing of your simple federal and state tax returns only,” as well as a concise list of the tax situations covered. (Johnson (Intuit) Tr. 596-598; RX439-A (Intuit); RX13 (Intuit); RX381 (Intuit); RX122 (Intuit); RX8 (Intuit); RX138 (Intuit); RX210 (Intuit); RX1532 (Intuit)).

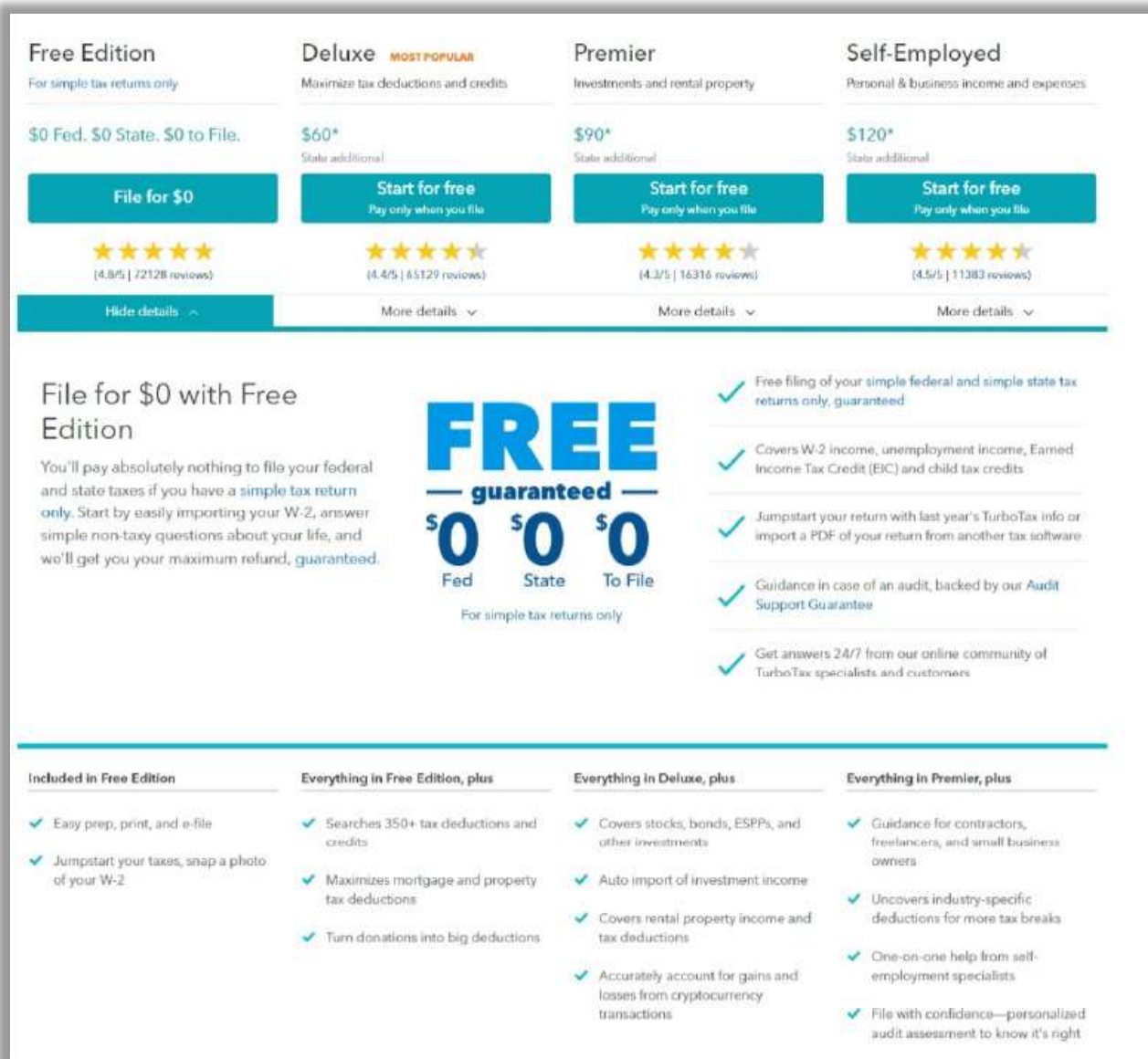
415. The Products & Pricing page also includes multiple hyperlinked disclosures concerning TurboTax Free Edition’s qualifications that, when clicked, bring up a pop-up screen with details on Free Edition’s qualifications. (Johnson (Intuit) Tr. 596-598; Shiller (FTC) Tr.

219-222; RX439-A (Intuit); RX13 (Intuit); RX381 (Intuit); RX122 (Intuit); RX8 (Intuit); RX138 (Intuit); RX210 (Intuit); RX1532 (Intuit)).

416. For example, as shown above, the current—Tax Year 2022—Products & Pricing page discloses qualifications for TurboTax Free Edition in at least four prominent locations and asks consumers to “see if you qualify” with contrasted, hyperlinked text. (RX1532 (Intuit) at 1-3). Consumers who click the hyperlinked text are shown a pop-up that states “What qualifies as a simple tax return?” and lists the situations covered (and not covered) by TurboTax Free Edition. (RX1498 (Intuit); RX1499 (Intuit); Johnson (Intuit) Tr. 596-597; Shiller (FTC) Tr. 219-222; *supra* ¶¶379-383, 415-416).

417. A reasonable consumer who sees the Products & Pricing page would not be likely to believe that all TurboTax products are free or that TurboTax would necessarily be free for them.

418. RX138, shown in part below, is a screenshot of the Tax Year 2020 Products & Pricing page. (RX138 (Intuit)).



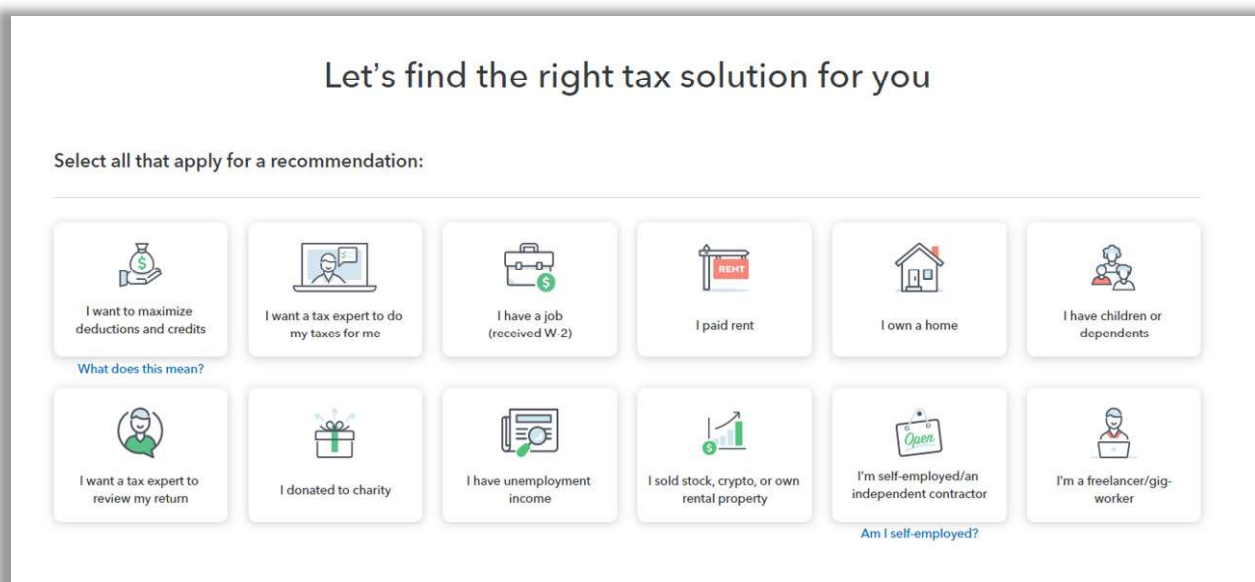
E. TurboTax SKU Selector

419. Intuit's Products & Pricing page includes a tool (the "SKU Selector") that enables customers to receive a recommendation for the product most likely to meet their needs. (Johnson (Intuit) Tr. 565-567, 572, 596; Rubin (Intuit) Tr. 1575, 1579-1582; RX1018 (Golder Expert

Report ¶201; RX13 (Intuit); RX381 (Intuit); RX122 (Intuit); RX8 (Intuit); RX138 (Intuit); RX210 (Intuit); RX1532 (Intuit)).

420. The tool on the Products & Pricing page has looked largely the same since Tax Year 2016. (GX150 (Goode (Intuit) IHT) at 104-105; RX13 (Intuit); RX381 (Intuit); RX8 (Intuit); RX1532 (Intuit)).

421. RX1532, shown in part below, is a screenshot of the SKU Selector tiles on the Products & Pricing page from Tax Year 2022. (RX1532 (Intuit)).



422. Consumers can use the SKU Selector without creating a TurboTax account or entering any personal information. (Johnson (Intuit) Tr. 596, 599-600; Rubin (Intuit) Tr. 1571; RX52 (Intuit) at 36).

423. Intuit has spent substantial time and resources on its SKU selection experience, with the aim of “[REDACTED]” (RX334 (Intuit) at -8486; Johnson (Intuit) Tr. 570; RX1027 (Deal Expert Report) ¶69; RX291 (Intuit); RX723 (Intuit); RX805 (Intuit)).

424. The SKU Selector invites consumers to “find the right tax solution for you.” (RX13 (Intuit); RX381 (Intuit); RX122 (Intuit); RX8 (Intuit); RX138 (Intuit); RX210 (Intuit); RX1532 (Intuit)). Customers can do so by clicking on one or more of twelve tiles representing different life situations that consumers could select to receive a recommendation for a TurboTax SKU. (Johnson (Intuit) Tr. 565-566, 599; Rubin (Intuit) Tr. 1575-1577, 1579-1581, 1613; RX210 (Intuit); Shiller (FTC) Tr. 215). The tiles describe life situations rather than tax forms in order to make it easier to communicate to consumers what circumstances affect their tax situation. (Johnson (Intuit) Tr. 599; Rubin (Intuit) Tr. 1575-1577, 1579-1581, 1613).

425. The SKU Selector instructs consumers to “[s]elect all that apply for a recommendation.” (RX1532 (Intuit); RX9 (Intuit); Johnson (Intuit) Tr. 565-566, 599, 662-664, 672; Rubin (Intuit) Tr. 1575-1577, 1579-1581, 1613; Shiller (FTC) Tr. 215). As a consumer clicks on tiles, the SKU Selector presents different TurboTax product recommendations, which appear below the SKU Selector on the Products & Pricing page. (Johnson (Intuit) Tr. 565-566, 599, 662-664, 672; Rubin (Intuit) Tr. 1575-1577, 1579-1581, 1613; RX13 (Intuit); RX381 (Intuit); RX122 (Intuit); RX8 (Intuit); RX138 (Intuit); RX210 (Intuit); RX1532 (Intuit)).

426. The SKU Selector contains four different tiles or tax situations that would result in a recommendation for TurboTax Free Edition. (Johnson (Intuit) Tr. 565-566, 599, 662-664, 672; Rubin (Intuit) Tr. 1575-1577, 1579-1581, 1613; Shiller (FTC) Tr. 216-217). For example, if taxpayers indicate that they rent their home, have a job with W-2 income, and have children or dependents, the tool recommends TurboTax Free Edition. (Johnson (Intuit) Tr. 565-566, 599, 662-664, 672; Rubin (Intuit) Tr. 1575-1577, 1579-1581, 1613; RX13 (Intuit); RX381 (Intuit); RX122 (Intuit); RX8 (Intuit); RX138 (Intuit); RX210 (Intuit); RX1532 (Intuit); RX1536; Rubin (Intuit) Tr. 1575-1577, 1614).

427. When the SKU Selector provides a product recommendation for TurboTax Free Edition, it clearly discloses that TurboTax Free Edition is “For simple tax returns only.” (RX13 (Intuit); RX381 (Intuit); RX122 (Intuit); RX8 (Intuit); RX138 (Intuit); RX210 (Intuit); RX1532 (Intuit)).

428. When consumers select a tax situation not covered by TurboTax Free Edition, the SKU Selector removes the highlight from the TurboTax Free Edition product, indicating that the consumer likely does not qualify to use it. (Shiller (FTC) Tr. 215-216). Instead, the SKU Selector recommends a paid TurboTax SKU. (Shiller (FTC) Tr. 215-218). For example, if taxpayers select that they “own a home,” the tool suggests TurboTax Deluxe. (RX11 (Intuit)). And if taxpayers select that they “sold stock, crypto, or own rental property,” the tool recommends TurboTax Premier. (RX12 (Intuit)).

429. Roughly 60% of new TurboTax customers use the SKU Selector tiles, and approximately [REDACTED] of returning TurboTax customers do so. (Rubin (Intuit) Tr. 1581; RX53 (Intuit) at 73, 75; *see also* RX52 (Intuit) at 36).

430. Forty to fifty percent of consumers who use the SKU Selector receive a recommendation to start in TurboTax Free Edition. (Rubin (Intuit) Tr. 1581-1582). This is roughly the same percentage of consumers who complete their taxes in Free Edition. (Rubin (Intuit) Tr. 1581-1582).

431. Consumers are free to ignore the recommendation provided by the SKU Selector and start in any TurboTax SKU they want, including TurboTax Free Edition. (Rubin (Intuit) Tr. 1641; Shiller (FTC) Tr. 215-216).

432. Third-party websites and reviewers often recommend that consumers start their tax returns using TurboTax Free Edition, regardless of their tax situation. (RX505 (Intuit) at 3;

Golder (Intuit) Tr. 1086-1087). For example, a *New York Times* Wirecutter article entitled “The Best Online Tax Filing Software,” published on February 15, 2022, and updated on April 18, 2022 and February 7, 2023, made that recommendation. (RX505 (Intuit) at 3; RX80 (Intuit) at 2; RX1497 (Intuit) at 2; Rubin (Intuit) Tr. 1560). Such third-party reviews are widely read and important to consumers’ tax-preparation product purchasing decisions. (Golder (Intuit) Tr. 1087).

433. The Wirecutter articles noted that “TurboTax requires us to state that its Free Edition is ‘for simple tax returns only’ and that ‘not all taxpayers qualify.’” (RX505 (Intuit) at 3; RX80 (Intuit) at 2; RX1497 (Intuit) at 2). Nonetheless, the article stated that Wirecutter “think[s] most people should start with Free Edition.” (RX505 (Intuit) at 3; RX80 (Intuit) at 2; RX1497 (Intuit) at 2). It explained that “[e]ven if you might have some deductible expenses, such as mortgage interest or charitable donations, it’s better to start here and upgrade to Deluxe only if you’re required to.” (RX505 (Intuit) at 3; RX80 (Intuit) at 2; RX1497 (Intuit) at 2).

434. In Tax Year 2021, 3.7 million consumers started filing their taxes in TurboTax Free Edition without using the SKU Selector. (Rubin (Intuit) Tr. 1582). Of those, 2.8 million—approximately 75%—completed their taxes for free using TurboTax Free Edition. (Rubin (Intuit) Tr. 1582).

435. The SKU Selector tool further illustrates that reasonable consumers were unlikely to be deceived according to Complaint Counsel’s theory. The tool provided in extremely simple language an easy way for consumers to assess the likelihood that they would be able to use a free TurboTax product. While the tool did not predict with perfect accuracy the right SKU for the consumer, the choices that Intuit made were in the best interests of the consumer.

F. TurboTax Blog Posts And Other TurboTax Website Content

436. The TurboTax website includes multiple TurboTax Blog posts and FAQs describing Free Edition's qualifications. (Rubin (Intuit) Tr. 1589-1590).

437. For example, in a 2022 FAQ on the TurboTax website entitled, "Is TurboTax Free Edition right for me?," Intuit explained that "Free Edition is an online-only product that supports simple tax returns that can be filed on Form 1040 without any attached schedules," and goes on to explain the situations TurboTax Free Edition covers. (RX63 (Intuit) at 1; Rubin (Intuit) Tr. 1589-1590).

438. Intuit publishes blog posts about free TurboTax SKUs on the TurboTax website to make information about the qualifications for those free SKUs readily available to consumers. (Rubin (Intuit) Tr. 1588-1589). As Mr. Rubin explained, Intuit publishes blog posts "discussing ... the qualifications" for free TurboTax SKUs so that they are "found and read by people." (Rubin (Intuit) Tr. 1589).

439. Intuit also uses SEO strategies to ensure that blog posts detailing the qualifications for free TurboTax SKUs appear prominently in online search results for free tax-preparation products. (Rubin (Intuit) Tr. 1548-1549, 1551, 1589, 1591; *supra* ¶¶182, 185, 199-202).

440. The detail provided about the qualifications for free TurboTax SKUs in blog posts and FAQs on the TurboTax website makes it unlikely that reasonable consumers searching for that information or visiting the TurboTax website would be misled by any challenged advertisements.

441. Intuit's decision to publish blog posts detailing the qualification of free TurboTax SKUs webpage, and its efforts to ensure that those blog posts appear prominently in search

results, indicate that Intuit did not intend to deceive consumers into believing that all TurboTax is free or that TurboTax is free for a consumer when that is not the case.

G. TurboTax Promptly Notifies Consumers If They Need To Upgrade

442. Once customers select a TurboTax SKU, they begin preparing their returns by entering their personal or tax information. (Johnson (Intuit) Tr. 672). TurboTax then guides them through the entry of their information with a series of questions about their tax situation, such as sources of income, deductions, and tax credits. (Johnson (Intuit) Tr. 680-683).

443. Most commonly, a taxpayer's sources of income determine the right SKU for them. The TurboTax interview process begins with income (Rubin (Intuit) Tr. 1541), so consumers are likely to find out whether they do not qualify to use TurboTax Free Edition at the outset of the process.

444. If customers provide information indicating that the TurboTax SKU they selected does not support their individual tax situation, TurboTax immediately notifies them of that fact through a large screen, which offers them the opportunity to upgrade to the least expensive TurboTax SKU that covers their tax situation to complete their taxes. (Rubin (Intuit) Tr. 1505-1506, 1583-1584; Johnson (Intuit) Tr. 675-676; RX1018 (Golder Expert Report) ¶¶199, 216 & fig. 41; RX318 (Intuit); GX152 (Johnson (Intuit) Dep.) at 132; GX155 (Rubin (Intuit) IHT) at 40).

445. The screens are designed to ensure that customers understand why they need to upgrade to complete their taxes, as well as the price of the options available. (RX294 (Intuit) at -9054).

446. Any misimpression a consumer may have about filing for free "certainly gets cured" by a TurboTax upgrade screen. (Novemsky (FTC) Tr. 1777-1778).

447. In Tax Year 2021, only 14% of TurboTax customers began their tax returns in a SKU for which they did not qualify and thus saw such an upgrade screen, and the percentage has been less than 20% historically. (Rubin (Intuit) Tr. 1552-1553; RX37 (Intuit) at 4; RX47 (Intuit) at 9; RX51 (Intuit) at 13; RX59 (Intuit) at 3; RX820 (Intuit); GX416 (Intuit) at 31; RX1018 (Golder Expert Report) ¶¶206-208).

448. Complaint Counsel argue that consumers who start their tax returns in TurboTax Free Edition but do not qualify to use that SKU find out that they need to switch to a paid TurboTax SKU only “after investing time and effort gathering and inputting into TurboTax their sensitive personal and financial information,” and therefore feel “locked-in” to TurboTax SKUs through a bait and switch. (Complaint Counsel’s Pretrial Brief at 5, 11, 31, 50-51 (Feb. 17, 2023)). But the Court heard no evidence at trial to support that contention and it is untrue.

449. Consumers do *not* spend significant time and effort preparing their taxes with TurboTax generally, let alone before being informed of any need to switch SKUs. The average TurboTax Free Edition customer currently *completes* his or her taxes in just 28 minutes. (Rubin (Intuit) Tr. 1541). And customers who are told they need to switch are typically told shortly after starting their returns. (Rubin (Intuit) Tr. 1541; Johnson (Intuit) Tr. 681; *infra* ¶450; *see also* GX138 (Adamson (FTC) Dep.) at 58).

450. Most customers who do not qualify for TurboTax Free Edition are told that within 30 minutes or less of starting their return. (Rubin (Intuit) Tr. 1541; Deal (Intuit) Tr. 1334-1340; RX1027 (Deal Expert Report) ¶105 & fig. 12; RX819 (Intuit); RX821 (Intuit), RX823 (Intuit)). The data, moreover, capture only the length of time the TurboTax website was up on the customer’s browser (i.e., elapsed time), so the data overstate the average time consumers were

actively preparing their tax return. (Deal (Intuit) Tr. 1336-1338; RX1027 (Deal Expert Report) ¶¶82, 106).

451. And as noted, when a switch is required, consumers can always leave TurboTax entirely—and sometimes do. (Rubin (Intuit) Tr. 1585-1588; Deal (Intuit) Tr. 1331-1332; RX52 (Intuit) at 4; RX1018 (Golder Expert Report) ¶59; GX150 (Goode (Intuit) IHT) at 110, 241-242; GX152 (Johnson (Intuit) IHT) at 129-130, 137-138). Consumers testified that they are aware they can switch to a competitor after starting their returns with TurboTax. (RX369 (Goldstein (Consumer) Dep.) at 71).

452. That consumers sometimes choose to abandon their returns after being prompted to switch demonstrates that they do not feel locked in to using TurboTax and illustrates that, to the extent Complaint Counsel are relying on a bait-and-switch theory, they have failed to prove their case. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 46-59; RX1016-A (Kirk Fair Expert Report) ¶¶16, 22, 35; GX150 (Goode (Intuit) IHT) at 110).

VIII. TURBOTAX'S COMPETITORS ADVERTISED THEIR FREE PRODUCTS AS BEING AVAILABLE FOR TAXPAYERS WITH SIMPLE TAX RETURNS

453. As noted, TurboTax's major competitors in the online tax-preparation industry all offer and advertise free federal tax filing products with eligibility qualifications based on customers' tax complexity. (Ryan (Intuit) Tr. 707-708; *supra* ¶¶141, 143-144).

454. Intuit's competitors advertise their free tax-preparation products as being available for consumers with simple returns. (Ryan (Intuit) Tr. 729-730 (TaxAct), 744-745 (TaxSlayer), 759-760 (H&R Block); Golder (Intuit) Tr. 1088-1092, 1121-1122; RX1018 (Golder Expert Report) ¶¶108-111). Competitors' ads expressly use the phrases like "simple returns," "simple tax return," or "simple tax situations" to disclose the qualifications for their free

products. (RX616 (Intuit); RX632 (Intuit); RX1040 (Intuit); RX1192 (Intuit); RX1338 (Intuit); RX1339 (Intuit); RX1340 (Intuit); RX1341 (Intuit); GX789 (FTC); GX790 (FTC); GX791 (FTC); GX814 (FTC); GX832 (FTC); GX839 (FTC)). Many competitor video advertisements include only written qualifications, without any verbal qualifying language. (RX1338 (Intuit); RX1339 (Intuit); RX1340 (Intuit); GX787 (FTC); GX789 (FTC); GX790 (FTC); GX808 (FTC); GX814 (FTC); GX832 (FTC); GX839 (FTC)).

455. Competitors' ads for free tax-preparation products sometimes identify the name of the specific tax-preparation product or offer being advertised, such as TaxSlayer Simply Free or H&R Block Free Online. (RX632 (Intuit); RX1040 (Intuit); RX1338 (Intuit); RX1340 (Intuit); GX787 (FTC); GX788 (FTC); GX808 (FTC); GX814 (FTC); GX832 (FTC); GX839 (FTC); Golder (Intuit) Tr. 1088-1090).

456. The qualifications in competitor TV ads for free tax-preparation products always appear at the bottom of the screen, and often near the end of the ad on a title card. (RX1018 (Golder Expert Report) ¶131; RX632 (Intuit); RX1040 (Intuit); RX1338 (Intuit); RX1340 (Intuit); RX1341 (Intuit); GX789 (FTC); GX790 (FTC); GX791 (FTC); GX814 (FTC); GX832 (FTC); GX839 (FTC); Ryan (Intuit) Tr. 729-730 (TaxAct), 744-745 (TaxSlayer)).

457. For example, a screenshot of the title card from a TaxSlayer TV ad for its “Simply Free” product is provided below. (RX1338 (Intuit)).



458. Intuit’s competitors also market their free tax-preparation products on their websites as being available for “simple” returns or tax situations. (Golder (Intuit) Tr. 1088-1090; RX97-A (Intuit); RX422 (Intuit); RX428 (Intuit); RX1018 (Golder Expert Report) ¶112).

459. Competitor ads for free tax-preparation products demonstrate that advertising referring to “simple returns” is standard in the tax-preparation industry, that consumers are thus familiar with advertisements for tax-preparation products that have qualifications, and that the ads communicate those qualifications using “simple returns” language. (Golder (Intuit) Tr. 1088-1092, 1121-1122; RX1018 (Golder Expert Report) ¶108).

460. Given their familiarity with advertising for free tax-preparation products, including the use of “simple returns” and the placement of disclosures, reasonable consumers were not likely to be misled by the challenged ads into believing that all TurboTax products are

free or that TurboTax would be free for them when it was not. (Golder (Intuit) Tr. 1090-1091, 1095-1096, 1121-1122; RX1018 (Golder Expert Report) ¶113).

IX. COMPLAINT COUNSEL FAILED TO PROVE THAT TURBOTAX'S FREE ADVERTISING WAS DECEPTIVE

461. Complaint Counsel failed to offer reliable evidence that ads for free TurboTax SKUs deceived a significant minority of reasonable consumers into believing that all TurboTax SKUs are free or that a free TurboTax SKU was free for them when it was not.

462. The evidence—including Intuit's testing of TurboTax ads, consumer surveys, customer feedback, and lack of consumer complaints—instead shows that reasonable consumers were not deceived. (*Infra* ¶¶623-760).

463. Complaint Counsel allege that the claims conveyed by TurboTax ads are “likely to mislead” reasonable consumers because they “[were] not true for two-thirds of American taxpayers.” (Evans (FTC) Tr. 23-24). When the Court asked whether Complaint Counsel meant two-thirds “of those who attempt to go to the website and use TurboTax” or of “all tax filers, which is a heck of a lot bigger sample and makes your number pretty much meaningless,” Complaint Counsel confirmed that they meant two-thirds of “all American taxpayers.” (Evans (FTC) Tr. 24).

464. But “all U.S. taxpayers” is not the “appropriate denominator” to “assess who qualifies” for TurboTax's free offerings because that is “not the target market in this case.” (Golder (Intuit) Tr. 1169). “Many consumers,” such as those who file “through paid preparers” like “CPAs,” are “not ... in the market for an online tax preparation product.” (Golder (Intuit) Tr. 1169). And “of those who use software DIY solutions” (i.e., those who file their taxes online), “a majority” have a “simple return” and thus are eligible to file using free TurboTax

SKUs. (Johnson (Intuit) Tr. 593). Of the remaining minority, some are “very complex filers” (Johnson (Intuit) Tr. 623) who could not reasonably believe they could use a product for “simple tax returns only.”

465. The fact that most consumers in the relevant market—the market for online-tax preparation software—are eligible to use a free TurboTax SKU refutes the foundational premise of Complaint Counsel’s deception theory that the ads are misleading because two-thirds of consumers do not qualify to file for free.

466. Considering that most consumers in the online tax-preparation market are in fact eligible to file for free using TurboTax’s free SKUs, and that others in the market have “very complex returns” and would not reasonably believe they can file for free using free TurboTax SKUs, Complaint Counsel have not established that the challenged ads were likely to mislead a significant minority of reasonable consumers.

467. Complaint Counsel have also pressed the theory that the challenged ads are “deceptive door-openers.” (Evans (FTC) Tr. 31). That is, they argue the challenged ads were deceptive simply by virtue of driving consumers to the TurboTax website. As the Court observed at trial, the upshot of this theory is that “it doesn’t matter what a consumer sees at the website,” because all that matters is that the ads “induced [consumers] to the website.” (Chappell (ALJ) Tr. 32). Complaint Counsel have not established that the theory applies here.

468. Common sense suggests that merely opening the door to the TurboTax website is not enough to establish actionable deception, especially since the qualifications for TurboTax’s free SKUs were always accessible on the TurboTax homepage and Free Edition landing page. Spending five seconds on the TurboTax website does not support a finding of actionable deception.

469. The deceptive door-opener theory also does not apply because the challenged ads either expressly mention the TurboTax website or link directly to the TurboTax website. (*Supra* ¶¶215, 218, 222, 241, 244, 253-254, 262, 266, 270, 275, 278, 284-285, 290, 294, 299, 306, 323). And consumers could easily and quickly reach the website and find the qualifications for TurboTax’s free SKUs “through search results,” “TurboTax Blog content,” “press releases,” or “articles written by the media.” (Rubin (Intuit) Tr. 1564-1565); *supra* ¶¶253-254, 269-270, 284-285; *infra* ¶¶520, 522, 524). The detailed information on the website, moreover, is accessible before consumers “have to input their name or any other personal information.” (Rubin (Intuit) Tr. 1566-1567). Accordingly, that information on the TurboTax website must be considered when assessing whether the challenged ads are deceptive, and it demonstrates that reasonable consumers were not misled into believing that they could file for free using TurboTax when that was not the case.

A. Reasonable Consumers In The Tax-Preparation Industry Are Not Misled By Free TurboTax Advertising

470. Complaint Counsel contend that reasonable consumers seeing the challenged ads would be misled into believing that all of TurboTax is free or that TurboTax is free for them even if it is not. (Evans (FTC) Tr. 19-20; Complaint Counsel’s Pretrial Brief at 35, 44-45 (Feb. 17, 2023)). But Complaint Counsel have not offered competent evidence to support that contention, including offering any evidence about reasonable consumers in *this industry*.

471. Unlike Complaint Counsel, Intuit has offered substantial evidence about reasonable consumers in the tax-preparation industry and their familiarity with and understanding of free offers and free advertising, including testimony from Intuit executives and experts. (Golder (Intuit) Tr. 1063-1064, 1088-1096, 1121-1122; RX1018 (Golder Expert

Report) ¶¶108-113, 164-167; Ryan (Intuit) Tr. 730, 744, 750, 759). That evidence establishes that reasonable consumers in the tax-preparation industry: (1) understand that free tax-preparation offers by Intuit and its competitors are qualified; (2) are skeptical of offers for free tax-preparation products; (3) perform extensive research about tax-preparation products before deciding which to use; and (4) know to look for and where to find qualifications for free tax-preparations in ads.

1. Reasonable Consumers Understand Free Offers Are Qualified

472. Reasonable consumers do not view ads for free TurboTax SKUs in a vacuum. Instead, they understand these ads based on prior experiences, including their past experiences with free offerings generally, their exposure to free tax-preparation products in particular, and their personalized purchasing process, and the research they conduct before selecting a tax-preparation product. (Golder (Intuit) Tr. 1063-1065; RX1018 (Golder Expert Report) ¶163).

473. Reasonable consumers are familiar with free offers across a wide range of product categories, and understand that they are generally qualified, or not available to all consumers in all circumstances. (Golder (Intuit) Tr. 1064, 1091-1092; RX1018 (Golder Expert Report) ¶¶164-167). In addition, reasonable consumers are familiar with how those offers are advertised. (Golder (Intuit) Tr. 1105-1108). Those offers are almost always qualified in some way, meaning that the free product is not available for all consumers in all circumstances. (Golder (Intuit) Tr. 1091-1092; RX1018 (Golder Expert Report) ¶¶164-166).

474. For example, reasonable consumers commonly encounter “Buy One Get One Free” (“BOGO”) offers, which allow customers to receive a product for free *after purchasing another product*, usually of greater or equivalent value. (Golder (Intuit) Tr. 1094-1095; RX1018 (Golder Expert Report) ¶165; RX484 (Intuit), RX423 (Intuit)). And even without qualifying

language or written disclosures present, reasonable consumers understand based on their experiences that such BOGO offers are typically limited to receiving a free product of lesser or equal value relative to the product purchased. (Golder (Intuit) Tr. 1094-1095). They understand, for instance, that when Domino's Pizza advertises a BOGO offer, they cannot buy a six-inch personal pizza with no toppings and expect to get an 18-inch large pizza with all of the toppings for free. (Golder (Intuit) Tr. 1094-1095).

475. Further, reasonable consumers commonly encounter "Free with Purchase" offers, which provide customers with a free sample or gift with a purchase. (RX1018 (Golder Expert Report) ¶165; RX479 (Intuit)). Marketers spend more than \$2 billion every year promoting such offers. (RX1245 (Intuit) at 2; RX1018 (Golder Expert Report) ¶165). But again, reasonable consumers understand from experience that the free offer has a qualification—in this case that a purchase is required. (RX1018 (Golder Expert Report) ¶¶166-167; RX479 (Intuit)).

476. In short, the "public understands" that free offers are usually coupled with the *requirement* to purchase paid products—i.e., that they must pay "a regular price for the merchandise or service which must be purchased by consumers in order to avail themselves of that which is represented to be 'Free.'" (16 C.F.R. §251.1(b)(1)).

477. Reasonable consumers are also familiar with free offers or discount pricing that is available only to certain consumers. (Golder (Intuit) Tr. 1092-1093; RX1018 (Golder Expert Report) ¶165). Holiday Inn, for example, advertises that "Kids Stay and Eat Free." (Golder (Intuit) Tr. 1092; RX1049 (Intuit) at -8241-8244). Reasonable consumers understand based on their experiences, and even without the presence of written disclosures, that there are limitations on that free offer (such as the fact that the kids have to be staying at the Holiday Inn in order to

eat for free, have to be staying with a paying adult, and have to eat at the Holiday Inn's own restaurant). (Golder (Intuit) Tr. 1092-1094).

478. Reasonable consumers also frequently encounter "free tiers of service" offers, which give customers free access to products or content with limitations to which paying customers are not subject. (RX1018 (Golder Expert Report) ¶¶165; RX410 (Intuit); RX502 (Intuit)).

479. YouTube and Spotify, for example, each offer free versions of their products that require consumers to view ads in order to use the product, alongside premium versions of their products that are ad-free and include additional features, which are only available by paying a fee. (RX410 (Intuit), RX802 (Intuit)). And companies such as Adobe often offer a free, basic version of their software alongside a paid version that offers a full suite of features. (RX1240 (Intuit)). Google similarly offers a basic free version of its mail service alongside a paid version that includes more features. (RX1505 (Intuit)).

480. Because reasonable consumers often come across tiered product offerings with qualified free offers accompanied by more comprehensive paid options, they are familiar with such offers and understand their nature. (Golder (Intuit) Tr. 1091-1092, 1094; RX410 (Intuit), RX802 (Intuit), RX1505 (Intuit)). Even when free ads do not include qualifying language or limitations, reasonable consumers know from experience to expect such limitations. (RX1018 (Golder Expert Report) ¶¶165-166).

481. In the online tax-preparation industry, consumers are frequently exposed to product lineups mirroring TurboTax's that include free offerings that are available only to taxpayers with simple tax returns, as well as paid products that cover additional tax situations or

offer additional features. (Golder (Intuit) Tr. 1091, 1095-1096; RX1018 (Golder Expert Report) ¶¶108, 113).

482. Free offers for consumers with simple tax returns are ubiquitous in the online tax-preparation industry. (Ryan (Intuit) Tr. 729-730, 744-745, 750, 759-760; *see also* RX1018 (Golder Expert Report) ¶108). Indeed, every major player in the industry employs a business model similar to TurboTax's model, offering their tax-preparation software for free to taxpayers with simple returns, alongside paid products capable of handling more complex returns. (Ryan (Intuit) Tr. 729-730 (TaxAct), 744-745 (TaxSlayer), 759-760 (H&R Block); Golder (Intuit) Tr. 1088-1092, 1121-1122; RX1018 (Golder Expert Report) ¶¶108-113; RX82 (Intuit); RX83 (Intuit); RX97 (Intuit); RX98 (Intuit); RX359 (Intuit); RX422 (Intuit); RX428 (Intuit); RX874 (Intuit) at 33). TurboTax, H&R Block, TaxAct, and TaxSlayer all offer a free product with qualifications tied to the simplicity of one's returns, alongside paid products for more complex returns. (Ryan (Intuit) Tr. 729-730 (TaxAct), 744-745 (TaxSlayer), 759-760 (H&R Block); Golder (Intuit) Tr. 1088-1092; RX1018 (Golder Expert Report) ¶10; RX82 (Intuit); RX83 (Intuit); RX97 (Intuit); RX98 (Intuit); RX359 (Intuit)). Those companies together serve approximately 90% of Americans who use online tax-preparation services. (RX412 (Intuit)).

483. Given the ubiquity of qualified free offers in the tax-preparation industry alongside paid tax-preparation products, reasonable consumers are unlikely to necessarily believe that a free tax-preparation product is free for them, and they also understand that their ability to qualify for that offering depends on the complexity of their tax returns, even without being told that is the case. (Golder (Intuit) Tr. 1091, 1095-1096; RX1018 (Golder Expert Report) ¶¶108-113).

484. Likewise, when reasonable consumers see a free TurboTax advertisement, they understand that the free product or offer is just one of the TurboTax SKUs available and that there are qualifications to use it. (Golder (Intuit) Tr. 1091-1092). Reasonable consumers would also know from the ads themselves and their own experiences that additional information about whether that consumer qualifies for a free product is likely to be available on the TurboTax website. (Golder (Intuit) Tr. 1123-1126). And as discussed, that information is, in fact, available on the TurboTax website. (*Supra* ¶¶364-441).

2. Reasonable Consumers Are Skeptical Of Free Offers

485. Beyond their familiarity with free offers generally and free tax-preparation offers in particular, reasonable consumers also understand that for-profit companies, like Intuit, are in business to earn money and thus they do not expect those businesses to offer their products for free to everyone. (RX1018 (Golder Expert Report) ¶¶166-167; RX578 (Intuit) at 15-16). Even consumers identified by Complaint Counsel acknowledged that because it is a profit-seeking business, Intuit cannot offer all its products for free to everyone. (GX123 (Lee (Consumer) Dep.) at 14-15; GX135 (Phyfer (Consumer) Dep.) at 37; GX137 (DuKatz (Consumer) Dep.) at 26-27; GX124 (Bodi (Consumer) Dep.) at 14; GX125 (Beck (Consumer) Dep.) at 20, 43-44; GX138 (Adamson (Consumer) Dep.) at 22-23; GX139 (Derscha (Consumer) Dep.) at 23; GX130 (Tew (Consumer) Dep.) at 20).

486. Because reasonable consumers understand that businesses cannot offer all of their products for free to everyone, and know that free offers are generally qualified, reasonable consumers are naturally skeptical of free offers. (Rubin (Intuit) Tr. 1524; Johnson (Intuit) Tr. 605); Golder (Intuit) Tr. 1095-1098; RX1018 (Golder Expert Report) ¶¶167-168).

487. Consumer skepticism of free offers means that reasonable consumers do not believe that free offers are free for everyone or even necessarily free for them; they instead expect free offers to be limited. (Golder (Intuit) Tr. 1095-1097; RX1018 (Golder Expert Report) ¶¶166-170). That expectation holds even if the relevant terms and conditions are not expressly stated. (Golder (Intuit) Tr. 1094-1096). That skepticism also leads reasonable consumers to conduct research to determine if they qualify to use the free offer. (RX1018 (Golder Expert Report) ¶167; Golder (Intuit) Tr. 1095-1098).

488. Reasonable consumers likewise react to free offers in the tax-preparation industry with skepticism, and thus do not believe that all tax-preparation products offered by a company are free, that a free tax-preparation product or offer is available for free to everyone, or that the free offer will be free for them. (RX33 (Intuit) at -9032; RX34 (Intuit) at -9950; RX56 (Intuit) at -5638); RX578 (Intuit) at 15; RX597 (Intuit) at -1665; GX655 (Intuit)). As Mr. Rubin and Mr. Johnson both explained, consumers in the tax-preparation industry exhibit “free skepticism” and a natural tendency to disbelieve “free” offers or expect they are too good to be true. (Rubin (Intuit) Tr. 1524; Johnson (Intuit) Tr. 605).

489. Intuit’s internal market research has long confirmed that consumers are skeptical of free claims concerning tax-preparation products. (RX33 (Intuit) at -9032; RX34 (Intuit) at -9950; RX56 (Intuit) at -5638).

490. For instance, Intuit research found that consumers exhibit “free skepticism,” meaning they expect the scope of free tax-preparation offers to be limited and “have [a] natural expectation that ... costs are involved.” (RX33 (Intuit) at -9032; *see also* RX34 (Intuit) at -9950) (finding that respondents were skeptical and “distrust[ed]” TurboTax’s “truly free” claims)). Other Intuit research showed that [REDACTED] of consumers incorrectly thought TurboTax Free Edition

did not include free federal filing, and even fewer thought it included free state filing and expert help, even though it did. (GX655 (Intuit)). And still more Intuit research showed that only 22% of consumer respondents were “confident” that TurboTax Free Edition was actually free (RX56 (Intuit) at -5638), and that 29% of respondents were outright “doubtful” that TurboTax Free Edition was “truly free.” (RX597 (Intuit) at -1665).

491. Complaint Counsel did not offer any evidence disputing that reasonable consumers are skeptical of free offers or that reasonable consumers otherwise believed that the free claims in the challenged advertisements were unqualified.

492. To overcome the skepticism of consumers who do qualify to use TurboTax’s free SKUs, Intuit must repeatedly inform those consumers that TurboTax has truly free TurboTax SKUs, including TurboTax Free Edition, for consumers with simple tax returns. (Rubin (Intuit) Tr. 1524-1525; GX147 (Roark (Intuit) Dep.) at 103-104; *supra* ¶¶191-196).

493. Based on their familiarity with and skepticism toward free offers, including free tax-preparation offers, reasonable consumers viewing free TurboTax advertisements would not have been misled into believing either that all TurboTax SKUs are free or that TurboTax would be free for them when it was not. (Golder (Intuit) Tr. 1091-1095).

494. Complaint Counsel contend that consumers expected TurboTax’s free offers to be available for everyone because a *different* company—Cash App Taxes—has a tax-preparation product supposedly provided “at no charge to all consumers.” (Complaint Counsel’s Pretrial Brief at 34-35 (Feb. 17, 2023)). But that assertion is belied by the record.

495. Cash App Taxes engages in “[REDACTED]” and is used by relatively few consumers. (RX45 (Intuit) at -4795; *see also* Rubin (Intuit) Tr. 1438, 1536; RX1503 (Intuit); RX1504 (Intuit)). It is unlikely that a significant minority of reasonable consumers would even

be aware of that offer, let alone rely on it (while ignoring the practices of the major market participants) to form their understanding of other companies' offerings in the tax-preparation industry.

496. Even if consumers were aware of Cash App Taxes, it is *not* free for “all consumers” (Rubin (Intuit) Tr. 1536; RX1503 (Intuit), RX1504 (Intuit); RX1027 (Deal Expert Report) App’x C, ¶12 & fig. C.2.A), and thus does not support Complaint Counsel’s theory. Cash App Taxes is not available to taxpayers who wish to file multiple state tax returns, part-year state tax returns, or non-resident state tax returns; who want to claim earned foreign income or foreign tax credits; or for taxpayers that are married but file separately in a community-property state like California. (Rubin (Intuit) Tr. 1536-1537; RX1504 (Intuit) at 3). Nor is it available for taxpayers who require any of almost two dozen different forms for their federal or state returns. (RX1504 (Intuit) at 3-6).

497. Cash App Taxes’ limitations only reinforce the existence of consumer skepticism when it comes to free tax-preparation offers. Reasonable consumers would not necessarily assume Cash App Taxes is free for them, or free to “all consumers,” as there are no free tax-preparation products available to all consumers for all tax situations. (Rubin (Intuit) Tr. 1535-1536).

498. Because Cash App Taxes is not free for all consumers, as Complaint Counsel alleged, reasonable consumers would not rely on Cash App Taxes to conclude that all TurboTax SKUs are free or that TurboTax must be free for them.

499. Complaint Counsel further argue that the existence of “many online products” that are free—such as Google, Facebook, YouTube, and Spotify—would lead reasonable

consumers to understand that all TurboTax SKUs are free. (Complaint Counsel’s Pretrial Brief at 35 (Feb. 17, 2023)). That argument is likewise refuted by the evidence.

500. Rather than identifying “completely free” SKUs, Complaint Counsel have mostly identified additional examples of products that have free offers with restrictions alongside paid options with additional features. (RX410 (Intuit); RX802 (Intuit); RX1505 (Intuit)). YouTube and Spotify, for example, each offer free versions of their products that require consumers to view ads in order to use them, alongside premium versions of the products that are ad-free and offer additional features, which are only accessible with payment of a monthly fee. (RX410 (Intuit); RX802 (Intuit)). Google similarly offers a basic free version of its mail service alongside a paid version that includes more features. (RX1505 (Intuit)). These examples confirm that consumers are familiar with (and thus would expect) free offers to have certain restrictions while being accompanied by paid options. (Golder (Intuit) Tr. 1091-1092, 1094).

501. Complaint Counsel also point to Facebook as an example of a completely free product. But the FTC contends that Facebook is not really free. (FTC’s Opposition to Motion to Dismiss at 11, *FTC v. Facebook*, No. 1:20-cv-03590 (D.D.C. Apr. 7, 2021), ECF No. 59). In any event, Facebook—like Google, YouTube, and Spotify—is nothing like a tax-preparation product and says nothing about what is commonplace in the tax-preparation market that is relevant to consumers’ understanding of TurboTax’s free offers.

3. Tax-Preparation Products Are High-Involvement Products That Reasonable Consumers Research At Length Before Selecting

502. Online tax-preparation products are “high-involvement products”—i.e., involve considerable consumer engagement—because they relate to significant financial transactions that involve substantial risk for consumers. (Golder (Intuit) Tr. 1074-1076). As Mr. Johnson

explained, selecting an online tax-preparation service or method is a significant event for taxpayers, in part because for many consumers, their tax refund is the largest paycheck they receive in a single year. (Johnson (Intuit) Tr. 577).

503. Because online tax-preparation products are high-involvement products, consumers engage in a correspondingly high-involvement purchase process. (Golder (Intuit) Tr. 1062-1063, 1075-1076; RX1018 (Golder Expert Report) ¶144; RX1017 (Hauser Expert Report) ¶102; RX546 (Intuit)). For instance, most consumers do not proceed directly from viewing a TV advertisement to filing their taxes online without encountering or investigating additional information sources. (Golder (Intuit) Tr. 1067-1068, 1076-1077; RX1018 (Golder Expert Report) ¶150). Instead, they research potential tax-filing options, consider their features, evaluate alternatives, and make a decision about which product is best for their needs. (Golder (Intuit) Tr. 1064-1067, 1078-1079, 1081; RX1555 (Kirk Fair (Intuit) Trial Dep.) at 56-57; Rubin (Intuit) Tr. 1585-1586; RX1018 (Golder Expert Report) ¶¶143-145; RX1017 (Hauser Expert Report) ¶102; RX1016A (Kirk Fair Expert Report) ¶20).

504. In selecting an online tax-preparation product, consumers engage in an individualized consumer buying process—a process that follows a well-recognized framework for understanding consumer behavior. (Golder (Intuit) Tr. 1055, 1061). The consumer buying process is often represented as a five-stage model, describing the typical series of activities and behavior that consumers engage in that result in a purchase decision: problem recognition, information search, evaluation of alternatives, purchase decision, and post-purchase behavior. (Golder (Intuit) Tr. 1065-1067; RX560 (Intuit) at 172-179; RX486 (Intuit); RX1018 (Golder Expert Report) ¶143, fig. 21). Consumers may pass through the buying process in their own personal way, skipping certain steps or returning and repeating prior steps throughout the

process. (Golder (Intuit) Tr. 1071-1074). The complexity and expense of a product or service can impact the level of consumer involvement in the consumer buying process. (Golder (Intuit) Tr. 1062-1063, 1072-1074; RX1018 (Golder Expert Report) ¶144).

505. In the information search—or research—stage of selecting a tax-preparation provider, consumers consider a variety of sources, including visiting tax-preparation websites and the IRS website, speaking with friends and family, reading reviews and testimonials, conducting internet searches, and consulting articles, rankings, and third-party reviews. (Johnson (Intuit) Tr. 600-601; Golder (Intuit) Tr. 1070-1071, 1078-1079, 1081-1087, 1105-1107; Yoeli (FTC) Tr. 1758-1759 (agreeing with Dr. Hauser’s Purchase Driver Survey results); RX1555 (Kirk Fair (Intuit) Trial Dep.) at 51-52, 56; RX1018 (Golder Expert Report) ¶¶143, 151, 157-161, fig. 24; RX1017 (Hauser Expert Report) ¶109; RX1016-A (Kirk Fair Expert Report) ¶¶23, 33-37, 47; RX57-A (Intuit) at 22; RX825 (Intuit); *see also* RX72 (Harford (Consumer) Dep.) at 57-59). On average, consumers use no fewer than three different sources when researching tax-preparation products. (RX1017 (Hauser Expert Report) ¶109).

506. Reasonable consumers’ skepticism of free offers also leads them to conduct additional research about those free offers, especially when encouraged to do so (as they are by the clear invitation in many of the challenged ads). (Golder (Intuit) Tr. 1096-1097). Conducting such research is consistent with the multi-step buying process that reasonable consumers engage in before selecting a tax-preparation product. (Golder (Intuit) Tr. 1062-1063, 1075-1076; RX1017 (Hauser Expert Report) ¶102; RX546 (Intuit)).

507. Consumers’ research into tax-preparation products as part of this high-involvement purchase process often includes considering different kinds of products, such as online DIY products, assisted tax-preparation products, and others. (RX1018 (Golder Expert

Report) ¶145; RX1555 (Kirk Fair (Intuit) Trial Dep.) at 15-16, 51, 56-57; RX1016-A (Kirk Fair Expert Report) ¶¶20, 34, 43).

508. Reasonable consumers often receive referrals from friends or conduct Google searches before deciding to use TurboTax or another tax-preparation provider. (GX135 (Phyfer (Consumer) Dep.) at 28; GX125 (Beck (Consumer) Dep.) at 27; RX70 (Beckett (Consumer) Dep.) at 51; RX72 (Harford (Consumer) Dep.) at 57-60).

509. During the consumer buying process, it is also common for consumers to “cross-shop” potential tax-filing options and simultaneously consider alternative DIY tax-preparation software and providers, along with TurboTax. (Rubin (Intuit) Tr. 1585-1586, 1610-1611; RX1018 (Golder Expert Report) ¶143). Consumers can view competitors’ websites “simultaneously” to “look at other software[] at the same time to decide which to use.” (Rubin (Intuit) Tr. 1586, 1610). As Dr. Yoeli acknowledged, consumers can “have more than one browser window open at a time,” such that they “could be in TurboTax and TaxSlayer at the same time.” (Yoeli (FTC) Tr. 1718-1719). Indeed, Intuit’s internal research confirms that consumers often engage in cross-shopping: [REDACTED]

[REDACTED]

(RX57-A (Intuit) at 25).

510. Intuit’s advertising at the top of the marketing funnel, *supra* ¶¶155-160, when consumers are just beginning to think about filing their taxes, is meant to “move [consumers] from being unaware to being aware” of their different tax filing options. (Golder (Intuit) Tr. 1106; *see also* Golder (Intuit) Tr. 1065-1069; RX1018 (Golder Expert Report) ¶153). Intuit’s brand advertising, therefore, simply aims to “drive awareness and consideration of the brand and

its products” as consumers start thinking about their different filing options. (GX146 (Ryan (Intuit) Dep.) at 22; RX582 (Intuit) at -1293).

511. Reasonable consumers expect and understand that information conveyed at the top of the marketing funnel will be limited, and that more information is available elsewhere. (Golder (Intuit) Tr. 1070-1071, 1105-1107, 1115-1117).

512. TurboTax ads for free SKUs provided disclosures about qualifications that were consistent with reasonable consumers’ expectations for advertising at the top of the marketing funnel. (Golder (Intuit) Tr. 1070-1071, 1105-1108; *supra* ¶¶205-301). The disclosures were located where consumers would expect to find them and provided enough detail to inform consumers about qualifications without confusing them. (*Supra* ¶¶205-301; *infra* ¶¶514-527).

513. Reasonable consumers’ “care and consideration” when evaluating tax-preparation options (Golder (Intuit) Tr. 1064, 1073-1074), the multi-step buying process they engage in before deciding to purchase a tax-preparation product, and their understanding that information conveyed in ads at the top of the marketing funnel will be limited, refutes any likelihood that those consumers would have simply assumed based on the challenged ads that all TurboTax SKUs were free or that TurboTax must be free for them when it was not.

4. Reasonable Consumers Know To Look For And Where To Find Qualifications For Free Offers In Advertisements

514. In addition to being familiar with free offers, reasonable consumers are also familiar with how those free offers are advertised, including where disclosures are likely to be located in an advertisement, and the fact that the disclosures do not necessarily include all information about a free offer’s qualifications. (Golder (Intuit) Tr. 1105-1108).

515. Reasonable consumers understand, for example, that TV ads of all kinds include disclosures at the bottom of the TV screen. (Golder (Intuit) Tr. 1111-1114; RX1018 (Golder Expert Report) ¶131). Reasonable consumers are also familiar with disclosures in TV ads being shorter than those found on websites. (Golder (Intuit) Tr. 1105-1106).

516. Moreover, when reasonable consumers see text at the bottom of the screen in a TV advertisement, they understand (whether or not they read the text) that the product or offering being advertised has qualifications or limitations. (Golder (Intuit) Tr. 1111-1114).

517. Reasonable consumers therefore knew to look for disclosures in free TurboTax TV ads at the bottom of the TV screen, and understood that those disclosures would not include all the information available about the qualifications for the free TurboTax offer. (Golder (Intuit) Tr. 1105-1106, 1111-1114; RX1018 (Golder Expert Report) ¶131).

518. Further, because reasonable consumers understand that text at the bottom of the TV screen during ads means there are qualifications for the product being advertised, consumers viewing free TurboTax TV ads understood from the disclosures on the bottom of the screen that the free offers being advertised were qualified, even if they did not read the disclosure text on the screen. (Golder (Intuit) Tr. 1111-1114).

519. Complaint Counsel did not offer any evidence disputing that reasonable consumers understand where disclosures appear in TV ads and that the existence of disclosures means the offer being advertised is qualified, even if consumers do not read the disclosures.

520. In addition to being familiar with disclosures in TV ads, reasonable consumers are familiar with disclosures in online ads and product websites. For instance, reasonable consumers are familiar with disclosures that are available by clicking a hyperlink—such as on the TurboTax website and display ads—and know in particular that hyperlinks are typically displayed in blue

text and that clicking that text will lead to a webpage with additional information. (Golder (Intuit) Tr. 1116-1117; RX1018 (Golder Expert Report) ¶182; Shiller (FTC) Tr. 209-210). Even complaining consumers identified by Complaint Counsel understood that the blue text on the TurboTax website indicated that there was a hyperlink and that by clicking on that link they could learn more about the qualifications for TurboTax’s free offers. (GX124 (Bodi (Consumer) Dep.) at 17; GX128 (Benbrook (Consumer) Dep.) at 28-29; GX135 (Phyfer (Consumer) Dep.) at 93; GX137 (DuKatz (Consumer) Dep.) at 64, 67).

521. Accordingly, reasonable consumers visiting the TurboTax website understood that additional information about the qualifications for free TurboTax offers was available by clicking on the hyperlinked disclosure text on the TurboTax website. (Golder (Intuit) Tr. 1116-1117; RX1018 (Golder Expert Report) ¶182; Shiller (FTC) Tr. 209-210); *see also* GX124 (Bodi (Consumer) Dep.) at 17; GX128 (Benbrook (Consumer) Dep.) at 28; GX135 (Phyfer (Consumer) Dep.) at 93; GX137 (DuKatz (Consumer) Dep.) at 64, 67).

522. Reasonable consumers similarly understand that online ads provide quick access to detailed information about the offer being advertised, which distinguishes online ads from other kinds of ads. As Professor Golder explained, “medium matters” because consumers interact with television and online ads differently. (Golder (Intuit) Tr. 1116-1117). Consumers viewing online ads—including display, paid-search, and email ads—understand based on experience that they can get additional information by clicking on the ads. (Golder (Intuit) Tr. 1116).

523. Consumers’ ability to quickly gain access to detailed information about a free offer, and consumers’ understanding that they can do so, reinforce that consumers do not expect that all information will be provided in an online ad or immediately jump to the conclusion that

they will qualify for a free offer. In fact, the evidence reflects not only that consumers do not expect those details to be provided in online ads, but that doing so is impossible in this industry, and also that consumers would be overwhelmed if full details were provided in that format. (Golder (Intuit) Tr. 1108, 1130, 1173-1176; *see also* Novemsky (FTC) Tr. 1780, 1821).

524. Reasonable consumers viewing online ads for free TurboTax offers thus understood that additional information was available by clicking on those ads, and they would not be misled into believing that all TurboTax SKUs were free or that a free TurboTax offer was necessarily free for them. (Golder (Intuit) Tr. 1116).

525. Complaint Counsel offered no evidence specific to online ads (or video ads or any other kind of ad) demonstrating that consumers were likely to be misled into believing that all TurboTax SKUs were free or that TurboTax would be free for them when it was not.

526. Reasonable consumers also understand that for any online product they can, and commonly do, visit the product website to explore details and gather information about a particular offering. (Johnson (Intuit) Tr. 600-601; Golder (Intuit) Tr. 1070-1071, 1105-1107).

527. Reasonable consumers therefore understood that they could visit the TurboTax website to learn more about free TurboTax SKUs, regardless of how they learned about the free offer. (Johnson (Intuit) Tr. 600-601; Golder (Intuit) Tr. 1070-1071, 1105-1107). That understanding would prevent reasonable consumers from immediately assuming based on the challenged ads that all TurboTax SKUs were free or that TurboTax must be free for them when it was not.

B. Professor Novemsky's Survey Is Fatally Flawed For Countless Reasons And Does Not Provide Reliable Evidence of Deception Or Anything Else

528. Beyond the ads themselves, Complaint Counsel seek to prove deception primarily through a perception study conducted by Professor Nathan Novemsky in March 2022 that he claims showed that many consumers who do not qualify for TurboTax Free Edition erroneously believe they do. (Novemsky (FTC) Tr. 360; GX303 (Novemsky Expert Report) ¶8).

529. But that survey is flawed in numerous ways and does not provide reliable evidence that reasonable consumers were deceived by TurboTax marketing. Surveys performed by other experts, moreover, confirm that consumers were not deceived.

1. Survey Design

530. Although Professor Novemsky opines that TurboTax marketing has *caused* consumers to wrongly believe that they can file their taxes for free using TurboTax, his survey did not test for causality. (Novemsky (FTC) Tr. 354, 362; Hauser (Intuit) Tr. 896-897, 900, 952-954; RX1017 (Hauser Expert Report) ¶¶27-29).

531. Testing causality requires a test-control experimental design in which participants in a “test” group are exposed to whatever subject matter is being studied, and participants in a “control” group are exposed to some kind of placebo stimulus (or no stimulus at all). (Hauser (Intuit) Tr. 847-850, 896-897, 900, 952-954; RX1017 (Hauser Expert Report) ¶27; RX1349 (Intuit) at 1840-1841). By examining the differences in responses between the two groups, researchers can isolate and measure any effect that the tested subject matter caused. (Hauser (Intuit) Tr. 847-850; RX1017 (Hauser Expert Report) ¶27).

532. As Professor Novemsky himself testified when serving as an expert in another case, it is “impossible” to “draw any causal inference” without “an experimental design that

includes a control group and a test group.” (RX1349 (Intuit) at 1841). Absent a control group, Professor Novemsky stated under oath, one cannot test what an “ad caused consumers to understand or not understand.” (RX1349 (Intuit) at 1840).

533. Professor Novemsky admits that his survey here did not use a test-control design. (Novemsky (FTC) Tr. 491-492, 494). He did not assign survey participants to “test” and “control” groups, and he did not show either group anything. (Novemsky (FTC) Tr. 491-492).

534. Indeed, although Professor Novemsky purports to draw a causal conclusion about TurboTax’s marketing, and although he went to the TurboTax website to determine the qualifications for Free Edition when designing his survey, he did not show participants any TurboTax advertisements or the TurboTax website. (Novemsky (FTC) Tr. 354, 399, 405-406, 408-410). And he did not ask any participants about their understanding of the written or verbal disclosures included in the challenged ads, or their understanding of the detailed information provided on the TurboTax website. (Novemsky (FTC) Tr. 1816, 1821-1823).

535. As Intuit’s survey expert, Dr. John Hauser, explained at trial, Professor Novemsky could have “give[n] just [the] TurboTax brand name to one group and then [the] TurboTax brand name plus advertising plus websites” to another group, and compared perceptions across the groups. (Hauser (Intuit) Tr. 900). But Professor Novemsky did not do that, and therefore his study does not prove that TurboTax ads “caused a change in perceptions.” (Hauser (Intuit) Tr. 900).

536. As Professor Novemsky himself put it, his survey was an “unaided test of respondents’ impressions at the time of the survey”—and thus a memory test, even though he conceded that “memory is not perfect” and survey participants “could have forgotten anything”

about TurboTax ads they had seen before. (GX749 (Novemsky Rebuttal Expert Report) ¶21, Novemsky (FTC) Tr. 460-462).

537. Despite the absence of a test-control design, Professor Novemsky opined that he could draw causal conclusions by ruling out possible alternative causes of consumer misimpression. (Novemsky (FTC) Tr. 530). But he did not undertake any experimental studies to eliminate other causes of consumer misimpression. (RX1392 (Novemsky (FTC) Dep.) at 89-91; Hauser (Intuit) Tr. 910-911).

538. Professor Novemsky also acknowledged that his survey measured the cumulative effect of “everything”—i.e., every possible source of information—“that was in the marketplace up until the time of [the] survey.” (Novemsky (FTC) Tr. 1827). In his words, participants answered his survey questions “having seen whatever they saw in the world”—which may or may not have included any TurboTax ads. (Novemsky (FTC) Tr. 405).

539. Professor Novemsky’s failure to employ a control group means that his survey results could have been caused by the ordering and phrasing of the survey questions themselves—i.e., by what researchers call “survey noise.” (Hauser (Intuit) Tr. 849-850, 896-897, 920-926, 940-945; RX1017 (Hauser Expert Report) ¶¶27-28, 33). Professor Novemsky could have asked a control group the same survey questions he asked his main survey group about TurboTax, but with a fictional brand name that does not conduct any marketing substituted for TurboTax. (Hauser (Intuit) Tr. 896-897). That would have enabled him to estimate the portion of his survey results caused by the survey instrument itself and subtract that out from his survey results concerning TurboTax. (Hauser (Intuit) Tr. 896-897). Because he did not do so, Professor Novemsky cannot rule out possible alternative causes within his own survey. (Novemsky (FTC) Tr. 405, 1827; Hauser (Intuit) Tr. 910-911, 953).

540. Given these failures, any causal conclusions that Professor Novemsky attempts to draw are scientifically invalid and unreliable. (Hauser (Intuit) Tr. 952-953; RX1017 (Hauser Expert Report) ¶26).

2. Survey Population

541. Professor Novemsky's survey is independently unreliable because it used a flawed population that was likely unfamiliar with TurboTax's product offerings or advertising.

542. Professor Novemsky screened out most individuals who attempted to take the survey: 12,249 people began the survey, but 10,508 of them were terminated due to their responses to screening questions. (GX303 (Novemsky Expert Report) ¶65 & App'x I). And given that additional respondents abandoned the survey, only 771 people ultimately completed it. (GX303 (Novemsky Expert Report) ¶¶65, 71 & App'x I; Novemsky (FTC) Tr. 463; RX1392 (Novemsky (FTC) Dep.) at 194-195). Of those 771 people, another 164 people opted-out, leaving his survey with just 607 participants, which equals a response rate of less than 5%. (GX303 (Novemsky Expert Report) ¶¶50-51, 65, 71 & App'x I; RX1392 (Novemsky (FTC) Dep.) at 194-195).

543. One critical group that Professor Novemsky excluded was all participants who qualify to file for free with TurboTax Free Edition. (Novemsky (FTC) Tr. 359, 419-420). This group constitutes over a third of all taxpayers in the United States, and over half of the taxpayers who would consider an online DIY tax-preparation product. (Novemsky (FTC) Tr. 419-420); Johnson (Intuit) Tr. 592-593, 657; Ryan (Intuit) Tr. 739; RX814 (Intuit) at -6786; GX303 (Novemsky Expert Report) ¶97 n.129).

544. That group is also the one Intuit targets with TurboTax Free Edition ads, and the one most likely to have seen the challenged ads. (Rubin (Intuit) Tr. 1530-1535; Johnson (Intuit) Tr. 618; Ryan (Intuit) Tr. 704; GX654 (Intuit)).

545. Thus, from the beginning, Professor Novemsky focused on a population that was comparatively *less* likely to have seen ads for TurboTax’s free products and offers. (Hauser (Intuit) Tr. 901-902).

546. In addition, Professor Novemsky excluded from his survey population all respondents who had already filed their Tax Year 2021 tax return by the time they took the survey in March 2022—a group that makes up approximately 60% of all U.S. taxpayers. (Novemsky (FTC) Tr. 416-417; Hauser (Intuit) Tr. 901).

547. These respondents, having recently been in the market for tax software, were more likely to be familiar with the qualifications for filing for free with TurboTax Free Edition and other competitor products. (Hauser (Intuit) Tr. 901; GX303 (Novemsky Expert Report) ¶22).

548. At trial, Professor Novemsky suggested that he designed his survey to include only participants who “are in the market for tax software, while they’re in that market.” (Novemsky (FTC) Tr. 379). But his survey did not ask any questions to determine whether the survey participants actually were “in the market” at the time they took the survey. (GX303 (Novemsky Expert Report) App’x E). In fact, Professor Novemsky acknowledged that he did not know whether any of his survey participants, at the time they took his survey, had even gathered their personal information or relevant documents needed to complete their tax returns. (Novemsky (FTC) Tr. 433-434).

549. Many of Professor's Novemsky's respondents likely were *not* in the market at the time of the survey: In Tax Year 2021, about 40% of the taxpayers in the United States who had not filed their taxes by March ultimately obtained an extension. (Hauser (Intuit) Tr. 902). There is no reason to believe that those taxpayers would be "in the market" for tax-preparation software or even thinking about their tax situation at the time of the survey. (Hauser (Intuit) Tr. 902-903). Nonetheless, Professor Novemsky did not take any measures to determine whether any of his survey respondents were getting an extension. (GX303 (Novemsky Expert Report) App'x E; Hauser (Intuit) Tr. 902).

550. Finally, Professor Novemsky designed "Group A" in his survey—which he called the "main group of interest"—to include only the survey participants who had not filed their taxes using TurboTax in at least the three previous years (and who potentially had *never* used TurboTax). (Novemsky (FTC) Tr. 413; GX303 (Novemsky Expert Report) ¶7).

551. Group A is particularly unlikely to have seen or paid attention to any recent TurboTax advertising. (Hauser (Intuit) Tr. 908). For starters, there is no way of knowing whether any Group A respondents had ever used a TurboTax SKU. (Hauser (Intuit) Tr. 907; Novemsky (FTC) Tr. 413). Nor is there any way of knowing whether any had ever visited the TurboTax website. (Hauser (Intuit) Tr. 908; Novemsky (FTC) Tr. 413). And Group A participants had an extensive history using tax-preparation products offered by TurboTax's *competitors*: 69.1% had filed their taxes with a competitor in the previous three years. (GX757 (FTC) at S120, S130; RX Summary 1).

552. Given all this, Group A members are likely to have been influenced by advertising from TurboTax *competitors*, rather than by TurboTax advertising. (GX757 (FTC) at S120, S130; Hauser (Intuit) Tr. 908, 911; RX Summary 1 (Intuit)). Thus, to the extent any

Group A members are under a misimpression about their ability to file their taxes for free, it is unlikely that the misimpression was caused by TurboTax advertising. (Hauser (Intuit) Tr. 908, 911).

553. Thus, in multiple ways, Professor Novemsky designed his survey population to exclude respondents likely to be familiar with TurboTax's products and advertising, while including respondents likely to be *unfamiliar* with TurboTax's products and advertising. These features of Professor Novemsky's survey raise serious concerns about the survey's reliability.

3. Survey Sample

554. Professor Novemsky's survey population was also subject to potential biases that render the survey unreliable.

555. One source of bias arises from respondents' ability to opt out of the survey after being informed of its sponsor (the FTC) and purpose. (Hauser (Intuit) Tr. 903-904; GX303 (Novemsky Expert Report) App'x E at 11; RX1017 (Hauser Expert Report) ¶¶41-42).

556. Once participants completed their responses to Professor Novemsky's survey, they were informed that:

This survey is being conducted on behalf of the United States Federal Trade Commission (FTC), the nation's consumer protection agency, in order to collect information about the reactions and experiences of potential customers to advertisements by Intuit, the maker of TurboTax. The FTC investigates unfair and deceptive conduct by companies. The information you provide could help us further our mission under the FTC Act to protect consumers.

(GX303 (Novemsky Expert Report) App'x E at 10-11). After being provided that information, participants were allowed to opt-out of the survey and have their submission deleted. (GX303 (Novemsky Expert Report) App'x E at 11).

557. Of the 771 participants who completed Professor Novemsky's survey, 164 (or 21%) chose to opt out. (Novemsky (FTC) Tr. 463-464; GX303 (Novemsky Expert Report) ¶¶50-51; RX1392 (Novemsky (FTC) Dep.) at 112). Professor Novemsky did not retain these people's survey responses, and he knows nothing about them. (Novemsky (FTC) Tr. 464; RX1392 (Novemsky (FTC) Dep.) at 117-118).

558. Providing survey participants the right to opt out after informing them of the survey's sponsor and purpose biases the results because participants who requested to opt out may differ substantially from respondents who do not opt out. (Hauser (Intuit) Tr. 903-904; RX1017 (Hauser Expert Report) ¶¶41-42). The FTC has acknowledged that "complete[] transparen[cy] about the nature or purpose of a survey," such as through the opt-out provided by Professor Novemsky, may "create bias in the consumers' decision to participate in the survey or potentially result in biased responses," which "would affect the accuracy and validity of the information collected and effectively nullify the survey." (RX89 (FTC) at -3919-3920).

559. For example, participants with more favorable views of TurboTax are much more likely than others to have opted out of Professor Novemsky's survey after learning that the survey was designed to be used *against* Intuit. (Hauser (Intuit) Tr. 903; RX1017 (Hauser Expert Report) ¶41).

560. Another source of likely bias in Professor Novemsky's survey is litigation awareness. (Hauser (Intuit) Tr. 905-906; RX1017 (Hauser Expert Report) ¶42).

561. It is typical in surveys conducted for use in litigation to ask respondents if they are familiar with any investigations or litigation relating to the issues or parties involved in the case, because such awareness may influence survey respondents' behavior. (RX1017 (Hauser Expert Report) ¶42).

562. Given the media coverage of the facts at issue in the FTC’s investigation into Intuit, and other disputes involving online tax-preparation companies, there is a substantial risk that the survey participants were aware of those disputes at the time of the survey. (RX1017 (Hauser Expert Report) ¶42 n.74; RX788 (Intuit)). Indeed, in a survey conducted by one of Intuit’s experts in this case, 24.4% of respondents indicated possible litigation awareness. (Hauser (Intuit) Tr. 905-906; RX1017 (Hauser Expert Report) ¶42 n.75).

563. Professor Novemsky, however, did not ask any questions to screen out participants in his survey who were aware of litigation or investigations involving Intuit or its competitors. (Novemsky (FTC) Tr. 469; GX303 (Novemsky Expert Report) App’x E). Nor did he do any testing to determine whether “litigation aware” survey respondents would have responded differently to his survey questions. (Novemsky (FTC) Tr. 470).

564. Thus, Professor Novemsky has no way of knowing whether litigation awareness amongst his survey participants affected his survey’s results. ((Hauser (Intuit) Tr. 905-906; RX1017 (Hauser Expert Report) ¶42).

565. Together, Professor Novemsky’s elimination of participants who chose to opt out after learning the survey’s sponsor and purpose, and his potential inclusion of “litigation aware” participants, raise substantial concerns about whether his survey population was biased. (RX1017 (Hauser Expert Report) ¶43). These facts call the survey’s reliability into even greater doubt.

4. Question TAT240

566. Professor Novemsky’s survey is scientifically invalid because the results were influenced by unreliable survey questions that led participants to provide answers favoring Complaint Counsel’s allegations.

567. One such question was “TAT240”—notably, the only question on which Professor Novemsky relied when he reported the percentages of his survey participants who were under a misimpression about their ability to file their taxes for free using TurboTax. (Novemsky (FTC) Tr. 427; Hauser (Intuit) Tr. 920; GX303 (Novemsky Expert Report) ¶¶68-69, App’x E at 7).

568. TAT240 was a closed-ended question, meaning respondents were asked to choose from one of multiple response options. (GX303 (Novemsky Expert Report) App’x E at 7; Hauser (Intuit) Tr. 920). TAT240 stated, in full:

Based on your current information and understanding, which of the following best describes your understanding of filing your 2021 income taxes for free with TurboTax?

Select one only.

1. I think I can file my 2021 income taxes for free with TurboTax
2. I don’t think I can file my 2021 income taxes for free with TurboTax
3. I do not have enough information to say whether or not I can file my 2021 income taxes for free with TurboTax
4. I’m not sure.

(GX303 (Novemsky Expert Report) App’x E at 8 (emphasis in original)).

569. Multiple aspects of TAT240 encouraged respondents to guess. (RX1017 (Hauser Expert Report) ¶46). By asking respondents to select the answer that “best describes” their “understanding,” TAT240 suggested to respondents that they were permitted to guess if they were unsure. (RX1017 (Hauser Expert Report) ¶46). Similarly, TAT240’s use of the phrases “I think” and “I don’t think” encouraged respondents who had doubts to select either “I think ... ”

or “I don’t think ...” rather than “I do not have enough information,” which was phrased more definitively and was not qualified with “I think.” (Hauser (Intuit) Tr. 922; RX1017 (Hauser Expert Report) ¶46).

570. Moreover, Professor Novemsky’s decision to emphasize “for free” in TAT240 likely signaled to respondents that Professor Novemsky wanted them to answer indicating that they could file for free. (Hauser (Intuit) Tr. 922).

571. This leading effect—which scientists often refer to as a “demand artifact”—was intensified by other aspects of the survey that survey participants would have seen before reaching TAT240. (Hauser (Intuit) Tr. 924-926; RX1017 (Hauser Expert Report) ¶44). A demand artifact is any aspect of a survey or experiment that causes participants to perceive, interpret, and act on what they believe is expected of them by the designer. (RX1017 (Hauser Expert Report) ¶44; Hauser (Intuit) Tr. 924). When a survey does not adequately safeguard against demand artifacts, the results are unreliable because they cannot be extrapolated to a real-life situation, where the demand artifact would not exist. (RX713 (Intuit) at 21).

572. Respondents’ answers to TAT240 were affected by a demand artifact because the question was preceded by three others that signaled to respondents that the survey designer wanted them to answer that TurboTax is free:

- S140 (one of the screening questions) asked, in relevant part: “In the past 3 years, have you ever filed your income tax returns using a TurboTax product that was free?”
- TAT220, part of the main survey questionnaire, asked: “What is your understanding about whether or not there is a cost to filing your own income taxes using TurboTax online software?”

- TAT230—the question that immediately preceded TAT240—asked: “You may have already said this above, but please tell us again, in your understanding, who, if anyone, can file their taxes for free using TurboTax online software?”

(GX303 (Novemsky Expert Report), App’x E, at 6-7; Hauser (Intuit) Tr. 923-924; RX1017 (Hauser Expert Report) ¶¶44, 54).

573. As Dr. Hauser explained, these other questions may have been “reasonable questions “by themselves,” but the “cumulative effect of asking about free” repeatedly was to signal to respondents that the researcher wanted them to choose “I think I can file ... for free” by the time they got to TAT240. (Hauser (Intuit) Tr. 923-924).

574. Several of Professor Novemsky’s survey participants confirmed that this was the case—when responding to TAT250, the question that immediately followed TAT240. (Hauser (Intuit) Tr. 924-925; RX1017 (Hauser Expert Report) ¶44).

575. TAT250 was an open-ended question, meaning that respondents were not asked to choose from a list of response options but instead had to answer in their own words. (GX303 (Novemsky Expert Report) App’x E at 8). TAT250 asked: “You may have already said this above, but please tell us again why you think you can file your 2021 income taxes for free using TurboTax online software?” (GX303 (Novemsky Expert Report) App’x E at 8).

576. Six answers to TAT250 expressly revealed the existence of a demand artifact, i.e., that respondents believed they could file for free only because of the survey itself:

- Respondent ID 5708 answered: “It’s been said a few times now during survey that you can file for free using TurboTax.”
- Respondent ID 1610 answered: “It is evident form [sic] the past questions that it is free.”

- Respondent ID 1175 answered: “I think I can file for free because it was mentioned in this survey and I have seen advertising for this product.”
- Respondent ID 5783 answered: “Because you keep yelling [sic] me I can.”
- Respondent ID 10394 answered: “Because this survey is suggesting that I can file it for free.”
- Respondent ID 1836 answered: “Just to be told that I can. I’m assuming since this has been asked 4 times that it must be free.”

(GX757 (FTC); RX1017 (Hauser Expert Report) ¶44 n.80).

577. These six responses, moreover, strongly suggest that many other respondents were influenced in the same way but did not voice it. (RX1017 (Hauser Expert Report) ¶44; Hauser (Intuit) Tr. 925-926).

578. These six responses further confirm that Professor Novemsky’s survey did not reliably assess whether consumers are under a misimpression about their ability to file for free using TurboTax. (RX1017 (Hauser Expert Report) ¶44; Hauser (Intuit) Tr. 925-926).

5. Blind Coding Of Responses To TAT220 And TAT230

579. Still more evidence of the unreliability of Professor Novemsky’s survey is in the answers to TAT220 and TAT230, the two open-ended questions that preceded TAT240. (GX303 (Novemsky Expert Report), App’x E, at 7-8; RX1017 (Hauser Expert Report) ¶54; Hauser (Intuit) Tr. 931-932, 934-935).

580. Professor Novemsky did not consider responses to TAT220 and TAT230 in determining who had a misimpression. (Novemsky (FTC) Tr. 427; Hauser (Intuit) Tr. 920).

581. Dr. Hauser analyzed the responses to TAT220 and TAT230. (Hauser (Intuit) Tr. 926-928, 931; RX1017 (Hauser Expert Report) ¶53). To ensure objectivity and prevent bias in

his own analysis, Dr. Hauser used a scientifically accepted process of having two blind coders who were not aware of the parties in this case, the hypotheses in this case, or respondents' answers to TAT240 review the responses to TAT220 and TAT230. (Hauser (Intuit) Tr. 926-928, 931). At trial, Complaint Counsel suggested that Dr. Hauser's coders "align[ed]" their coding for two of Professor Novemsky's questions, but that critique "misstat[ed] what [the coders] did." (Hauser (Intuit) Tr. 1015).

582. Based on each respondent's answers, the coders assigned each respondent to one of six categories. (RX1017 (Hauser Expert Report) App'x E-2; Hauser (Intuit) Tr. 928-929). The first four categories were identical to the four closed-ended response options to TAT240: (1) "I think I can file my 2021 income taxes for free using TurboTax online software"; (2) "I don't think I can file my 2021 income taxes for free using TurboTax online software"; (3) I do not have enough information to say whether or not I can file my 2021 income taxes for free using TurboTax online software"; and (4) "I'm not sure." (RX1017 (Hauser Expert Report) App'x E-2; GX303 (Novemsky Expert Report), App'x E at 8). The fifth and six categories were: (5) the respondent contradicted him- or herself, and (6) the respondent provided non-responsive open-ended responses. (Hauser (Intuit) Tr. 928).

583. Following the assignments, the coders' categorizations were compared to each respondent's answer to TAT240. (Hauser (Intuit) Tr. 929; RX1017 (Hauser Expert Report) ¶54).

584. In total, 44% of respondents to the survey (267 out of 607) provided answers to TAT220 and TAT230 that were inconsistent with their answer to TAT240. (Hauser (Intuit) Tr. 932-933; RX1017 (Hauser Expert Report) ¶54 & tbl. 1).

585. For example, Respondent ID 9900's answers to TAT220 and TAT230 were, "There is a free option, but my filings require paid," and "Anyone filing a basic 1040" can file

for free using TurboTax. (GX757 (FTC); *see also* RXD6 at 43). But Professor Novemsky treats Respondent ID 9900 as being under a definitive misimpression that they can file for free because they answered “I think I can file ... for free” in response to TAT240. (GX757 (FTC); *see also* RXD6 at 43).

586. To take another example, Respondent 1306’s answers to TAT220 and TAT230 were “I will have to pay a small fee” and “myself can file free.” (GX757 (FTC)). Despite these clearly contradictory responses, Professor Novemsky treats Respondent ID 1306 as being under a definitive misimpression that they can file for free because they answered “I think I can file ... for free” in response to TAT240. (GX757 (FTC)).

587. For these and the other respondents who provided inconsistent open-ended answers, there is substantial reason to doubt the reliability of their response to TAT240. (Hauser (Intuit) Tr. 934-935; RX1017 (Hauser Expert Report) ¶69). They could have, for example, been guessing, or they could have been led to answer “I think I can file ... for free” by the demand artifact in Professor Novemsky’s survey. (*Supra* ¶¶569-578). Whatever the reason, it is scientifically inappropriate for Professor Novemsky to conclude with any degree of confidence that they are under a misimpression about their ability to file for free. (Hauser (Intuit) Tr. 934-935; RX1017 (Hauser Expert Report) ¶69).

588. Once respondents’ open-ended answers to TAT220 and TAT230 are considered, the share of respondents who expressed a consistent belief that they could file for free is significantly lower (16.8%) than when one considers respondents’ closed-ended answers to TAT240 in isolation (43.2%). (RX1017 (Hauser Expert Report) ¶54 & tbl. 1); Hauser (Intuit) Tr. 932). These results reinforce that TAT240 was a scientifically invalid and unreliable means

of measuring consumers' impressions. (RX1017 (Hauser Expert Report) ¶¶54; Hauser (Intuit) Tr. 934-935).

589. Given that TAT240 was unreliable, the remainder of Professor Novemsky's survey results are also unreliable. Again, TAT240 was the sole question Professor Novemsky used to identify the population of respondents under a misimpression. Because Professor Novemsky's survey could not reliably assess that threshold question, it necessarily could not reliably assess the *source* of that misimpression. (Hauser (Intuit) Tr. 935).

6. Question TAT255

590. Apart from TAT240's flaws, there are additional reasons Professor Novemsky's survey could not have reliably identified the source of the purported misimpression. (Hauser (Intuit) Tr. 940-948; RX1017 (Hauser Expert Report) ¶¶55-62). Not only was Professor Novemsky's survey unable to test causality (*supra* ¶¶530-538), but it also used unreliable questions that (again) led survey participants to provide answers favoring Complaint Counsel's allegations. (Hauser Intuit) Tr. 940-948; RX1017 (Hauser Expert Report) ¶¶55-62).

591. The only question that Professor Novemsky relied on to identify the source(s) of information that caused participants' purported misimpression was TAT255. (GX303 (Novemsky Expert Report) ¶¶77-78 & fig. 2; Novemsky (FTC) Tr. 362). But TAT255 was both leading on its own and affected by a demand artifact created by other questions. (Hauser (Intuit) Tr. 940-948; RX1017 (Hauser Expert Report) ¶¶55-62).

592. TAT255 was a closed-ended multiple-choice question that read as follows:

You have stated that you think you can file your 2021 income taxes for free using TurboTax online software. Which of the following sources played a role in you forming that impression?

Select all that apply.

- (1) TurboTax advertisements
- (2) TurboTax website
- (3) Word-of-mouth (such as information from family, friends, etc.)
- (4) Advice from a financial professional (such as an accountant or a tax-preparer)
- (5) Information online not from TurboTax (such as articles on websites, blog posts, etc.)
- (6) Other
- (7) Don't know / Not sure

(GX303 (Novemsky Expert Report), App'x E, at 8).

593. Thus, two of the five substantive answers to TAT255—“TurboTax advertisements” and “TurboTax websites”—conform to Complaint Counsel’s allegations in this case. (GX303 (Novemsky Expert Report) App'x E, at 8; Hauser (Intuit) Tr. 941).

594. Moreover, respondents were particularly likely to select “TurboTax advertisements” and “TurboTax websites” because of still another demand artifact: Across the five questions that preceded TAT255 in the main questionnaire (that is, the portion after the screening questions), Professor Novemsky’s survey mentioned “TurboTax” 12 times. (GX303 (Novemsky Expert Report) App'x E at 1-8; Hauser (Intuit) Tr. 940; RX1017 (Hauser Expert Report) ¶57). The effect of this repetition was to suggest to survey participants that the survey writer wanted them to choose “TurboTax advertisements” and “TurboTax website” in response to TAT255. (Hauser (Intuit) Tr. 940-941; RX1017 (Hauser Expert Report) ¶57).

595. As noted (*supra* ¶539), if Professor Novemsky had used a control group with a fictional tax brand (or even other real tax brands), he could have measured the magnitude of this effect and removed it from his final results. (Hauser (Intuit) Tr. 948-949). But because

Professor Novemsky did not use a control group, his results are infected by this survey noise. (Hauser (Intuit) Tr. 948-949).

596. TAT255 was also unreliable because the list of answer choices is incomplete. (Hauser (Intuit) Tr. 942-943; RX1017 (Hauser Expert Report) ¶58).

597. When drafting a closed-ended question for a survey, the best practice is to perform open-ended, qualitative interviews with prospective survey participants, and use those interviews to inform the response options to provide in the final version of the closed-ended question. (Hauser (Intuit) Tr. 942). Professor Novemsky did not do so (for any of his questions). (Novemsky (FTC) Tr. 472-473). Instead, he stated, he “tried to list the sources that [he] knew of that were plausible.” (RX1392 (Novemsky (FTC) Dep.) at 166).

598. Professor Novemsky omitted multiple plausible sources, though: For example, TAT255 did not expressly include, as an answer choice, the respondent’s personal experience. (GX303 (Novemsky Expert Report) App’x E at 8; Novemsky (FTC) Tr. 500). Nor did it explicitly include the advertisements or websites of TurboTax’s competitors. (GX303 (Novemsky Expert Report) App’x E, at 8; Novemsky (FTC) Tr. 499-500).

599. That competitive advertising, moreover, has frequently mentioned TurboTax by name, and noted that TurboTax offers free tax software to certain consumers. H&R Block, for example, has run multiple ads saying: “More people can file free with H&R Block online than TurboTax.” (RX1337 (Intuit)). H&R Block’s website likewise has included a page titled “H&R Block Free Online vs. TurboTax Free Edition: Get more FREE with Block.” (RX769 (Intuit)).

600. These omissions are particularly concerning for TAT255’s reliability because (as noted *supra* ¶551) 69% of the participants in Group A (Professor Novemsky’s main survey group) had filed their taxes with TurboTax’s competitors in the previous three tax years,

including 28.7% with H&R Block. (Hauser (Intuit) Tr. 943; GX303 (Novemsky Expert Report) ¶7; RX Summary 1 (Intuit)). And 0% had filed their taxes using a TurboTax product in the last three years. (Hauser (Intuit) Tr. 943; RX Summary 1 (Intuit)).

601. Members of Group A were thus especially likely to have been influenced by advertising from TurboTax competitors and their experience using those competitors, rather than by TurboTax advertising. (GX757 (FTC) at S120, S130; Hauser (Intuit) Tr. 908, 911; RX Summary 1 (Intuit)). That competitor advertising and those experiences may have led Group A participants to believe that the qualifications for TurboTax's free product were similar to other free products in the marketplace, and would permit them to file for free. (Hauser (Intuit) Tr. 908, 911; Yoeli (FTC) Tr. 1745).

602. That TAT255 included "Other" as an answer choice does not cure these flaws, because survey participants are more likely to choose specific choices than a catchall response like "Other." (Hauser (Intuit) Tr. 945; RX1017 (Hauser Expert Report) ¶58).

603. Lastly, the answers to TAT255 are unreliable because survey participants cannot be expected to reliably answer the question from memory. (Hauser (Intuit) Tr. 945-946, 948; RX1017 (Hauser Expert Report) ¶¶56, 58-59, 61).

604. It is well-established that individuals commonly have "source amnesia," meaning difficulty accurately recalling the source from which they obtained information. (Hauser (Intuit) Tr. 946-947; RX1017 (Hauser Expert Report) ¶59).

605. Because of source amnesia, answers to questions about the source from which respondents obtained information are less reliable than answers to questions that ask what respondents *did* or *saw*. (Hauser (Intuit) Tr. 946).

606. Rather than ask what respondents did or saw, TAT255 asked the source from which they learned something—it asked them to identify the “sources [that] played a role in you forming th[e] impression about their ability to file their taxes for free using TurboTax.” (GX303 (Novemsky Expert Report) App’x E at 8; Hauser (Intuit) Tr. 946-947; RX1017 (Hauser Expert Report) ¶59). TAT255 is precisely the kind of question that individuals cannot be expected to answer accurately. (Hauser (Intuit) Tr. 945, 948; RX1017 (Hauser Expert Report) ¶¶56, 58, 61).

607. Each of TAT255’s flaws by itself rendered TAT255 unreliable, but the flaws likely compound one another. (RX1017 (Hauser Expert Report) ¶61). When presented with an unreliable memory test and an incomplete list of answer choices that emphasizes TurboTax, it is extremely unlikely that the participants in Professor Novemsky’s survey would accurately recall the sources of their impressions about their ability to file their taxes for free using TurboTax. (Hauser (Intuit) Tr. 945, 948; RX1017 (Hauser) Report ¶62).

7. Professor Novemsky Overstates His Survey Results

608. The final flaw in Professor Novemsky’s analysis is that he substantially overstates his survey’s findings. (Hauser (Intuit) Tr. 951-952); RX1017 (Hauser Expert Report) ¶¶68-70). According to Professor Novemsky, his survey shows that Intuit’s marketing deceived “tens of millions” of consumers into thinking they could file for free. (Novemsky (FTC) Tr. 421).

609. On their face, Professor Novemsky’s results are dubious: According to Professor Novemsky, his survey showed that 52.7% of his respondents mistakenly believed that they could file for free, and that 72% of those respondents attributed that belief to TurboTax ads and/or the TurboTax website. (Novemsky (FTC) Tr. 360-362, 420-421). But in Intuit’s TY20 Copy Test (*infra* ¶¶687-701)—a test Professor Novemsky himself relied on as evidence that the challenged ads cause viewers to believe “they can use TurboTax for free” (GX303 (Novemsky Expert

Report) ¶97)—when respondents were, like Professor Novemsky’s survey participants, presented with only the TurboTax brand name and no ads, only 33% of respondents believed they could file for free. (GX460 (Intuit) at 28). Moreover, the TY20 Copy Test did not include any of the flaws that Professor Novemsky’s survey included: No one has disputed that the TY20 Copy Test was conducted reliably. (Novemsky (FTC) Tr. 501; Hauser (Intuit) 877-878). And the survey population in the TY20 Copy Test was broader than Professor Novemsky’s in that it included taxpayers who actually would qualify to file for free. (GX460 (Intuit) at 2; Ryan (Intuit) Tr. 736, 740).

610. Given that the TY20 Copy Test included taxpayers who actually qualified to file for free, one would expect the TY20 Copy Test to report a higher percentage of participants who believed they could file for free than Professor Novemsky’s survey. (Hauser (Intuit) Tr. 913-914). The fact that the opposite was true—that Professor Novemsky’s survey reported a substantially higher percentage of respondents believing they could file for free when compared to the TY20 Copy Test—is further evidence that Professor Novemsky’s methodological flaws influenced his survey’s results. (Hauser (Intuit) Tr. 913-914).

611. Similarly, in Dr. Hauser’s Disclosure Efficacy Survey (*infra* ¶¶722-745), which also included taxpayers who would qualify to file for free, roughly one third of all participants indicated that they would actually start in Free Edition. (Hauser (Intuit) Tr. 912-913). Dr. Hauser explained that his Disclosure Efficacy Survey was not measuring the exact same thing as Professor Novemsky, but the two surveys were measuring the same basic “construct,” so a scientist would expect them to be “in about the same place,” and yet they are not. (Hauser (Intuit) Tr. 913).

612. As Dr. Hauser put it at trial, Professor Novemsky's results do not pass the "smell test relative to the numbers we've seen elsewhere" and would make any reputable scientist "want to see if we have some good explanations as to why the 52.7% is just high relative to these other numbers." (Hauser (Intuit) Tr. 913-916).

613. As discussed, the numerous flaws with Professor Novemsky's survey provide several explanations as to why his results are so different from the other evidence available in this case.

614. In addition to those flaws, a close examination of his survey data reveals that only a very small percentage of the respondents who attributed their misimpression to the TurboTax advertisements and/or website did so with any reasonable degree of reliability. (Hauser (Intuit) Tr. 951-952); RX1017 (Hauser Expert Report) ¶69).

615. As an initial matter, when reporting his results at trial, Professor Novemsky focused on only his Group A respondents. (Novemsky (FTC) Tr. 360-362, 411-413; GX303 (Novemsky Expert Report) figs. 1 & 2). When looking at the full survey population of 607 respondents, 190 of them (or 31.3%) both answered TAT240 that they believed they could file for free with TurboTax in Tax Year 2021 and chose either "TurboTax advertisements" or "TurboTax website" as a "source[]" of that belief in response to TAT255. (GX303 (Novemsky Expert Report) ¶79 & fig. 2; GX757 (FTC); RX1392 (Novemsky (FTC) Dep.) at 207).

616. Of those 190 participants, 116 provided inconsistent responses about their ability to file their taxes for free across the open-ended questions (TAT220/TAT230) and the closed-ended one (TAT240). (RX1017 (Hauser Expert Report) ¶69 & fig. 5; Hauser (Intuit) Tr. 952). As noted (*supra* ¶¶584-588), the TAT240 answers for those 116 people are not reliable and

cannot be treated as valid evidence of deception. (RX1017 (Hauser Expert Report) ¶69; Hauser (Intuit) Tr. 934-935).

617. Of the 74 remaining participants in Professor Novemsky's survey, 40 also selected responses to TAT255 in addition to "TurboTax advertisements" and "TurboTax website." (RX1017 (Hauser Expert Report) ¶70 & fig. 5; Hauser (Intuit) Tr. 952).

618. As to those 40 participants who selected additional responses to TAT255 beyond "TurboTax advertisements" and "TurboTax website," Professor Novemsky did nothing to determine what was the principal source of the person's impression, or otherwise to disentangle the relative roles played by the multiple sources identified. (Novemsky (FTC) Tr. 459-460).

619. The survey results for those 40 participants therefore are not reliable either, meaning they cannot be treated as evidence of deception. (Hauser (Intuit) Tr. 952; RX1017 (Hauser Expert Report) ¶70).

620. This leaves only 34 of the participants who (1) answered TAT240 that they believed they could file for free with TurboTax in Tax Year 2021, (2) chose *only* "TurboTax advertisements" and/or "TurboTax website" as a "source[]" of that belief in response to TAT255, and (3) did not provide inconsistent responses about their ability to file their taxes for free. (RX1017 (Hauser Expert Report) ¶70 & fig. 5; Hauser (Intuit) Tr. 952).

621. Those 34 participants represent 5.6% of the 601 total participants who completed Professor Novemsky's survey and chose not to opt out—and only 4.4% of the 771 total participants when opt-outs are included. (RX1017 (Hauser Expert Report) ¶70 & fig. 5; Hauser (Intuit) Tr. 952; Novemsky (FTC) Tr. 463).

622. Given the numerous others flaws with Professor Novemsky's survey (*supra* ¶¶530-621), the survey does not provide reliable evidence that even those 34 participants were

misled or deceived by TurboTax advertising about their ability to file their income taxes for free using TurboTax. (Hauser (Intuit) Tr. 952-954). Given that Professor Novemsky did not use a test-control design, he has no way of drawing causal inferences with respect to those 34 respondents. (Hauser (Intuit) Tr. 952-953). And without a control group in particular, he has no way of ensuring that the survey itself did not influence those 34 respondents' answers. (Hauser (Intuit) Tr. 952-953). Regardless, 4.4% (or even 5.6%) is not a significant minority of individuals. The survey simply does not show that any significant number of reasonable consumers were misled by the challenged ads into believing that they could file for free using TurboTax.

C. The Small Number Of Consumer Complaints Lodged Over Intuit's Advertising Proves That No Significant Minority Of Reasonable Consumers Was Deceived

623. The miniscule number of complaints identified and put forward by Complaint Counsel is strong evidence that the challenged ads were not likely to mislead a significant minority of reasonable consumers about their ability to file for free using TurboTax. (RX1018 (Golder Expert Report) ¶84; Golder (Intuit) Tr. 1193-1196, 1208-1213).

624. Consumers who expect to receive a product for free but ultimately have to pay for it would normally be angry, and such anger would manifest itself in a high rate of consumer complaints and low customer retention for the company in question. (Golder (Intuit) Tr. 1189-1191, 1213-1214). As an article cited by Complaint Counsel's rebuttal witness Erez Yoeli and written by Nobel Prize-winning economist George Akerlof explains, "Brand names" (like the TurboTax brand) "give the consumer a means of retaliation if the quality does not meet expectations," including by "curtail[ing] future purchases." (RX1370 (FTC) at 499-500; Yoeli (FTC) Tr. 1739-1740). Likewise, academic marketing literature explains that complaints are a

“major source of information on the quality of products and companies.” (RX1552 (FTC) at 168). “Customer complaints ... represent critical turning points in [a] company’s relationship with its customers” and “are associated with a substantial increase in the probability that the customer stops buying.” (RX562 (Intuit) at 42).

625. If consumers expected to file for free when they began using a TurboTax SKU but could not do so—particularly on account of what Complaint Counsel have called “a multi-year, multi-channel, multi-modal, multi-ad integrated marketing campaign”—they would express anger over that fact in reporting their experiences using the product, including in complaints, product reviews, and ratings. (Johnson (Intuit) Tr. 559-562, 678-679; Golder (Intuit) Tr. 1057-1058, 1193-1194, 1212-1213; RX1018 (Golder Expert Report) ¶¶25, 36-37, 50). Indeed, a meaningful volume of consumer complaints is a “clear signal” of deception. (Golder (Intuit) Tr. 1189-1191, 1193-1194, 1213-1214).

626. The record does not show a meaningful volume of consumer complaints. (RX1018 (Golder Expert Report) ¶¶68, 83-84; Golder (Intuit) Tr. 1057-1058, 1189-1190).

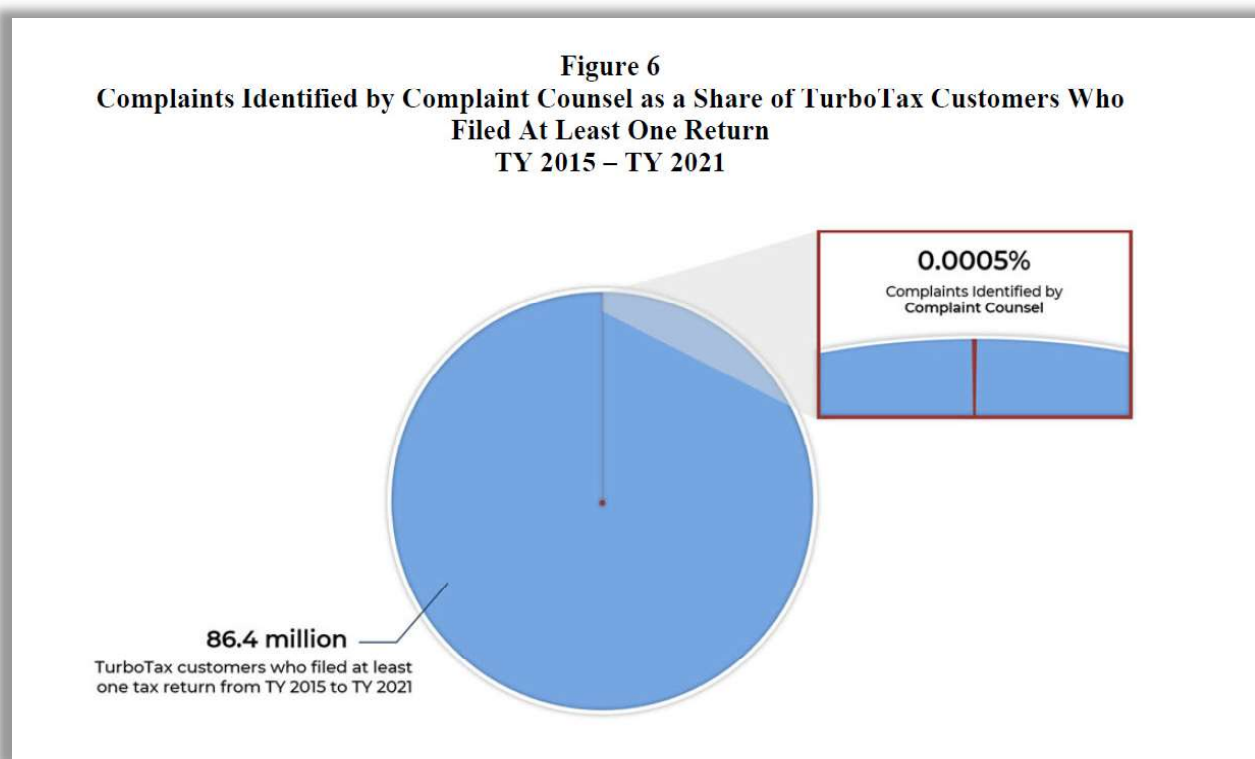
627. Seeking to carry their burden of proving that the challenged TurboTax ads are deceptive, Complaint Counsel have relied on complaints in the “Consumer Sentinel” database, an FTC database that collects complaints from consumers, as well as from state attorneys general, the Better Business Bureau (“BBB”), other federal agencies, and others. (Shiller (FTC) Tr. 144-145, 150; Baburek (FTC) Tr. 336).

628. The database collects complaints from a wide variety of sources to which consumers might complain. (Golder (Intuit) Tr. 1194-1195). Consumers can file complaints that end up in the database by, for example, submitting them online, calling the FTC, contacting their state attorney general’s office, or visiting the BBB website. (Shiller Tr. 145, 149-151).

629. These methods for filing a complaint with the FTC are well-known and relatively easy for consumers to find. (Golder (Intuit) Tr. 1057, 1236-1237). That is especially true for a population of consumers sufficiently comfortable online to prepare their taxes online.

630. Despite the Sentinel database's comprehensiveness and accessibility, Complaint Counsel have identified a miniscule number of complaints that support their allegations: As of December 2022, Complaint Counsel had identified 396 complaints that they contended were relevant to the allegations in this case—but by February 2023, Complaint Counsel had winnowed those 396 down to 228 complaints filed in the Sentinel database between January 1, 2016, and March 28, 2022. (RX277 (FTC) at 3; RX357 (FTC); Complaint Counsel's Pretrial Brief at 25 (Feb. 17, 2023); Shiller (FTC) Tr. 270-271; RX1018 (Golder Expert Report) ¶¶68-69).

631. Even if all 396 complaints initially relied on by Complaint Counsel were relevant and reliable, they represent only 0.0005% of the 86.4 million TurboTax customers who filed at least one return from Tax Year 2015 to Tax Year 2021. (Golder (Intuit) Tr. 1195-1196; RX1018 (Golder Expert Report) ¶¶68, 82). A chart depicting the 396 complaints identified by Complaint Counsel compared to the total number of TurboTax customers who filed at least one return from Tax Year 2015 to Tax Year 2021 is provided below. (RX1018 (Golder Expert Report) ¶¶68-69, fig. 6).



632. The 228 complaints ultimately offered by Complaint Counsel represent just 0.0003% of the 86.4 million TurboTax customers who filed at least one tax return from Tax Year 2015 to Tax Year 2021. (RX1018 (Golder Expert Report) ¶68; Golder (Intuit) Tr. 1195-1198).

633. Although any customer complaints must be verified to be reliable, Complaint Counsel expended “minimal to nonexistent” effort to do so, as they did not confirm complainants’ identities, tax-filing history, or use of TurboTax. (Golder (Intuit) Tr. 1198-1200; RX1018 (Golder Expert Report) ¶78; RX1390 (Shiller (FTC) Dep.) at 20, 56-57, 115-116, 189-192).

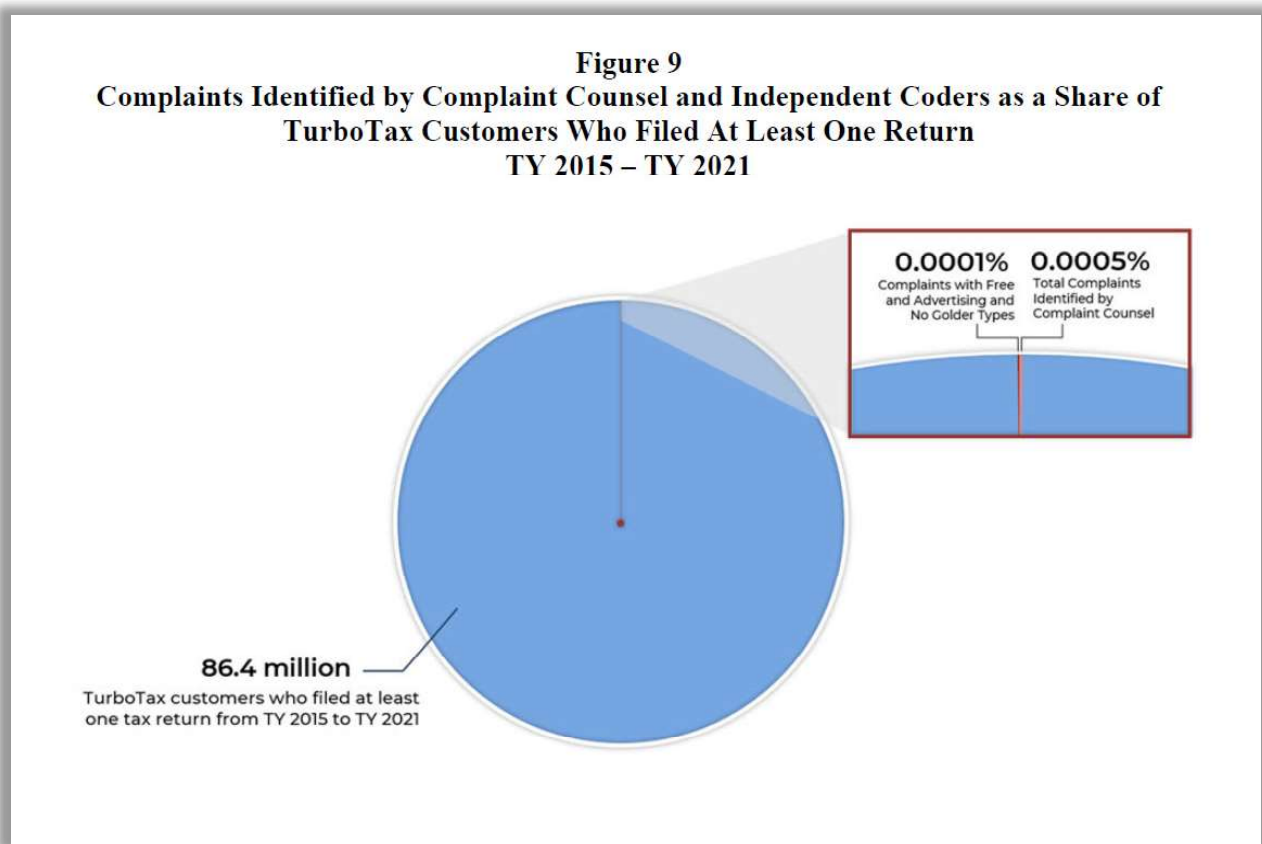
634. Many of the 228 complaints are not related to the challenged advertisements or are not based on the complainant’s personal knowledge. Complainants testified that they were not misled by any TurboTax advertising (GX123 (Lee (Consumer) Dep.) at 41-43), or that their beliefs about their ability to file for free using TurboTax were wholly unrelated to TurboTax’s

advertising (GX136 (Schulte (Consumer) Dep.) at 71-72). One complainant even clarified that his complaint was “not about advertising for the TurboTax product” at all, stating, “I was not misled—through ads or otherwise—about whether I would qualify for TurboTax Free Edition.” (RX344 (Parvez (Consumer) Decl.) ¶¶8-9). Several other complaints focused on the IRS’s Free File program, a government program entirely separate from TurboTax’s Free Edition product. (GX136 (Schulte (Consumer) Dep.) at 19, 21-22; GX125 (Beck (Consumer) Dep.) at 60). And other complainants admitted to being inspired to complain by ProPublica’s mistaken reporting, merely parroting those allegations without describing any personal experiences using TurboTax that would suggest they were misled by TurboTax free advertising. (GX128 (Benbrook (Consumer) Dep.) at 51-52; GX138 (Adamson (Consumer) Dep.) at 46-47; *see also* Intuit’s Motion in Limine to Exclude Complaints at App’x G (Feb. 10, 2023) (identifying complaints referencing reporting about Intuit’s marketing practices, the FTC’s investigation, or litigation against Intuit); RX1018 (Golder Expert Report) ¶77 & fig. 7).

635. And many of the 228 complainants offered testimony indicating that they understood both that free TurboTax SKUs were qualified and the phrase “simple tax returns.” (GX136 (Schulte (Consumer) Dep.) at 70; GX124 (Bodi (Consumer) Dep.) at 15-16, 39; GX128 (Benbrook (Consumer) Dep.) at 28-29, 56; GX130 (Tew (Consumer) Dep.) at 21, 37-39, 46, 54; GX137 (Dukatz (Consumer) Dep.) at 64, 67-68; GX123 (Lee (Consumer) Dep.) at 28-29; GX135 (Phyfer (Consumer) Dep.) at 66, 80; GX138 (Adamson (Consumer) Dep.) at 44, 69-70; *see also* RX71 (Rozar (Consumer) Dep.) at 43, 60; RX70 (Beckett (Consumer) Dep.) at 74-77; RX72 (Harford (Consumer) Dep.) at 161).

636. Professor Golder, through independent coders who were blind to the hypotheses in this case, analyzed the complaints identified by Complaint Counsel and found that only 120

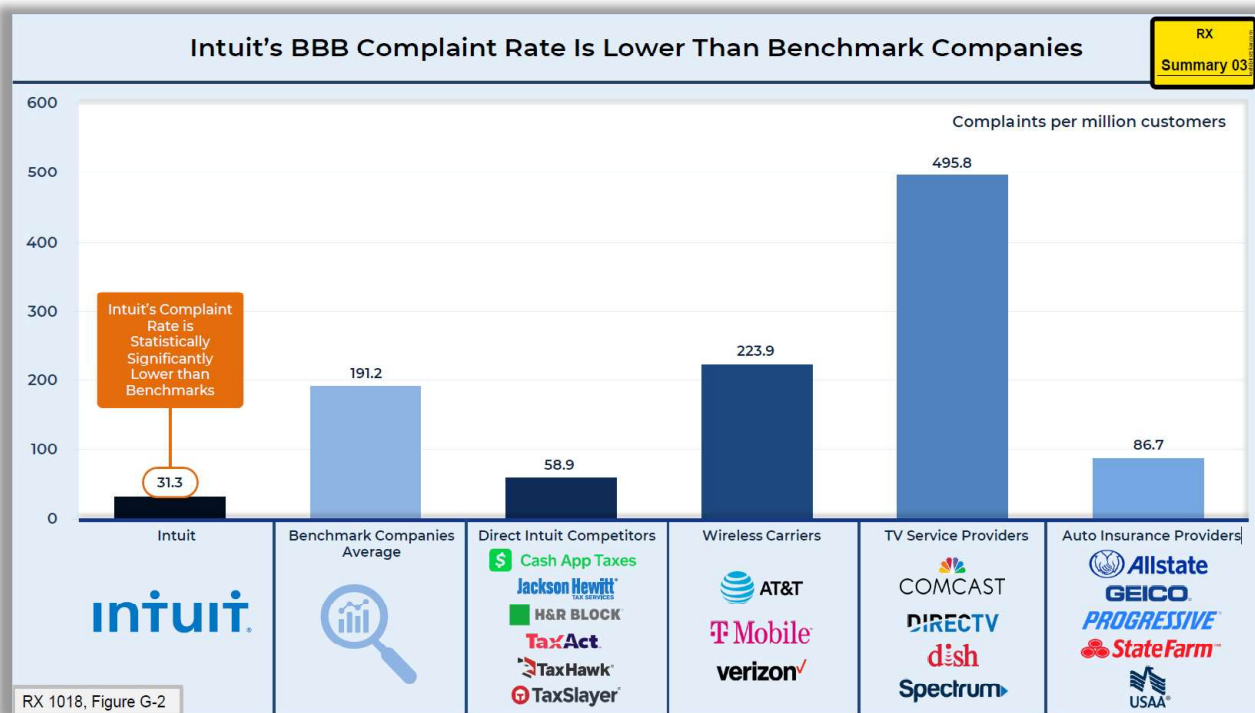
were potentially relevant to Complaint Counsel's allegations in this case. (Golder (Intuit) Tr. 1199-1201, 1207-1208; *see also* RX1018 (Golder Expert Report) ¶¶71-82). This represents only 0.0001% of the TurboTax customers during the six-year period of complaints. (Golder (Intuit) Tr. 1207-1208; RX1018 (Golder Expert Report) ¶¶68, 82). A chart depicting the 120 potentially relevant complaints compared to the total number of TurboTax customers who filed at least one return from Tax Year 2015 to Tax Year 2021 is provided below. (RX1018 (Golder Expert Report) ¶82, fig. 9).



637. However counted, the number of complaints is microscopic compared to the number of views, impressions, and clicks that the challenged ads received: Two TurboTax Free Edition YouTube ads alone received over 15 million views in total. (Shiller (FTC) Tr. 272).

Likewise, in Tax Years 2020 and 2021, TurboTax Free Edition ads generated over 15 *billion* impressions and were clicked on over 130 million times. (Baburek (FTC) Tr. 338). Over that same period, only 44 Sentinel complaints were filed. (Baburek (FTC) Tr. 338; Complaint Counsel's Pretrial Brief at 25 (Feb. 17, 2023)). Even considering only the advertisement clicks from Tax Years 2020 and 2021, and ignoring consumers who would have seen ads through other mediums in other years, the full set of 228 complaints amounts to just 0.000175% of those who clicked on a TurboTax ad.

638. Intuit's rate of BBB complaints (31.3 complaints per million customers) is also statistically significantly less than the complaint rate of 18 benchmark companies (including TurboTax competitors H&R Block, TaxAct, TaxSlayer, FreeTaxUSA, and Cash App Taxes), who incurred an average of 191.2 complaints per million customers. (Golder (Intuit) Tr. 1211; RX1018 (Golder Expert Report) ¶¶86-89, fig. 10, App'x G, fig. G-2). A chart depicting TurboTax's complaint rate compared to benchmark companies is provided below. (RX Summary 3 (Intuit); RX1018 (Golder Expert Report) ¶89, fig. 10, App'x G, fig. G-2).



639. If, as Complaint Counsel contended, Intuit engaged in a multi-year, multi-channel, multi-modal scheme to deceive customers, the number of consumer complaints would be many orders of magnitude greater. (Golder (Intuit) Tr. 1211; RX1018 (Golder Expert Report) ¶89, fig. 10).

640. Intuit's rate of BBB complaints is similarly much less when compared to well-known instances of recent deception, which yielded "substantially higher" complaint rates. (Golder (Intuit) Tr. 1212-1213; RX1018 (Golder Expert Report) ¶¶89-90, fig. 10). For example, Chime Financial—which has faced public allegations of defrauding customers—has a rate of 589.8 BBB complaints per million customers, compared to Intuit's rate of 31.3. (Golder (Intuit) Tr. 1212-1213; RX1018 (Golder Expert Report) ¶90).

641. The complaint rate here also pales in comparison to that found in other FTC consumer protection cases. (RX1552 (FTC) at 171; Yoeli (FTC) Tr. 1750-1751). An article

cited by Dr. Yoeli and written by Devesh Raval while working at the FTC's Bureau of Economics calculates the complaint rate for nine FTC consumer-protection cases by comparing Sentinel Network complaints to the population of consumers allegedly harmed by the unlawful conduct. (RX1552 (FTC) at 168-171; RX1362 (Yoeli Expert Report) ¶130; Yoeli (FTC) Tr. 1746-1749). The article, entitled "Whose Voice Do We Hear in the Marketplace? Evidence from Consumer Complaining Behavior," calculated the rate for those nine cases as between 0.35 and 143.8 complaints per 1,000 victims. (RX1552 (Intuit) at 171; Yoeli (FTC) Tr. 1750).

642. As Dr. Yoeli conceded, if one accepted Professor Novemsky's assertion that a little more than half of TurboTax's 24 million paying customers each year were deceived, Intuit's complaint rate per 1,000 customers over the course of seven years would be 0.0025, far below the *lowest* number of complaints in any of the cases cited in Dr. Raval's analysis. (Yoeli (FTC) Tr. 1750-1751; *see also* Novemsky (FTC) Tr. 420-421).

643. If one accepted Professor Novemsky's assertion that a little more than half of the approximately 100 million U.S. taxpayers who do not qualify to file for TurboTax's free SKUs were deceived each year, Intuit's complaint rate per 1,000 customers over seven years would be 0.0006 (i.e., 228 complaints out of 368.9 million supposed instances of deception). (Novemsky (FTC) Tr. 420-421).

644. And even if one took Professor Novemsky's most conservative estimate that 30 million total consumers were deceived, Intuit's complaint rate per 1,000 consumers would be .0076, still far lower than the lowest rate cited in Dr. Raval's analysis. (Novemsky (FTC) Tr. 420-421; RX1552 (Intuit) at 171).

645. Dr. Yoeli conceded that based on his presumption that at least 100 million consumers could have been deceived, Intuit's complaint rate would be so low that he "can't keep track of the zeros." (Yoeli (FTC) Tr. 1752).

646. That Intuit's complaint rate in this case is substantially lower than the rate in other FTC consumer-protection cases is strong evidence that consumers were not misled or deceived by Intuit's free TurboTax advertising. (Golder (Intuit) Tr. 1184-1197, 1208-1213; RX1018 (Golder Expert Report) ¶¶21, 68-93; *see also* Yoeli (FTC) Tr. 1749-1752; RX1552 (FTC) at 4).

647. The Court agrees with Intuit's Vice President Jack Rubin, who testified that "if Intuit had run a multiyear, multi-ad, multichannel, multimodal, integrated marketing campaign that was deceptive," it would "be a nightmare" for Intuit because it "would be overwhelmed with complaints, in every channel," and the company "would go out of business trying to pay to handle all of [them]," neither of which has happened. (Rubin (Intuit) Tr. 1647-1649).

D. TurboTax Data Concerning Consumers' Experiences Reflect That Reasonable Consumers Were Not Deceived

648. Other metrics of consumer feedback beyond complaints further underscore Complaint Counsel's failure to prove its case.

649. If Complaint Counsel's deception theory were true, consumers who felt deceived by ads for free TurboTax SKUs into believing that all TurboTax products were free or that TurboTax was free for them when it was not would be less likely to use TurboTax again. (Johnson (Intuit) Tr. 629; Golder (Intuit) Tr. 1057, 1059-1060, 1189-1190, 1213-1214; RX1018 (Golder Expert Report) ¶¶20, 47-51; Yoeli (FTC) Tr. 1738).

650. However, the retention rate for users of paid TurboTax SKUs (83%) is higher than that for users of free products, even though those would be the consumers necessarily

deceived under Complaint Counsel's theory. (RX57-A (Intuit) at 2; Johnson (Intuit) Tr. 628; RX36 (Intuit); RX50 (Intuit) at 8; RX795 (Intuit) at 9; RX1018 (Golder Expert Report) ¶¶47-50; GX152 (Johnson (Intuit) IHT) at 133).

651. TurboTax's high paid retention rate demonstrates that the price these customers are paying is consistent with their expectations, and that there is no unfulfilled expectation among TurboTax customers about their ability to file for free—i.e., those customers are not deceived. (Johnson (Intuit) Tr. 628-629; RX1018 (Golder Expert Report) ¶67).

652. Still other routinely tracked consumer-feedback metrics, such as product recommendation scores, and customer ratings and reviews, similarly reflect that consumers' experiences with TurboTax met or exceeded their expectations, and they derived value from TurboTax SKUs. (Johnson (Intuit) Tr. 559-562; Rubin (Intuit) Tr. 1556-1557; RX1018 (Golder Expert Report) ¶¶36, 43-46, 48; GX150 (Goode (Intuit) IHT) at 120-121, 130-131). If consumers were deceived, one would expect widespread consumer frustration to be reflected in those metrics. (Rubin (Intuit) Tr. 1530-1531, 1556-1557, 1648; Golder (Intuit) Tr. 1057-1058, 1193-1194, 1212-1213; RX1018 (Golder Expert Report) ¶¶31-32, 36-37, 50, 228).

653. During Tax Year 2021, hundreds of thousands of customer reviews of TurboTax's products available on the TurboTax website generated average ratings between 4.4 and 4.9 out of 5 stars. (RX1532 (Intuit); Rubin (Intuit) Tr. 1504, 1571; Johnson (Intuit) Tr. 667-668, 678-679; *see also* RX1018 (Golder Expert Report) ¶44, fig. 3). One would not expect to see any of this favorable customer feedback if Intuit's advertising was deceiving customers about their ability to file for free with TurboTax. (Johnson (Intuit) Tr. 559-562, 574-576; Rubin (Intuit) Tr. 1556-1557; RX1018 (Golder Expert Report) ¶¶44-46, 48).

654. TurboTax's consistently high customer ratings and positive reviews suggest that TurboTax SKUs are meeting or exceeding customer expectations regarding the price of TurboTax. (Johnson (Intuit) Tr. 559-562; Rubin (Intuit) Tr. 1556-1557; RX1018 (Golder Expert Report) ¶¶44-46, 48). The volume of positive reviews for TurboTax was notable compared to the few cherry-picked examples Complaint Counsel provided of negative reviews. (*Compare* GX475, *with* Johnson (Intuit) Tr. 669-671; Deal (Intuit) Tr. 1418-1419, 1422-1425). At trial, Complaint Counsel notably highlighted a single negative review when the surrounding 20 reviews visible on the screen were nearly all positive. (Johnson (Intuit) Tr. 669-671; GX475). Complaint Counsel cannot meet their burden of proof by pointing to the proverbial needle in a haystack.

655. Another metric that provides strong evidence that customers are not deceived by Intuit's advertising for free TurboTax SKUs is its customer-abandonment rates, which measure the rate at which TurboTax customers do not complete their tax returns after they start preparing them with TurboTax. (Rubin (Intuit) Tr. 1586-1587). Complaint Counsel have tried to suggest that consumers starting but not finishing using TurboTax Free Edition is evidence of deception. (Evans (FTC) Tr. 58). But that argument is not supported by the evidence.

656. TurboTax Free Edition has an abandonment rate of 22%, and TurboTax's paid products also have an abandonment rate of 22%. (Rubin (Intuit) Tr. 1587).

657. The fact that the abandonment rate for TurboTax Free Edition is the same as the rate for all other TurboTax SKUs demonstrates that consumers are abandoning TurboTax for a reason (or reasons) common to all products—such as losing confidence in their ability to file their return and cross-shopping—not because they expect to file for free but are then informed that they must pay to file with TurboTax, which is a reason specific to Intuit's free products.

(Rubin (Intuit) Tr. 1585-1588, 1610-1611; RX52 (Intuit) at 4; *see also* RX1018 (Golder Expert Report) ¶59). If consumers were abandoning TurboTax Free Edition because they felt deceived, the product's abandonment rate would be higher than that of its paid products. (Rubin (Intuit) Tr. 1587-1588, 1610-1611; Johnson (Intuit) Tr. 575, 629).

658. The *reasons* consumers typically abandon confirm this. Consumers typically abandon TurboTax because they lose confidence in their ability to file on their own, because they are only using the software to double-check what their outside tax provider told them, and/or because they are comparing different tax-preparation products. (Rubin (Intuit) Tr. 1585-1588, 1610). None of those reasons for abandonment is specific to TurboTax's free products—and none indicates deception. (Rubin (Intuit) Tr. 1585-1588).

659. Intuit's data show that, each year, [REDACTED] [REDACTED] (Rubin (Intuit) Tr. 1618-1620; RX765-A (Intuit) at 5; RX57-A (Intuit) at 2). In Tax Year 2018, for example, [REDACTED] ([REDACTED]) [REDACTED]. (Rubin (Intuit) Tr. 1619; RX765-A (Intuit) at 5). And in Tax Year 2020, [REDACTED] ([REDACTED]) did so. (RX57-A (Intuit) at 2; Rubin (Intuit) Tr. 1620).

660. The fact that [REDACTED] [REDACTED] indicates that Intuit is successful in its efforts to reach taxpayers who qualify for that product and that there is no deception from the challenged ads. (Rubin (Intuit) Tr. 1620-1621). It certainly undercuts Complaint Counsel's argument that it is appropriate to examine the percentage of all taxpayers without simple tax returns and conclude from that fact alone that the ads are deceptive.

661. Moreover, data show that most consumers—[REDACTED] between Tax Years 2014 and 2021—start and finish in the same SKU. (RX820 (Intuit); RX821 (Intuit); RX1018 (Golder Expert Report) fig. 37; *see also* Rubin (Intuit) Tr. 1552-1553 (only 14% of TurboTax customers saw an upgrade screen in Tax Year 2021)).

662. The high rate of consumers who start and finish in the same product refutes Complaint Counsel’s notion that consumers are being deceived into upgrading to paid TurboTax products. (RX260 (FTC) ¶¶6, 59). These percentages are especially impressive given that third-party review websites like the New York Times’ Wirecutter recommend that consumers “should start with Free Edition” even if they know they do not qualify. (RX505 (Intuit) at 3; RX80 (Intuit) at 2; RX1497 (Intuit) at 2).

663. The absence of widespread deception is also borne out by Intuit’s customer-level data. When economist Bruce Deal examined the actual behavior of those consumers most susceptible to the deception alleged by Complaint Counsel—i.e., new TurboTax Free Edition customers who found the product through a TurboTax advertisement, paid to file, and did not have prior experience with the product evidencing either familiarity with Intuit’s paid offerings or a preference inconsistent with an expectation of filing for free—the customer-level data showed no direct evidence that consumers believed they had been deceived. (Deal (Intuit) Tr. 1294, 1296, 1322, 1324-1325). In fact, Mr. Deal concluded that the customer-level data for only 510 TurboTax customers—out of over 55 million Tax Year 2021 customers analyzed—were even potentially consistent with the deception alleged by Complaint Counsel. (Deal (Intuit) Tr. 1368, 1372-1373; RX1027 (Deal Expert Report) ¶¶161-162).

664. The first phase of Mr. Deal’s empirical analysis began by looking at the approximately 55.5 million individuals (the “TY21 Customer Base”) that either logged into

existing TurboTax accounts or created new accounts during Tax Year 2021. (Deal (Intuit) Tr. 1326; RX1027 (Deal Expert Report) ¶98).

665. First, Mr. Deal identified 13.4 million customers who filed their federal and state tax returns for free. (Deal (Intuit) Tr. 1341-1342; RX1027 (Deal Expert Report) ¶¶108-110). By definition, those 13.4 million customers could not have been deceived because, to the extent they had an expectation about filing their tax returns for free, their expectations were met. (Deal (Intuit) Tr. 1342).

666. Second, Mr. Deal identified 17.6 million customers for whom the data was inconsistent with deception because they either (1) never began a tax return in a TurboTax SKU (6.8 million), or (2) began a tax return but did not complete that return with TurboTax (10.8 million). (Deal (Intuit) Tr. 1331-1332; RX1027 (Deal Expert Report) ¶101). None of those 17.6 million customers paid Intuit to file their tax returns in 2021. (Deal (Intuit) Tr. 1332, 1334; RX1027 (Deal Expert Report) ¶¶101, 103). These customers also understood they had a choice not to use TurboTax and, in fact, they exercised that choice. (Deal (Intuit) Tr. 1331).

667. Mr. Deal observed that the 10.8 million customers who began a return in TurboTax Free Edition but did not complete their taxes using TurboTax could have selected an alternative form of tax preparation for any number of reasons. (Deal (Intuit) Tr. 1332-1333). These might include customers who begin using a DIY tax-preparation product but due to fear, uncertainty, and doubt (or “FUD”) decide to switch to an assisted tax-preparation method (e.g., a CPA); customers who are testing multiple software options; or customers who were using TurboTax to “double-check[]” tax returns prepared by their CPA, to name a few. (Deal (Intuit) Tr. 1333-1334).

668. Mr. Deal also concluded that in the event these 10.8 million customers abandoned TurboTax Free Edition after being informed they were not eligible to file for free, the data showed they did not invest a significant amount of time using the product before receiving that message. (Deal (Intuit) Tr. 1335-1342). It takes most consumers 30 minutes or less after starting their tax forms in TurboTax Free Edition to learn that their tax situation is not covered and that they need to switch. (*Supra* ¶450; Rubin (Intuit) Tr. 1541; RX1027 (Deal Expert Report) ¶105, fig. 12; Deal (Intuit) Tr. 1334-1340). That 30-minute figure likely overstates how long consumers were actively using the website, as it simply reflects how long the website was open on a consumer's web browser. (Deal (Intuit) Tr. 1336-1338; RX1027 (Deal Expert Report) ¶¶82, 106). For example, if a consumer stepped away for a ten-minute phone call without closing her browser, those ten minutes would have counted towards the elapsed time. (RX1027 (Deal Expert Report) ¶106). Thus, in the event these customers came to the website under the false impression that they would be able to file for free, there is no evidence that it would have taken them any material amount of time to learn otherwise. (Rubin (Intuit) Tr. 1541; Deal (Intuit) Tr. 1338).

669. Finally, Mr. Deal identified an additional 24.4 million customers who paid to file their federal and/or state tax returns with TurboTax. (Deal (Intuit) Tr. 1342; RX1027 (Deal Expert Report) ¶99). Of those 24.4 million, 23.1 million fell into one of three overlapping categories that are inconsistent with Complaint Counsel's theory of deception, which together can be summarized as having sufficient experience with the TurboTax suite of products and/or their own personal tax situations to have not been deceived into believing that TurboTax would be free for them. These consumers either (1) were on notice from their previous experience with TurboTax that TurboTax in fact was *unlikely* to be free for them; (2) preferred paid features,

evidencing they did not have an expectation of filing for free; and/or (3) qualified to use TurboTax Free Edition but made a choice to pay instead. (Deal (Intuit) Tr. 1342; RX1027 (Deal Expert Report) ¶111, fig. 13).

670. Within the set of 23.1 million paying customers, 22.1 million were on notice from their previous experience with TurboTax that TurboTax in fact was *unlikely* to be free for them, meaning (a) they received a recommendation for or started a return in a paid product in Tax Year 2021; (b) they used a paid TurboTax SKU and paid to file in either of the two preceding tax years (i.e., Tax Year 2019 and/or Tax Year 2020); (c) they started in a paid TurboTax SKU in either of the two preceding tax years; and/or (d) they encountered an upgrade screen and were told their tax situation was not eligible for TurboTax Free Edition in either of the two preceding tax years. (Deal (Intuit) Tr. 1345-1350; RX1027 (Deal Expert Report) ¶¶125-141, fig. 15).

671. These 22.1 million customers' past experiences with TurboTax paid products indicate that they could not have reasonably believed they could file for free with TurboTax in Tax Year 2021. (Deal (Intuit) Tr. 1348-1351). These consumers would understand at a minimum that they would need to determine whether they qualified for a free TurboTax SKU in a given year. (RX1395 (Deal (Intuit) Dep. Tr.) at 132-133). As Mr. Novemsky testified, consumers who "used TurboTax in the last three years ... probably have a good sense of whether [they] have to pay or not because [they] either paid [for TurboTax] or [they] got it for free." (Novemsky (FTC) Tr. 380; Deal (Intuit) Tr. 1348-1349).

672. Within the set of 23.1 million paying customers, 7.3 million customers exhibited a preference for paid add-on features or functionalities, meaning they (a) purchased optional add-on bundles; (b) paid for TurboTax expert assistance; and/or (c) paid for features available only in paid TurboTax SKUs. (Deal (Intuit) Tr. 1351-1353; RX1027 (Deal Expert Report) ¶¶116-127,

fig. 14). This behavior is inconsistent with deception as well, because if a reasonable consumer expected to file their tax return for free but then discovered otherwise, it would make little sense for them to then voluntarily pay even more than the minimum required. (Deal (Intuit) Tr. 1352-1353). Many of the 7.3 million customers identified by Mr. Deal who elected to purchase additional optional, paid TurboTax services were also part of the 22.1 million customers who had previously used or been recommended to use a paid TurboTax product in the prior two tax years. (Deal (Intuit) Tr. 1351-1353; RX1027 (Deal Expert Report) ¶¶116-127, Figure 14). As Mr. Deal explained, there is “a lot of overlap among these categories.” (Deal (Intuit) Tr. 1352).

673. Within the set of 23.1 million paying customers, 4 million customers were eligible to file using TurboTax Free Edition but made a choice to use a paid TurboTax SKU in order to claim additional deductions or credits on Schedule A or Schedule 3 (but did not attach any other schedules). (Deal (Intuit) Tr. 1354-1355; RX1027 (Deal Expert Report) ¶¶113-114). Rather than being deceived about their ability to file for free, these 4 million customers made the rational choice to decrease their tax liability by, on average, \$500 to \$1,500—far more than the amount they paid Intuit to use a paid TurboTax SKU. (Deal (Intuit) Tr. 1355-1356; RX1027 (Deal Expert Report) ¶114). This demonstrates an awareness of their personal tax situation that casts doubt that these consumers believed they had simple tax returns or were motivated to use TurboTax because of a belief that they would be able to file their taxes for free. (Deal (Intuit) Tr. 1355-1356; RX1027 (Deal Expert Report) ¶115).

674. Altogether, then, in the first phase of his analysis Mr. Deal found that 97.6% of the 55.5 million TY21 Customer Base either did not pay to file, had prior experience with paid TurboTax SKUs, or evinced a preference for paid products. (Deal (Intuit) Tr. 1358-1360; RX1027 (Deal Expert Report) ¶¶12, 98, 142).

675. In the second phase of his analysis, Mr. Deal further examined the remaining 1.3 million individuals in the TY21 Customer Base to determine whether there was any direct evidence of deception among the group that most closely aligned to Complaint Counsel's allegations. (Deal (Intuit) Tr. 1357-1358; RX1027 (Deal Expert Report) ¶145; RX1395 (Deal (Intuit) Dep.) at 153-154).

676. To identify this group of customers, Mr. Deal focused his second-phase analysis on the approximately 535,000 customers who, based on the available data, arrived at the TurboTax website from a TurboTax advertisement, regardless of whether it was an ad for TurboTax free products. (Deal (Intuit) Tr. 1359-1360; RX1027 (Deal Expert Report) ¶¶149-150).

677. Among those roughly 535,000 customers, Mr. Deal further narrowed his analysis to focus on the approximately 135,000 customers who had *not* used TurboTax in the previous two tax years (i.e., Tax Year 2019 and/or Tax Year 2020). (Deal (Intuit) Tr. 1362-1364; RX1027 (Deal Expert Report) ¶¶151-152). These new customers may be less familiar with TurboTax SKUs, including the qualifications for TurboTax Free Edition, due to their experiences from previous tax years and accordingly arguably be more susceptible to the deception alleged by Complaint Counsel. (Deal (Intuit) Tr. 1361-1363; RX1027 (Deal Expert Report) ¶¶149-151).

678. Among new TurboTax customers who arrived via an advertisement, Mr. Deal next focused his analysis on the 43,776 customers who had spent at least 60 minutes of elapsed time (including possible inactive time) using TurboTax before encountering an upgrade screen. (Deal (Intuit) Tr. 1363-1364; RX1027 (Deal Expert Report) ¶152). Mr. Deal identified these customers as a focus for his analysis because, consistent with his understanding of Complaint Counsel's allegations of deception, these customers may have invested sufficient time using the

product that they could feel less able to switch to an alternative method of tax preparation. (Deal (Intuit) Tr. 1363-1365).

679. But when Mr. Deal examined those customers who may have been most susceptible to the deception alleged by Complaint Counsel for direct evidence of deception, he found just 510 of these 43,776 customers who even potentially viewed themselves to have been deceived. (Deal (Intuit) Tr. 1365-1368; RX1027 (Deal Expert Report) ¶161).

680. To identify such direct evidence, Mr. Deal considered three indicators that customers had unfavorable experiences using TurboTax: (1) complaints identified by Complaint Counsel; (2) low product recommendation scores; and/or (3) low customer ratings. (Deal (Intuit) Tr. 1366-1368; RX1027 (Deal Expert Report) ¶¶160-161). As noted (*supra* ¶¶624-625, 639, 647, 649, 652-655), given the nature of the alleged deception in this case, customers who believed themselves to be deceived would be expected to voice their disapproval through complaints and other consumer feedback metrics. (Rubin (Intuit) Tr. 1556; RX1018 (Golder Expert Report) ¶¶36-37, 50). Thus, the fact that only 510 of the 43,776 customers ultimately did voice such disapproval suggests that the vast majority of those customers were not deceived. (Deal (Intuit) Tr. 1365, 1368).

681. Having not identified meaningful direct evidence of deception among those customers whose experiences most closely resemble Complaint Counsel's theory of deception, there is no reason to believe that any customer group excluded earlier in Mr. Deal's funnel (e.g., customers who did not arrive via a TurboTax advertisement, or customers who did not pay to file using TurboTax) would evidence any greater rate of unfavorable experiences showing deception. (RX1395 (Deal (Intuit) Dep.) at 160-162, 165).

682. In total, Intuit’s customer-level data are even *potentially* consistent with the type of deception alleged by Complaint Counsel for less than 0.0009% of the 55.5 million individuals (or 1 in 100,000) in the TY21 Customer Base. (Deal (Intuit) Tr. 1368, 1375-1376; RX1027 (Deal Expert Report) ¶¶161-162).

E. Reliable Consumer Testing And Survey Evidence Reflects That Reasonable Consumers Were Not Deceived

683. In contrast to Complaint Counsel’s reliance on Professor Novemsky’s flawed “perception study” as the sole basis for assessing the claims Intuit’s ads conveyed and the likelihood that consumers were deceived, Intuit presented credible and scientifically sound evidence, from both fact and expert witnesses, regarding the effect the company’s advertising had on consumers’ understanding and behavior. This evidence shows that Intuit’s advertising did not deceive reasonable consumers.

1. Copy Testing

684. The survey evidence in this case that *is* reliable uniformly indicates that consumers are not under a misimpression about their ability to file their taxes for free using TurboTax. (*Infra* ¶¶685-766).

685. Chief among that evidence is copy testing that Intuit commissioned on its TurboTax television ads (in the regular course of business) to understand consumer perception of and consumer reaction to the ads. (GX460 (Intuit); RX1543 (Intuit); Ryan (Intuit) Tr. 701; Hauser (Intuit) Tr. 880). Unlike Professor Novemsky’s survey, these copy tests showed consumers ads before soliciting feedback. (Novemsky (FTC) Tr. 354, 405-406; Ryan (Intuit) Tr. 701; GX460 (Intuit); RX1543 (Intuit)).

686. The results of Intuit’s copy tests are inconsistent with consumers being misled or deceived by the ads. (*Infra* ¶¶694-699, 701, 703, 710, 713).

a. *TY20 Copy Test*

687. The copy test discussed most extensively at trial was the “TY20 Test,” which was conducted in September 2020, in advance of the Tax Year 2020 filing season. (GX460 (Intuit); Novemsky (FTC) Tr. 364-366, 499-508; Ryan (Intuit) Tr. 735-740, 821-825; Hauser (Intuit) Tr. 876-892).

688. This test was conducted by Ipsos, a market research and consulting firm. (Hauser (Intuit) Tr. 877-878). Complaint Counsel have not disputed that the TY20 Test was conducted reliably and that its results were reported reliably. (Novemsky (FTC) Tr. 501; Hauser (Intuit) Tr. 877-878).

689. The survey population for the TY20 Test was taxpayers who (1) had filed taxes the previous year, (2) considered themselves the “Tax decision maker” for their household, and (3) were between the ages of 18 and 49. (GX460 (Intuit) at 2; Ryan (Intuit) Tr. 736). Within that population, 64% of test participants were between the ages of 18 and 39. (GX460 (Intuit) at 35).

690. Given that people with simple tax returns tend to skew younger, *supra* ¶¶85, 193, it is likely that many participants in the TY20 Test qualified for TurboTax Free Edition—greater than the roughly 33% of all U.S. taxpayers who qualify. (Ryan (Intuit) Tr. 736, 740; Rubin (Intuit) Tr. 1597).

691. The TY20 Test’s survey population was divided into one control group and four test groups; each group had roughly 200 participants. (GX460 (Intuit) at 28). The control group was given the TurboTax brand name but not shown any TurboTax ads. (GX460 (Intuit) at 36;

Hauser (Intuit) Tr. 878). The test groups were shown, within a cluttered multimedia environment, one of four draft TurboTax Free Edition ads that were being considered for the Tax Year 2020 filing season: “Auctioneer,” “Dance Class,” “Young Love,” and “Spelling Bee.” (GX460 (Intuit) at 2-6, 28; Ryan (Intuit) Tr. 735, 738-739; Hauser (Intuit) Tr. 878-879).

692. After exposure to the brand name or one of the draft ads, the TY20 Test participants were asked questions about TurboTax, including, for example, whether it “Is a “good value,” “Has clear and honest pricing,” and “Is changing the way we do taxes.” (GX460 (Intuit) at 28; Ryan (Intuit) Tr. 738).

693. Among the questions posed to study participants was whether TurboTax “Allows me to file my taxes for free.” (GX460 (Intuit) at 28; Ryan (Intuit) Tr. 738-739).

694. Responses to that question in both the control group and the test groups suggest that consumers were not misled or deceived by TurboTax advertising about their ability to file their income taxes for free using TurboTax. (Ryan (Intuit) Tr. 739-740; Hauser (Intuit) Tr. 881-885).

695. In the control group, 33% of respondents were reported as believing that TurboTax “Allows me to file my taxes for free.” (GX460 (Intuit) at 28). That percentage matches the approximately 33% of all taxpayers who do in fact qualify to use TurboTax Free Edition, and is likely lower than the percentage of respondents who actually were eligible to use Free Edition, given that the survey population, as noted, skewed younger, and younger people are relatively likely to have simple tax returns. (GX460 (Intuit) at 2, 35; Ryan (Intuit) Tr. 739-740; Rubin (Intuit) Tr. 1597). Similarly, the 33% figure is lower than the roughly 50% of consumers that are in the market for online tax-preparation product who qualify for TurboTax Free Edition. (Johnson (Intuit) Tr. 592-593, 657; Ryan (Intuit) Tr. 739; RX814 (Intuit) at -6784).

696. The results from the TY20 Test control group indicates that, as of September 2020—multiple years after Intuit had begun advertising its free tax software—TurboTax marketing either had not reached many consumers who qualify to file for free, or had not successfully persuaded many of those consumers that they qualify. (Hauser (Intuit) Tr. 883; RX1017 (Hauser Expert Report) ¶79). That is not what one would expect to see if TurboTax’s advertising was deceptive in the manner alleged. (Hauser (Intuit) Tr. 883; RX1017 (Hauser Expert Report) ¶79).

697. In the test groups, the percentage of respondents reported as believing that TurboTax “Allows me to file my taxes for free” were not substantially higher than in the control group, and did not cause Intuit to believe that the respondents in the test groups had a misimpression about their ability to file for free. (GX460 (Intuit) at 28; Ryan (Intuit) Tr. 739-740).

698. Nothing in the results suggests that a significant number of participants in the TY20 Test were under a misimpression that they could file for free using TurboTax. (Ryan (Intuit) Tr. 740; Hauser (Intuit) Tr. 884).

699. The results are particularly notable because the ads used in the TY20 Test were not the final versions that ran during the Tax Year 2020 filing season. (Ryan (Intuit) Tr. 736-738, 740; RX1496 (Bennett (WK) Decl.) ¶¶4-7). The “Spelling Bee” ad tested was the Tax Year 2018 version. (Ryan (Intuit) Tr. 736-737; RX1496 (Bennett (WK) Decl.) ¶4; RX1491 (Intuit); GX460 (Intuit) at 6). The “Auctioneer,” “Dance Class,” and “Young Love” ads were drafts that included no written disclosure at all. (Ryan (Intuit) Tr. 737-738; RX1496 (Bennett (WK) Decl.) ¶¶5-7; RX1492 (Intuit); RX1493 (Intuit); RX1494 (Intuit); RX1495 (Intuit); GX460 (Intuit) at 3-

5). The TY20 Test results are thus consistent with Intuit's broader argument that even without any disclosures, the challenged ads are not deceptive.

700. The TY20 Test's results also depict only the *short-term* effects of TurboTax advertising, effects that typically decay over time. (Hauser (Intuit) Tr. 881-882, 884-885; RX1017 (Hauser Expert Report) ¶80). The only evidence of *long-term* effects that the TY20 Test provides is the control group results—which, again, show that up until the time the TY20 Test was administered, consumers were underestimating their ability to file for free. (Hauser (Intuit) Tr. 883; RX1017 (Hauser Expert Report) ¶79).

701. If anything, then, the results from the TY20 Test's test groups may overstate the lasting impact the tested ads had on actual consumers. (Hauser (Intuit) Tr. 881-882, 884-885; RX1017 (Hauser Expert Report) ¶¶80, 82). Regardless, the results do not suggest that TurboTax ads misled consumers who do not qualify for TurboTax Free Edition into believing that they can file for free with TurboTax or into believing that all TurboTax SKUs are free. (Ryan (Intuit) Tr. 739-740; Hauser (Intuit) 881-885; RX1017 (Hauser Expert Report) ¶¶80, 82).

b. *TY22 Copy Test*

702. During the Tax Year 2022 filing season, Intuit commissioned another copy test (the "TY22 Test") of [REDACTED]. (RX1543 (Intuit); Ryan (Intuit) Tr. 771-775).

703. Like the results of the TY20 Test, the results from the TY22 Test suggest that consumers were not misled or deceived by TurboTax advertising about their ability to file their taxes for free using TurboTax. (Ryan (Intuit) Tr. 775; RX1543 (Intuit) at 19).

704. Like the TY20 Test, the TY22 Test was [REDACTED]. (RX1543 (Intuit) at 1).

705. The survey population for the TY22 Test was taxpayers [REDACTED]
 [REDACTED]
 [REDACTED]”
 (RX1543 (Intuit) at 2; Ryan (Intuit) Tr. 773).

706. Given that people with simple tax returns tend to skew younger, *supra* ¶¶85, 193,
 and given that the TY22 Test participants considered their tax returns not complicated, [REDACTED]
 [REDACTED]
 [REDACTED]. (Ryan (Intuit) Tr. 773, 740; Rubin
 (Intuit) Tr. 1597; RX1543 (Intuit) at 2).

707. The TY22 Test’s survey population was [REDACTED]
 [REDACTED]
 [REDACTED]. (RX1543 (Intuit) at 3, 4, 19; Ryan (Intuit) Tr. 772-773). [REDACTED]
 [REDACTED]
 [REDACTED]. (Ryan
 (Intuit) Tr. 772-773). [REDACTED]
 [REDACTED]. (RX1543 (Intuit) at 3, 19; Ryan (Intuit) Tr. 772-773).

708. After exposure to the ads, the TY22 Test asked [REDACTED]
 [REDACTED] (RX1543 (Intuit) at 19; Ryan (Intuit)
 Tr. 774).

709. [REDACTED]
 [REDACTED].
 (RX1543 (Intuit) at 19; Ryan (Intuit) Tr. 774). [REDACTED]
 [REDACTED]

[REDACTED] (RX1543 (Intuit) at 19). [REDACTED]

[REDACTED] (RX1543 (Intuit) at 19). [REDACTED]

[REDACTED] (RX1543 (Intuit) at 19).

710. These results suggest that reasonable consumers were not misled or deceived by TurboTax’s advertising about their ability to file their taxes for free. (Ryan (Intuit) Tr. 775).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. (Ryan (Intuit) Tr. 739; Johnson (Intuit) Tr. 657; GX654 (Intuit)).

711. Moreover, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. (Ryan (Intuit) Tr. 774-775; RX1543 (Intuit) at 2).

712. Professor Novemsky’s survey provides no evidence of consumer impression about the ads tested in the TY22 Test (or any other Tax Year 2022 ads), because [REDACTED]

[REDACTED]. (Novemsky (FTC) Tr. 510; Ryan (Intuit) Tr. 771-772).

713. The TY22 Test, however, does provide evidence of consumer impression [REDACTED]

[REDACTED]

[REDACTED]. (Ryan (Intuit) Tr. 775).

2. TY20 NPS Survey

714. Additional evidence indicating an absence of deception can be found in a “Net Promoter Score” survey from Tax Year 2020 (the “TY20 NPS Survey”). (GX665 (Intuit)).

715. Intuit relies on NPS surveys to assess consumers’ experiences with TurboTax SKUs and the likelihood that consumers will recommend those products to others. (Rubin (Intuit) Tr. 1531; RX1018 (Golder Expert Report) ¶38).

716. In the TY20 NPS Survey, over 2,000 consumers who had used TurboTax online products that tax year were asked: “[REDACTED]” (Rubin (Intuit) Tr. 1532; GX665 (Intuit) at 43).

717. Less than half of survey respondents (48%) responded that they were aware of Intuit’s free TurboTax offering. (Rubin (Intuit) Tr. 1532; GX665 (Intuit) at 43). That is barely higher than the 44% of survey respondents who had actually filed their taxes with TurboTax Free Edition that year. (GX665 (Intuit) at 44; Rubin (Intuit) Tr. 1532-1533).

718. If TurboTax advertising was misleading consumers into believing they could file for free, one would instead expect a large disparity between those two percentages. (Rubin (Intuit) Tr. 1533-1534; GX665 (Intuit) at 43-44).

719. The TY20 NPS Survey also reported that only [REDACTED] of respondents who had used a paid TurboTax SKU had even been aware that TurboTax had a free offering when they began their tax return. (GX665 (Intuit) at 44; Rubin (Intuit) Tr. 1534).

720. That only [REDACTED] of respondents who used a paid TurboTax SKU had even been aware that TurboTax had a free offering underscores that Intuit is successful in targeting consumers with simple tax returns who qualify to use free TurboTax SKUs with its free

TurboTax advertisements. (Rubin (Intuit) Tr. 1534-1535; GX665 (Intuit) at 44). It also indicates that Intuit has similar success communicating with its paying customers about the products available to them—and avoiding the misleading message that those customers can file for free. (Rubin (Intuit) Tr. 1534-1535; GX665 (Intuit) at 44). Again, if Complaint Counsel’s theory were accurate, one would expect to see most paid consumers at least *aware* of the existence of the free product. (Rubin (Intuit) Tr. 1534-1535).

721. Thus, the TY20 NPS Survey results demonstrate that consumers who visit the TurboTax website expecting to file for free *are* filing for free, while consumers who visit the TurboTax website expecting to pay to file their taxes are finding TurboTax’s paid offerings. (Rubin (Intuit) Tr. 1534-1535). The results, again, are inconsistent with deception. (Rubin (Intuit) Tr. 1534-1535).

3. Disclosure Efficacy Survey

722. The “Disclosure Efficacy Survey” that Dr. Hauser designed, implemented, and analyzed provides further evidence of an absence of deception. (Hauser (Intuit) Tr. 846-875; RX1017 (Hauser Expert Report) ¶¶86-100). In short, the Disclosure Efficacy Survey shows that changing TurboTax’s marketing to address Complaint Counsel’s allegations would have no effect on consumer behavior. (Hauser (Intuit) Tr. 875).

723. The survey was a test-control experiment, which (as noted *supra* ¶¶531-532) is the scientifically accepted method for assessing causality. (Hauser (Intuit) Tr. 847-848; RX1017 (Hauser Expert Report) ¶86).

724. The participants included both taxpayers who qualified for TurboTax Free Edition and those who did not. (Hauser (Intuit) Tr. 855). Each participant, irrespective of their tax

situation, was randomly assigned to one of two groups: the “Original Disclosures Group” or the “Revised Disclosures Group.” (Hauser (Intuit) Tr. 852; RX1017 (Hauser Expert Report) ¶86).

725. Each group of participants was shown three types of material designed to replicate Intuit’s TurboTax marketing communications: (1) a video advertisement, (2) a website homepage, and (3) a products & pricing webpage. (Hauser (Intuit) Tr. 856; RX1017 (Hauser Expert Report) ¶87).

726. To ensure participants’ objectivity and avoid contaminating the results with any predispositions participants could have about TurboTax, Dr. Hauser replaced the Intuit and TurboTax brands in the material shown to both groups with a disguised brand name, “Vertax.” (Hauser (Intuit) Tr. 855; RX1017 (Hauser Expert Report) ¶87).

727. Apart from replacing the brand name with Vertax, the materials shown to the Original Disclosures Group were materially identical to TurboTax marketing materials in Tax Year 2021. (RX1017 (Hauser Expert Report) ¶90).

728. The materials shown to the Revised Disclosures Group, meanwhile, were designed to account for revisions advocated for in Complaint Counsel’s complaint, and to conform with Intuit’s settlement with the state attorneys general. (Hauser (Intuit) Tr. 857-859, 862-863, 1018-1027; RX1017 (Hauser Expert Report) ¶90).

729. The Original Disclosures Group was shown a Vertax-branded version of the Tax Year 2021 “Dance Class” video ad. (RX1548 (Intuit); Hauser (Intuit) Tr. 859; RX1017 (Hauser Expert Report) ¶90). In that ad, the spoken dialogue consisted entirely of a dance instructor repeating the word “free” twelve times. (RX1548 (Intuit); Hauser (Intuit) Tr. 860). The ad then concluded with a voiceover stating, “That’s right, Vertax Free Edition is free. See details at vertax.com.” (RX1548 (Intuit)). The ad’s end card also included a written disclosure stating,

“Vertax Free Edition is for simple U.S. returns only. See if you qualify at vertax.com. Offer subject to change.” (RX1548 (Intuit)).

730. The Revised Disclosures Group was shown a Vertax-branded version of the Tax Year 2017 “Fishing” video ad. (RX1549 (Intuit); Hauser (Intuit) Tr. 861; RX1017 (Hauser Expert Report) ¶90). In contrast to the “Dance Class” ad, the “Fishing” ad repeats the word “free” only twice, and there is other non-free-related dialogue. (RX1549 (Intuit); Hauser (Intuit) Tr. 861-862). Dr. Hauser also modified the voiceover from the original “Fishing” ad so that the ad shown to survey respondents stated: “Vertax Free Edition is for simple returns only. Not all taxpayers qualify to file for free. See if you qualify at vertax.com.” (RX1549 (Intuit); Hauser (Intuit) Tr. 861-862). And he made several modifications to the written disclosures shown on the end card in the Vertax-branded “Fishing” ad. Specifically, the disclosures:

- stated: “For simple returns only. Not all taxpayers qualify for Free Edition. See if you qualify at Vertax.com.” (RX1549 (Intuit));
- were in larger and brighter font than in the modified “Dance Class” ad. (RX1548 (Intuit); RX1549 (Intuit); Hauser (Intuit) Tr. 863; RX1017 (Hauser Expert Report) at C-1-6); and
- appeared on the screen for 8 seconds, which is longer than in the “Dance Class ad,” and roughly twice as long as the typical disclosure for a 30-second video ad. (RX1548 (Intuit); RX1549 (Intuit); Hauser (Intuit) Tr. 864; RX1017 (Hauser Expert Report) at C-1-6).

731. Complaint Counsel contend that the ad shown to the Revised Disclosures Group was as deceptive as the ad shown to the Original Disclosures Group. (Hauser (Intuit) Tr. 991; Complaint Counsel’s Pretrial Brief at 19 n.21 (Feb. 17, 2023)). The revised ad was not

deceptive, however, because it contained repeated, explicit, and prominent qualifying statements. (RX1549 (Intuit); RX1017 (Hauser Expert Report) at C-1-6; RX1018 (Golder Expert Report) ¶¶131-135; Golder (Intuit) Tr. 1149-1150). Copy testing of comparable ads in Tax Year 2022 confirms that the revised ad was not deceptive. (RX1543 (Intuit); RX1548 (Intuit); RX1549 (Intuit)).

732. After viewing the video ad, the Disclosure Efficacy Survey participants were exposed to the two webpages. (Hauser (Intuit) Tr. 856; RX1017 (Hauser Expert Report) at C-1-29).

733. The Original Disclosures Group saw Vertax-branded webpages that were substantively identical to the Tax Year 2021 TurboTax.com homepage and Products & Pricing page. (RX1017 (Hauser Expert Report) ¶90, C-1-7).

734. For the webpages shown to the Revised Disclosures Group, the qualifications for Vertax Free Edition were substantially more prominent. (Hauser (Intuit) Tr. 857). In particular, in the Revised Disclosure Group homepage, hyperlinked “see if you qualify” language was added to both the center of the webpage and in the Free Edition starting area—which, when clicked, presented survey participants with a pop-up disclosure explaining the specific tax situations covered, and not covered, by Vertax Free Edition. (Hauser (Intuit) Tr. 867-868; RX1017 (Hauser Expert Report) at C-1-9 to C-1-10, C-1-39). And in the Revised Disclosure Group Products & Pricing page, Dr. Hauser added hyperlinked “see if you qualify” language at both the top and in the middle of the page—which took participants to the same pop-up disclosure available from the homepage. (Hauser (Intuit) Tr. 868-869; RX1017 (Hauser Expert Report) at C-1-17 to C-1-24, C-1-47). Dr. Hauser also added the full qualifications for Vertax Free Edition on the Producing & Pricing page, meaning participants did not have to click a

hyperlink to access those qualifications. (Hauser (Intuit) Tr. 868-869; RX1017 (Hauser Expert Report) at C-1-19, C-1-41).

735. After exposure to the ad and webpages, participants in both the Original Disclosures Group and the Revised Disclosures Group were asked the same series of questions. (Hauser (Intuit) Tr. 852).

736. The first question was whether the respondents would “consider starting [their] taxes on Vertax.” (RX1017 (Hauser Expert Report) ¶¶90, 92, C-3-39; Hauser (Intuit) Tr. 869-870). The difference between the share of respondents who answered that they would consider Vertax from the Original Disclosures Group (77.7%) and the Revised Disclosures Group (75.9%) is statistically insignificant. (Hauser (Intuit) Tr. 870; RX1017 (Hauser Expert Report) ¶92).

737. This lack of a significant difference is “inconsistent with the hypothesis that TurboTax’s ad[s] served as misleading door openers” that bring consumers to the TurboTax website under the false impression that they can file for free using TurboTax. (Hauser (Intuit) Tr. 869-870; RX1017 (Hauser Expert Report) ¶91). If that were true, reducing the emphasis on “free” and adding more prominent disclosures about Free Edition’s qualifications would cause respondents to be substantially less likely to consider starting their taxes with Vertax. (Hauser (Intuit) Tr. 869-870; RX1017 (Hauser Expert Report) ¶91). As Dr. Hauser testified, “we should see fewer people statistically considering [TurboTax]” upon “chang[ing] the advertisements” as Complaint Counsel desire. (Hauser (Intuit) Tr. 869-870; RX1017 (Hauser Expert Report) ¶91).

738. The Disclosure Efficacy Survey shows, however, that those changes had no such effect, i.e., that “when we actually make these changes ..., there is no statistical difference” in the number of consumers who considered TurboTax. (Hauser (Intuit) Tr. 869-870; RX1017

(Hauser Expert Report) ¶¶91-92). Thus, Complaint Counsel’s door-opener “hypothesis is rejected scientifically by the results” of the survey. (RX1017 (Hauser Expert Report) ¶91).

739. Survey participants who answered that they would consider Vertax were then asked which Vertax product they would be most likely to start with. (Hauser (Intuit) Tr. 871; RX1017 (Hauser Expert Report) ¶95). The percentage who answered they would be most likely to start with Vertax Free Edition was greater in the Revised Disclosures Group (64.3%) than in the Original Disclosures Group (56.1%). (Hauser (Intuit) Tr. 871; RX1017 (Hauser Expert Report) ¶95).

740. These results are inconsistent with Complaint Counsel’s hypothesis that TurboTax marketing deceives non-qualifying consumers into thinking they can file for free with TurboTax Free Edition. (Hauser (Intuit) Tr. 871-872). If Complaint Counsel’s hypothesis were true, then reducing the emphasis on “free” and adding more prominent disclosures would cause fewer respondents to choose Vertax Free Edition. (Hauser (Intuit) Tr. 871-872; RX1017 (Hauser Expert Report) ¶¶95-96). But the opposite occurred in the Disclosure Efficacy Survey: reducing the emphasis on “free” and adding more prominent disclosures about Free Edition’s qualifications caused a slight *increase* in the percentage of participants who chose Vertax Free Edition. (Hauser (Intuit) Tr. 871-872; RX1017 (Hauser Expert Report) ¶¶95-96).

741. Lastly, participants who selected a Vertax product were asked how likely they were to start their taxes with that product, on a scale of 1% to 99% likelihood. (Hauser (Intuit) Tr. 872-873; RX1017 (Hauser Expert Report) ¶99). Between the Original Disclosures Group and the Revised Disclosures Group, there was no statistically significant difference in respondents’ likelihood of starting with Vertax Free Edition. (Hauser (Intuit) Tr. 873; RX1017 (Hauser Expert Report) ¶99).

742. These results are also inconsistent with Complaint Counsel's hypothesis that TurboTax marketing deceives non-qualifying consumers into thinking they can file for free with TurboTax Free Edition. (Hauser (Intuit) Tr. 873). If Complaint Counsel's hypothesis were accurate, then reducing the emphasis on "free" and adding more prominent disclosures would make respondents less likely to start in Vertax Free Edition. (Hauser (Intuit) Tr. 873). The Disclosure Efficacy Survey produced no such effect. (Hauser (Intuit) Tr. 873; RX1017 (Hauser Expert Report) ¶99).

743. Taking the results from all three survey questions together, Dr. Hauser was able to calculate an estimate of the respondents in each survey group who would start in Vertax Free Edition. (Hauser (Intuit) Tr. 874-875; RX1017 (Hauser Expert Report) ¶99). The estimated percentages were 33.4% in the Original Disclosures Group, and 36.8% in the Revised Disclosures Group. (Hauser (Intuit) Tr. 875; RX1017 (Hauser Expert Report) ¶¶99-100; Novemsky (FTC) Tr. 1811).

744. Those results, from both groups, are similar to the percentage all U.S. taxpayers who qualify to file with TurboTax Free Edition, again about 33%. (Johnson (Intuit) Tr. 657; Ryan (Intuit) Tr. 739; Hauser (Intuit) Tr. 875).

745. If Complaint Counsel's hypothesis were accurate and TurboTax's ads (which the ads shown to the Original Disclosures Group replicated) misled consumers about their ability to file for free, one would expect the percentage of respondents in the Original Disclosures Group that would start in Free Edition to be much higher. (Hauser (Intuit) Tr. 875). This feature of the Disclosure Efficacy Survey provides even further evidence that TurboTax's ads were not deceptive. (Hauser (Intuit) Tr. 875; RX1017 (Hauser Expert Report) ¶91).

4. Kirk Fair Survey

746. The survey in the record designed by Rebecca Kirk Fair reinforces that consumers are not deceived by TurboTax marketing.

747. That survey, a test-control experiment, evaluated whether the intersection of TurboTax Free Edition advertising and upgrade screens induced consumers to switch to paid TurboTax SKUs as a result of feeling “locked-in” to TurboTax. (RX1016-A (Kirk Fair Expert Report) ¶¶16, 20, 43).

748. More generally, the survey evaluated whether the amount of information provided to consumers when they were informed they needed to switch products influenced the likelihood that those consumers would in fact switch. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 12-13; RX1016-A (Kirk Fair Expert Report) ¶7).

749. Ms. Kirk Fair’s survey population of 751 respondents consisted of those consumers most likely to use TurboTax: consumers who were over eighteen years old, used an online tax software to file taxes in 2019 or 2020, and were primarily responsible or substantially involved in preparing their taxes. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 22-24; RX1016-A (Kirk Fair Expert Report) ¶34 & Ex. 1).

750. Survey respondents were shown a TurboTax Free Edition ad and instructed to start their tax returns in TurboTax Free Edition. Each respondent was then assigned to a group and shown one of three upgrade screens, with differing levels of information about TurboTax SKUs and free alternatives to TurboTax. The three screens were designated the “Representative Upgrade Screen,” the “Enhanced Information Upgrade Screen,” and the “Reduced Information Upgrade Screen.” (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 30-35; RX1016-A (Kirk Fair Expert Report) ¶20).

751. The Representative Upgrade Screen was modeled after TurboTax's actual upgrade screens from Tax Year 2019. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 30; RX1016-A (Kirk Fair Expert Report) ¶20 & n.20). It informed respondents that they would need to switch to file their taxes accurately and compared features for three products: TurboTax Free Edition, TurboTax Deluxe, and TurboTax Self-Employed. (RX1016-A (Kirk Fair Expert Report) ¶20).

752. The Enhanced Information Upgrade Screen included more information. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 30-34; RX1016-A (Kirk Fair Expert Report) ¶20). It informed respondents that they would need to switch to file their taxes accurately and compared features for four products: TurboTax Free Edition, TurboTax Deluxe, TurboTax Self-Employed, and the IRS Free File program. (RX1016-A (Kirk Fair Expert Report) ¶20). This screen also contained information about eligibility for IRS Free File. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 32; RX1016-A (Kirk Fair Expert Report) ¶20).

753. The Reduced Information Upgrade Screen contained less information than the Representative Upgrade Screen, omitting details about TurboTax SKUs and simply informing respondents that they could file their taxes accurately using Intuit's Free Edition. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 34-35; RX1016-A (Kirk Fair Expert Report) ¶20).

754. After respondents were shown an upgrade screen, they then answered closed-ended and open-ended questions about which tax-preparation product they would select upon seeing that screen, and why. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 35-38; RX1016-A (Kirk Fair Expert Report) ¶21).

755. If Complaint Counsel were correct that consumers start using TurboTax because they are deceived into believing they can file for free, one "would expect to see a substantial, statistically significant reduction in respondents' selection of a TurboTax Paid product [] after

learning about the additional free option”; that is, survey respondents who were provided additional information at the point of upgrade about alternative free tax-filing products would upgrade to paid TurboTax SKUs at lower rates than those who did not. (RX1016-A (Kirk Fair Expert Report) ¶¶16, 28; RX1555 (Kirk Fair (Intuit) Trial Dep.) at 40-41, 62).

756. But Ms. Kirk Fair found that consumers who were given additional information about alternative free-filing options chose both to switch to TurboTax paid products and to switch to a non-TurboTax alternative at similar rates as those who were not. (RX1016-A (Kirk Fair Expert Report) ¶28; RX1555 (Kirk Fair (Intuit) Trial Dep.) at 40-41, 62).

757. The fact that there was no statistically significant difference between the three experimental groups in terms of which tax product they would select after encountering an upgrade screen is additional evidence that TurboTax upgrade screens did not induce consumers to use TurboTax paid products and that consumers did not feel locked into doing so. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 40-41, 50, 62; RX1016-A (Kirk Fair Expert Report) ¶¶23-26, 28).

758. Thus, Ms. Kirk Fair’s survey results reinforce that consumers who start in TurboTax Free Edition do not feel “locked-in” to TurboTax SKUs after visiting the TurboTax website. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 50-52, 56-57; RX1016-A (Kirk Fair Expert Report) ¶¶33-37). Rather, respondents were willing to consider alternatives so as to have the appropriate product for their tax situation, even if that meant switching. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 51-52, 56; RX1016-A (Kirk Fair Expert Report) ¶¶33-37). Many respondents indicated that upon encountering an upgrade screen, they would conduct additional research, such as looking at product reviews for TurboTax paid products, talking to family and

friends, and making price comparisons. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 50-52, 56-57; RX1016-A (Kirk Fair Expert Report) ¶¶31, 33-37).

759. Ms. Kirk Fair’s survey also revealed that the price of tax-filing products—including out-of-pocket costs—is not the sole driver of consumers’ choice of a product. Regardless of which upgrade screen they saw, survey respondents revealed that they switched to a TurboTax paid product primarily because of their particular “tax situation.” (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 42, 46-47, 54-55; RX1016-A (Kirk Fair Expert Report) ¶36, fig. 4). Respondents also indicated that they switched to paid products because of their trust in the TurboTax brand and the features available in paid TurboTax SKUs. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 42, 46-47, 54-55; RX1016-A (Kirk Fair Expert Report) ¶36, fig. 4). Relatively few respondents indicated that they chose a product based on its “Value/Price Point.” (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 42, 46-47, 54-55; RX1016-A (Kirk Fair Expert Report) ¶36, fig. 4).

760. Complaint Counsel not only did not seek to rebut Ms. Kirk Fair’s testimony, they asked no questions of her on cross-examination. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 63).

F. Complaint Counsel Did Not Satisfy Their Burden Of Proving That The Challenged Ads Were Likely To Mislead A Significant Minority Of Reasonable Consumers

761. Complaint Counsel have not established by a preponderance of the evidence that any of the challenged brand video ads were likely to mislead a significant minority of reasonable consumers about their ability to file for free using TurboTax.

762. Complaint Counsel have not established by a preponderance of evidence that any of the challenged display ads were likely to mislead a significant minority of reasonable consumers about their ability to file for free using TurboTax.

763. Complaint Counsel have not established by a preponderance of evidence that any of the challenged paid-search ads were likely to mislead a significant minority of reasonable consumers about their ability to file for free using TurboTax.

764. Complaint Counsel have not established by a preponderance of evidence that any of the challenged email ads were likely to mislead a significant minority of reasonable consumers about their ability to file for free using TurboTax.

765. Complaint Counsel have not established by a preponderance of evidence that any of the challenged radio ads were likely to mislead a significant minority of reasonable consumers about their ability to file for free using TurboTax.

766. Complaint Counsel have not established by a preponderance of evidence that any of the challenged ads were likely to mislead a significant minority of reasonable consumers about their ability to file for free using TurboTax.

G. No Reasonable Person Would Believe That Intuit Acted Dishonestly Or Fraudulently

767. In light of all the evidence suggesting that consumers were not deceived about their ability to file for free using TurboTax, no reasonable person would have believed that Intuit's advertising practices were dishonest or fraudulent.

768. To the contrary, for numerous reasons, Intuit has consistently acted in good faith when advertising free TurboTax offers, and reasonably believed that those advertising practices were *not* dishonest or fraudulent.

769. Intuit executives consistently and credibly testified that they did not intend to deceive any consumers, did not believe the challenged ads were deceptive, and would not have run any ad that they believed was deceptive. (Johnson (Intuit) Tr. 574-575, 582, 617-618, 623-

624; Ryan (Intuit) Tr. 700-702, 704, 712, 716, 718, 722, 727, 734, 741, 743, 749, 753, 758, 760; Rubin (Intuit) Tr. 1524-1525, 1599; *supra* ¶¶169-176). As noted (*supra* ¶¶162-168), before TurboTax ads are finalized, they are reviewed by multiple stakeholders, both inside and outside of Intuit, to ensure the ads are not deceptive or misleading. (Ryan (Intuit) Tr. 699-701). That process provided Intuit a good faith basis for believing that the challenged advertisements did not mislead or otherwise deceive consumers.

770. In addition, the information available to Intuit about consumer understanding and experience reinforced Intuit's good faith basis for believing that the challenged advertisements did not mislead or otherwise deceive consumers.

771. The low rate of consumer complaints, particularly when compared to similar companies, provided Intuit a good faith basis for believing that the challenged advertisements did not mislead or otherwise deceive consumers. (Rubin (Intuit) Tr. 1647-1649).

772. The fact that the retention rate is higher for users of paid TurboTax SKUs (the customers who would be deceived under Complaint Counsel's theory) than for users of free TurboTax SKUs provided Intuit a good faith basis for believing that the challenged advertisements did not mislead or otherwise deceive consumers. (Johnson (Intuit) Tr. 628-629).

773. TurboTax's consistently high customer ratings and positive reviews provided Intuit a good faith basis for believing that it was meeting its customers' expectations and that the challenged ads did not mislead or otherwise deceive consumers. (Johnson (Intuit) Tr. 559-562; Rubin (Intuit) Tr. 1556-1557).

774. The fact that the abandonment rate for TurboTax Free Edition is the same for all TurboTax SKUs provided Intuit a good faith basis for believing that the challenged ads did not mislead or otherwise deceive consumers, because it demonstrated that consumers were

abandoning TurboTax for reasons common to all SKUs, rather than because they felt deceived in a manner specific to Free Edition. (Rubin (Intuit) Tr. 1587-1588).

775. The fact that most new TurboTax customers each year file their taxes for free using TurboTax Free Edition provided Intuit a good faith basis for believing that the challenged ads did not mislead or otherwise deceive consumers, because it indicated that Intuit was successful in its efforts to reach taxpayers who qualify for that product. (Rubin (Intuit) 1620-1621).

776. The results of Intuit's copy tests of many of the challenged ads provided Intuit a good faith basis for believing that the challenged ads did not mislead or otherwise deceive consumers, because [REDACTED]

[REDACTED]

[REDACTED] (Ryan (Intuit) Tr. 740, 774-775).

777. The TY20 NPS survey results provided Intuit a good faith basis for believing that the challenged ads did not mislead or otherwise deceive consumers, because it demonstrates that consumers who visit the TurboTax website expecting to file for free *are* filing for free, while consumers expecting to pay to file are finding TurboTax's paid offerings. (Rubin (Intuit) Tr. 1534-1535).

778. Complaint Counsel have not offered any evidence suggesting that a reasonable person would have believed that Intuit's advertising practices were dishonest or fraudulent.

X. COMPLAINT COUNSEL HAVE NOT PROVED THAT FREE TURBO TAX ADVERTISING IS MATERIAL TO REASONABLE CONSUMERS' DECISIONS

779. Complaint Counsel have offered no evidence to support finding that the challenged ads were material, that is, likely to affect a consumer's choice of or conduct regarding a product.

780. Reflecting Complaint Counsel's neglect of the materiality element, their own expert testified at trial that he was unaware that the "legal definition of deception includes materiality." (Yoeli (FTC) Tr. 1718).

781. Complaint Counsel's stated theory of materiality is that that the alleged deception was material because consumers were drawn to the TurboTax website by the challenged ads and thus wasted time and effort, amounting to harm that "can't be remedied by subsequent disclosures." (Evans (FTC) Tr. 32). But Complaint Counsel have offered no evidence to support that novel theory.

782. To start, consumers do not make a decision about whether to purchase a TurboTax SKU until they have completed their tax return and are about to file it, which occurs *after* seeing the TurboTax website, any upgrade screens encountered within a TurboTax SKU (if any), and a final summary of the products they are purchasing. (Johnson (Intuit) Tr. 570-571; Deal (Intuit) Tr. 1346; Golder (Intuit) Tr. 1068; *see also* RX14 (Intuit); RX1268-A (Intuit)). As Complaint Counsel themselves have conceded, "consumers learn that TurboTax Free Edition is not free for them prior to purchasing a paid version of TurboTax." (Complaint Counsel's Pretrial Brief at 44 (Feb. 17, 2023)). And as Professor Golder explained, consumers have not "already made their purchase decision" when they arrive at the TurboTax website (Golder (Intuit) Tr. 1068), in part because the selection of a particular tax-filing method entails "a high-involvement

purchase process” (Golder (Intuit) Tr. 1076), which consumers approach with “care and consideration” and “in a thoughtful, deliberative manner,” (Golder (Intuit) Tr. 1064, 1073-1074; *supra* ¶¶502-513). Complaint Counsel have offered no evidence proving that advertisements seen before arriving on the TurboTax website are material to consumers’ ultimate purchasing decision.

783. Complaint Counsel also did not establish that any allegedly misleading claim in the challenged ads was responsible for driving consumers to the TurboTax website, let alone driving consumers to pay for TurboTax.

784. When the challenged ads directed consumers to the TurboTax website, they “were just reinforcing what consumers [were] inclined to do anyway.” (Golder (Intuit) Tr. 1126).

785. Indeed, consumers must go to the TurboTax website (or use the TurboTax app) to use a TurboTax SKU, regardless of whether they see an advertisement. (GX439 (Ryan (Intuit) Decl.) ¶28).

786. Reliable survey evidence further demonstrates that reasonable consumers do not rely solely on ads when making decisions to try or purchase a tax-preparation product. (Golder (Intuit) Tr. 1076-1077, 1083; RX1017 (Hauser Expert Report) ¶¶104, 107, 109). Dr. Hauser conducted a Purchase Driver Survey—a “census survey of all the various things that people do” when choosing a tax-preparation provider. (RX1391 (Hauser (Intuit) Dep.) at 32; RX1017 (Hauser Expert Report) ¶103). Only 2.4% of respondents in the Purchase Driver Survey even mentioned having “viewed advertisements” when researching tax-preparation options in response to open-ended questions. (RX1017 (Hauser Expert Report) ¶107). And even when respondents indicated that they had “viewed advertisements” in response to close-ended

questions, only 3 respondents (again 2.4%) indicated that they relied only on ads in researching tax-preparation methods and providers. (RX1017 (Hauser Expert Report) ¶107).

787. Inbound traffic data for the TurboTax website from Tax Year 2021 reflect that most consumers enter the TurboTax website through means not directly tied to advertising. (Golder (Intuit) Tr. 1231; RX1018 (Golder Expert Report) ¶¶157-161, fig. 24; RX825 (Intuit)). Instead, the largest share of consumers (37%) reach the website by performing a search on an internet search engine and clicking on a non-sponsored search result for the TurboTax website. (Golder (Intuit) Tr. 1231; RX1018 (Golder Expert Report) ¶158; RX825).

788. Complaint Counsel have also failed to prove how merely visiting the TurboTax website is sufficient to establish materiality when consumers can access the TurboTax website in a matter of seconds and are repeatedly informed of the qualifications for any free TurboTax SKU.

789. Once at the TurboTax website, and before entering any information, consumers are promptly provided detailed information about the complete suite of TurboTax SKUs. (Rubin (Intuit) Tr. 1566-1567; RX13 (Intuit); RX381 (Intuit); RX122 (Intuit); RX8 (Intuit); RX138 (Intuit); RX210 (Intuit); RX1532 (Intuit); Rubin (Intuit) Tr. 1571)). Indeed, the full qualifications for any free TurboTax offer were at all times clear, upfront, and ubiquitous on the TurboTax website. (*Supra* ¶¶364-452).

790. Complaint Counsel's own expert conceded that it took only "a few seconds" to access the TurboTax website, and that once on the website it took only "five to ten seconds" to encounter full eligibility information for the free TurboTax offers. (RX1396 (Yoeli (FTC) Dep.) at 34-35).

791. As Mr. Rubin confirmed, the detailed information on the TurboTax website about the qualifications for free TurboTax offers—including the pop-up that appeared after clicking a hyperlinked disclosure—was always accessible before consumers “ha[d] to input their name or any other personal information.” (Rubin (Intuit) Tr. 1566-1567).

792. For consumers who did input information to start the process of filing a return, they typically encountered a required upgrade screen, if such a screen were encountered at all, shortly after starting their returns. (Rubin (Intuit) Tr. 1541; Johnson (Intuit) Tr. 681).

793. The average TurboTax Free Edition customer currently *completes* his or her taxes in just 28 minutes. (Rubin (Intuit) Tr. 1541). As Mr. Rubin explained, if a consumer using Free Edition were at some point to see an upgrade screen, they would see that screen in “a lot less than 28 minutes.” (Rubin (Intuit) Tr. 1541; *see also* RX1027 (Deal Expert Report) ¶105 & fig. 12; Deal (Intuit) Tr. 1334-1340). If they were shown an upgrade screen because they had income not covered by Free Edition, for example, “that would come very early in the process because [TurboTax] start[s] the process with sources of income.” (Rubin (Intuit) Tr. 1541). Indeed, Complaint Counsel conceded during summary decision briefing that “consumers with income-related disqualifiers, for instance, are likely informed that they do not qualify for Free Edition as quickly as 10 minutes into the process of completing their tax returns.” (Complaint Counsel’s Responses & Objections to Intuit’s Statement of Material Facts (Sept. 8, 2022) ¶64).

794. Complaint Counsel have failed to explain how, under these circumstances, merely causing consumers to visit the TurboTax website is sufficient to establish materiality as to statements in the challenged ads.

795. Complaint Counsel contended in their pretrial brief (at 35 n.47) that the challenged ads are presumptively material because they mention the word “free” and thus relate

to the cost of the product. But the products advertised in the challenged ads *were in fact free* for everyone who qualified to use them. (*Supra* ¶¶69, 109-110). Thus, any alleged misrepresentation was not about the *cost* of the advertised product, but rather about the product's *qualifications*, i.e., about particular consumers' ability to use the product (at the accurately advertised free price).

796. Complaint Counsel have not established that any of the challenged brand video ads were material.

797. Complaint Counsel have not established that any of the challenged display ads were material.

798. Complaint Counsel have not established that any of the challenged paid-search ads were material.

799. Complaint Counsel have not established that any of the challenged email ads were material.

800. Complaint Counsel have not established that any of the challenged radio ads were material.

801. Complaint Counsel have not established that any of the challenged ads were material.

XI. INTUIT'S SETTLEMENT AGREEMENT AND CONSENT ORDER WITH STATE ATTORNEYS GENERAL

802. Complaint Counsel have failed to present evidence that there even was any potential *future* misconduct by Intuit related to its free advertising.

803. Complaint Counsel do not challenge current TurboTax advertising as deceptive. At trial, they clarified that their theory "is that the disclosures made in the ads that ran up until

the time the complaint was filed were ineffective,” and conceded that Tax Year 2022 ads were not at issue, and at most, were “relevant to remedy.” (Anguizola (FTC) Tr. 1002, 1839).

804. Copy testing on four Tax Year 2022 ads conclusively demonstrates that they are not misleading; the proportion of participants who reported believing that they could file for free after watching the test ads was significantly lower than the approximately 50% of consumers in the market for online tax-preparation products who qualify to use the free TurboTax offers. (*Supra* ¶¶702-713). It is highly implausible that Intuit would reverse course on these improvements and engage in unlawful conduct in the future.

805. Any potential risk of future deceptive advertising relating to Intuit free tax-preparation products is fully addressed by the binding and hence judicially enforceable Consent Order that Intuit entered into with the attorneys general of all 50 states and the District of Columbia. (RX399 (Intuit); Ryan (Intuit) Tr. 755-757). The Consent Order resolved potential claims relating to Intuit’s marketing of its free online tax-preparation products. (RX261 at 15).

806. The Consent Order was executed on May 4, 2022, and entered as a final judgment and permanent injunction in Los Angeles County Superior Court (Case No. 19STCV15644) on June 25, 2022. (RX261 (Intuit) at 17; RX399 (Intuit)). Other substantively identical settlement documents have been filed with courts and regulators in all other states, according to those states’ laws. (RX399 (Intuit); RX261 (Intuit)).

807. Intuit did not admit liability or wrongdoing in the Consent Order and maintains that its previous advertisements were not deceptive. (RX261 (Intuit) at 2, 16).

808. Intuit agreed to the Consent Order because many of the terms captured practices that Intuit was “already doing or [were] things that [Intuit] had considered doing,” and because it presented “an opportunity to” “be even more clear” in its advertisements while being able “to

continue to offer TurboTax Free Edition to millions and millions of people who have simple tax returns and can come to [Intuit] and file their tax returns for free.” (Rubin (Intuit) Tr. 1599-1600).

809. Under the terms of the Consent Order, Intuit agreed to a number of restrictions on its “free” advertising, which took effect and became legally enforceable in June 2022. (RX261 (Intuit) at 4-15, 17).

810. Intuit is prohibited from airing, in any medium, the “Free, Free, Free” ads that ran between Tax Years 2018 and Tax Year 2021 (e.g., RX1110 (Intuit); RX1112 (Intuit); RX1119 (Intuit); RX1120 (Intuit)), or any other video ads “that are substantially similar in their repetition of the word free.” (RX261 (Intuit) at 8, 18-23; Ryan (Intuit) Tr. 755).

811. The Consent Order imposes distinct requirements on “Space-Constrained” and “non-Space-Constrained” ads. “Space-Constrained” ads include any video or online ad, except for ads on the TurboTax website, with “space, time, format, size, or technological restrictions that limit Intuit from being able to make the disclosures required.” (RX261 (Intuit) at 4-5).

812. For “non-Space-Constrained” ads for free tax-preparation products, Intuit “must disclose, Clearly and Conspicuously, and in Close Proximity to the representation that the product is free: (1) the existence and category of material limitations on a consumer’s ability to use that free product; and (2) that not all taxpayers qualify for the free product.” (RX261 (Intuit) at 7).

813. For “Space-Constrained” ads (other than Space-Constrained video ads), Intuit “must disclose that eligibility requirements apply,” and “[i]f made online, Intuit must also (1) Clearly and Conspicuously include a hyperlink to a landing page or webpage on a TurboTax Website that Clearly and Conspicuously contains full disclosure of all material eligibility

restrictions or (2) link by clicking on the Advertisement itself to a landing page or webpage on a TurboTax Website that Clearly and Conspicuously sets forth full disclosure of all material eligibility restrictions.” (RX261 (Intuit) at 7).

814. In Space-Constrained video ads, for the next ten years, Intuit “must visually disclose, Clearly and Conspicuously, and in Close Proximity to the representation that the product is free: (1) the existence and category of material limitations on a consumer’s ability to use that free product; and (2) that not all taxpayers qualify for the free product.” (RX261 (Intuit) at 7). In addition, Space-Constrained Video Ads longer than eight seconds “must verbally disclose, Clearly and Conspicuously and in Close Proximity to the representation that the product is free, that not all taxpayers qualify.” (RX261 (Intuit) at 7-8; Ryan (Intuit) Tr. 756).

815. The TurboTax website must “disclose (1) Clearly and Conspicuously and very near to the representation all material limitations on a consumer’s ability to use that free product, including, but not limited to, eligibility criteria for that free product, or (2) through a hyperlink (i) that is very near to the representation, (ii) that indicates that there are material limitations on a consumer’s ability to use that free product, and (iii) that links to a landing page or webpage that Clearly and Conspicuously sets forth all material limitations on a consumer’s ability to use that free product, including, but not limited to, eligibility criteria for that free product.” (RX261 (Intuit) at 8; Ryan (Intuit) Tr. 757).

816. With respect to any consumer who does not qualify to use TurboTax Free Edition, “Intuit must disclose” the ineligibility to the consumer “Clearly and Conspicuously ... at the earliest point at which it is reasonably possible to determine” the consumer’s ineligibility. (RX261 (Intuit) at 8).

817. Intuit must not misrepresent “[a]ny other fact material to consumers concerning any tax-preparation product or service, such as the price; total cost; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.” (RX261 (Intuit) at 7).

818. The Consent Order defines the requirement that a disclosure be made “Clearly and Conspicuously” to mean that the disclosure is “difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers.” (RX261 (Intuit) at 2-3). For example, “[a] visual disclosure, by its size, contrast, location, the length of time it appears ... must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.” (RX261 (Intuit) at 3). And audio disclosures must “be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.” (RX261 (Intuit) at 3).

819. The Consent Order defines the requirement that a disclosure be made in “Close Proximity” to the free representation to mean that the disclosure is “very near the triggering representation and that the disclosure is made simultaneously with the triggering representation and remains or is repeated throughout the duration of the Advertisement.” (RX261 (Intuit) at 3-4).

820. The Consent Order also includes requirements that ensure Intuit’s compliance, including submitting regular notices to an oversight committee of the attorneys general, creating and retaining records demonstrating compliance, and submitting reports upon request by the oversight committee. (RX261 (Intuit) at 14-15).

821. Intuit has taken compliance with the order seriously: It has organized a team responsible for ensuring that all marketing and advertising is compliant with the Consent Order. (Rubin (Intuit) Tr. 1600).

822. All Intuit employees in marketing roles and leadership roles, including employees subsequently hired by the marketing team, are provided clear and comprehensive training on the Consent Order's provisions. (Rubin (Intuit) Tr. 1600-1601).

823. Since the Consent Order was executed, Intuit has complied with the order's requirements. (Ryan (Intuit) Tr. 757; Rubin (Intuit) Tr. 1600-1601; *supra* ¶¶335-352 (Tax Year 2022 ads)).

824. For example, Intuit has not run any "Free, Free, Free" ads or any other video ads that repeat the word "free," and has expressly disclaimed any intent to do so in the future. (Ryan (Intuit) Tr. 754-757).

825. Intuit has also complied with the Consent Order's provisions governing Space-Constrained video ads, by including written disclosures when an ad is shorter than eight seconds or written and verbal disclosures when an ad is eight seconds or longer—and Intuit plans to continue doing all this going forward. (Ryan (Intuit) Tr. 754-756, 758-759; RX1444 (Intuit); *supra* ¶¶342-343).

826. Intuit has likewise complied with the Consent Order's provisions governing non-Space Constrained display ads, by including verbal and written disclosures in its display advertisements—and it plans to continue to do so going forward. (Ryan (Intuit) Tr. 757, 760-761; *supra* ¶¶342-343, 345).

827. Finally, Intuit has complied with the Consent Order's provisions governing Space-Constrained display ads, by including hyperlinks to webpages with detailed eligibility requirements; Intuit had in fact included such hyperlinks in its display ads before the Consent Order was executed—and it plans to continue this compliance going forward. (Ryan (Intuit) Tr. 757, 760-761; RX1420 (Intuit); *supra* ¶¶253, 345).

828. Complaint Counsel have not presented any evidence that Intuit's current practices fail to comply with the Consent Order in any way, nor any evidence suggesting that Intuit might not comply with the Consent Order in the future.

XII. THE PROPOSED ORDER SOUGHT BY COMPLAINT COUNSEL WOULD HARM CONSUMERS

829. Beyond being unnecessary (given the Consent Order's provisions and Intuit's compliance with them), Complaint Counsel's proposed order here would affirmatively harm consumers, by dissuading those that qualify for TurboTax Free Edition from using it. (Ryan (Intuit) Tr. 776-777; RX601 (FTC) at 1-11).

830. The proposed order would require Intuit to include an exhaustive list of the specific tax situations covered and not covered by TurboTax Free Edition in all free TurboTax advertisements, even space-constrained ads. (RX601 (FTC) at 5; Golder (Intuit) Tr.1166-1167).

831. It would also require all TurboTax ads to state, at the outset of any disclosures, that TurboTax Free Edition is "not free for the majority of U.S. taxpayers." (RX601 (FTC) at 5).

832. Complaint Counsel did not present any evidence to justify these onerous requirements as being necessary or even helpful to prevent deception of reasonable consumers.

833. Intuit, however, presented substantial evidence that the requirements would confuse reasonable consumers and discourage taxpayers who qualify to file for free from doing so. (Johnson (Intuit) Tr. 583; Ryan (Intuit) Tr. 776-777; Rubin (Intuit) Tr. 1543-1544).

834. The proposed order's disclosure requirements would be confusing—and thus ineffective at communicating the qualifications for free TurboTax SKUs or offers—because they would cause reasonable consumers to experience information overload. (Johnson (Intuit) Tr.

583; Ryan (Intuit) Tr. 776-777; Rubin (Intuit) Tr. 1543-1544; Golder (Intuit) Tr. 1174; *see also* Novemsky (FTC) Tr. 401).

835. As Complaint Counsel's own expert Professor Novemsky acknowledged, information overload occurs when consumers are given too much information in a context where they are unable to process it. (Novemsky (FTC) Tr. 401; *see also* Golder (Intuit) Tr. 1174). When consumers experience information overload, they are likely to tune out and process less information than has been provided. (Golder (Intuit) Tr. 1175-1176). For this reason, the FTC's ".com Disclosures" guidelines recommend that disclosures be short. (RX96 (FTC) at 21; RX1018 (Golder Expert Report) ¶118).

836. Intuit's space-constrained video and display ads provide short disclosures stating that TurboTax Free Edition is "for simple tax returns only" and directing consumers to the TurboTax website for more information. (*Supra* ¶¶215-218, 248-249, 253).

837. On the TurboTax website, Intuit provides a comprehensive explanation of free product eligibility, including the definition of a "simple tax return" and detailed descriptions of the tax situations that are covered and not covered. (RX1498 (Intuit); RX1499 (Intuit); Johnson (Intuit) Tr. 582-583; Ryan (Intuit) Tr. 776-777; *supra* ¶¶364-441). That explanation is available both through a hyperlink and a pop-up, or without clicking a hyperlink by scrolling down the page. (RX1498 (Intuit); RX1499 (Intuit); RX1500 (Intuit); *supra* ¶¶372-407). The TurboTax Free Edition landing page also contains a chart detailing the TurboTax SKU offerings and the IRS forms or schedules included in each offering. (RX1531 (Intuit); Rubin (Intuit) Tr. 1567; *supra* ¶¶392-398). And the Products & Pricing page provides comprehensive information about the full suite of TurboTax SKUs, including their price and any eligibility qualifications. (RX13

(Intuit); RX381 (Intuit); RX122 (Intuit); RX8 (Intuit); RX138 (Intuit); RX210 (Intuit); RX1532 (Intuit); Rubin (Intuit) Tr. 1570-1571; *supra* ¶¶408-418).

838. The information offered at various locations on the TurboTax website, moreover, is provided at a point in the buying process when consumers are “motivated and ready to process” the information, and in an environment where consumers can “control the flow” of the information provided, by, for example, clicking on a hyperlink when they are prepared to digest more detailed information. (Golder (Intuit) Tr. 1070-1071, 1105-1108, 1129-1130, 1173-1175; Johnson (Intuit) Tr. 582-583; Ryan (Intuit) Tr. 776-777).

839. Complaint Counsel’s proposed order would instead require Intuit to provide “[a]ll the terms, conditions, and obligations ... at the outset of the offer” in every TurboTax ad, no matter the medium—forcing Intuit to include the 157-word disclosure found in the “simple tax returns” pop-up on the TurboTax website even when such a disclosure would be impractical. (RX601 (FTC) at 5; Golder (Intuit) Tr. 1166-1167, 1170-1172).

840. Reasonable consumers cannot be expected to process and understand such complicated information in a matter of seconds, or to recall the information later, when they make their purchase decisions. (Ryan (Intuit) Tr. 776-777; Golder (Intuit) Tr. 1105-1107, 1129-1130).

841. Professor Novemsky conceded that a 30-second television ad or a 6-second TikTok ad is not the place to provide “lots of complicated information” about qualifications and doing so would lead to “poor consumer decision-making.” (RX1392 (Novemsky (FTC) Dep.) at 317; Novemsky (FTC) Tr. 401-402, 1780, 1820; RX1018 (Golder Expert Report) ¶123). He further admitted that “the level of information that’s contained in the eligibility requirements [for free TurboTax SKUs] could not be effectively communicated in a 30-second television

commercial,” and Intuit would “overload consumers by providing lots of complicated qualification criteria in a 30-second commercial or in a 6-second TikTok” ad. (Novemsky (FTC) 402, 1780).

842. The likely result of the proposed order’s required disclosure would be that consumers would disengage from ads and process less information, ultimately leading to less consumer awareness of TurboTax Free Edition and its qualifications. (Golder (Intuit) Tr. 1177-1178).

843. The same is true with respect to the proposed order’s separate requirement of a disclosure stating that TurboTax Free Edition is “not free for the majority of U.S. taxpayers.” (RX601 (FTC) at 5). That would discourage many consumers who qualify from searching for more information about TurboTax Free Edition and from investigating whether they qualify. (Golder (Intuit) Tr. 1168). Those consumers would instead wrongly assume, based on the disclosure, that they are among the “majority” who do not qualify to file for free. (Golder (Intuit) Tr. 1168-1169). The result would be fewer people filing their taxes for free. (Golder (Intuit) Tr. 1168-1169, 1180-1181; RX1018 (Golder Expert Report) ¶¶240, 243, 246).

844. In addition, the disclosures required by the proposed order would make Intuit’s ads drastically different from its competitors’ ads, even though those competitors use similar eligibility requirements for their free products. (Golder (Intuit) Tr. 1170-1172, 1177-1178; RX1018 (Golder Expert Report) ¶¶231-243).

845. As Professor Golder testified, the additional disclosures sought by Complaint Counsel “would be out of step with what consumers are seeing,” would be “overwhelming” for ads “on TV [and] even more so in social media,” and “would not give them [consumers] time to process that information.” (Golder (Intuit) Tr. 1172).

846. All this is consistent with the testimony of Intuit’s fact witnesses that consumers would be worse off if Intuit added overly detailed or technical qualifying language to TurboTax ads. (Johnson (Intuit) Tr. 583; Ryan (Intuit) Tr. 776-777; Rubin (Intuit) Tr. 1543-1544). Mr. Johnson, for example, explained that “includ[ing] each and every detail regarding various tax situations” covered by free TurboTax offers “would be incomprehensible” to consumers, in part because the font would need to be “so small,” and that doing so would be inconsistent with consumer behavior and expectations because consumers were not yet “looking for that information.” (Johnson (Intuit) Tr. 583). Ms. Ryan similarly testified that including the full eligibility details for free TurboTax SKUs in ads would be impractical because it simply would not fit, and that consumers would not even know while seeing, reading, or hearing an ad which tax forms they use. (Ryan (Intuit) Tr. 776-777). And Mr. Rubin stated that providing more detailed qualifications, such as identifying specific tax forms, would “be more confusing for consumers” because tax forms can change year to year, and it is difficult to understand lengthy qualifications in a short ad. (Rubin (Intuit) Tr. 1543-1544).

847. By thereby unfavorably differentiating TurboTax from its competitors, the disclosure requirements would likely lead Intuit to decrease its investment in, or eliminate entirely, its advertising for TurboTax Free Edition. (Golder (Intuit) Tr. 1177-1178; RX1018 (Golder Expert Report) ¶233; *see also* Ryan (Intuit) Tr. 723-724, 735-740). Perhaps that is Complaint Counsel’s goal in pursuing this case, but it would cause consumer awareness of and interest in free tax-filing options to decrease as well—resulting, again, in fewer consumers filing their taxes for free, and more consumers unnecessarily paying to file. (Ryan (Intuit) Tr. 776-777; RX1018 (Golder Expert Report) ¶¶235-236, 240, 244-245; Golder (Intuit) Tr. 1177-1178; RX588 (Intuit) at 20-21, 40; RX595 (Intuit) at 6).

XIII. INTUIT'S WITNESSES TESTIFIED CREDIBLY THAT THERE WAS NO LIKELIHOOD OF DECEPTION

A. Intuit Executives

1. Greg Johnson

848. Intuit presented fact testimony at trial from former Intuit marketing executive Greg Johnson. (Johnson (Intuit) Tr. 546-547). Mr. Johnson served as the Vice President and Senior Vice President of Marketing at Intuit from December 2012 until August 2018. (Johnson (Intuit) Tr. 552; GX152 (Johnson (Intuit) IHT at 25-26)). He served as General Manager of Intuit's Consumer Group—a position “akin to being the CEO of the TurboTax business”—from August 2018 through May 2022, when he became CEO of the software company McAfee. (Johnson (Intuit) Tr. 546-547, 551-552; GX152 (Johnson (Intuit) IHT at 22-24)).

849. Mr. Johnson was credible and knowledgeable about the topics addressed during his testimony. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

850. Mr. Johnson testified credibly and knowledgeably about Intuit's values and culture, including the company's commitment to solving its customers' problems and its commitment to "integrity without compromise." (Johnson (Intuit) Tr. 549-551, 554). Mr. Johnson explained that Intuit's culture was consistent with his own values, instilled during his career in the Air Force, of being a team player and service-oriented. (Johnson (Intuit) Tr. 548-549).

851. Mr. Johnston testified credibly and knowledgeably about Intuit's TurboTax business strategy and focus on customer retention. (Johnson (Intuit) Tr. 570-576, 626-627). As Mr. Johnson explained, Intuit prioritizes building long-lasting relationships with its customers,

because those relationships “ [REDACTED] ” (Johnson (Intuit) Tr. 626).

852. Mr. Johnson testified credibly and knowledgeably about Intuit’s TurboTax marketing strategy and how Intuit advertises TurboTax Free Edition to make customers with simple tax returns aware that a free TurboTax SKU is available to them. (Johnson (Intuit) Tr. 574). Mr. Johnson also testified credibly that it has never been Intuit’s strategy or intent to suggest to consumers who do not qualify for TurboTax Free Edition that they can file for free. (Johnson (Intuit) Tr. 574-575). As Mr. Johnson explained, such a strategy would have eroded trust in the TurboTax brand and discouraged customers from filing their tax returns with TurboTax. (Johnson (Intuit) Tr. 575-576).

853. Mr. Johnson testified credibly and knowledgeably about how TurboTax SKUs are differentiated by the complexity of the tax situation each product can handle. (Johnson (Intuit) Tr. 568, 571-573). The purpose of this complexity-based model, Mr. Johnson credibly explained, is to avoid ambiguity for customers by aligning TurboTax SKUs with the IRS’s tax forms and schedules. (Johnson (Intuit) Tr. 568, 571).

854. Mr. Johnson testified credibly and knowledgeably about the qualifications for TurboTax SKUs. He explained that TurboTax Free Edition is available for consumers with “simple tax returns,” meaning those that could be filed on a Form 1040, without any attached schedules or forms. (Johnson (Intuit) Tr. 581-583). And he explained that Intuit uses the phrase “simple tax returns” because the IRS and other industry participants also use it to describe those who file on only Form 1040; this practice of aligning the qualifications for TurboTax Free Edition with the IRS’s definition of a “simple tax return” minimizes customer confusion. (Johnson (Intuit) Tr. 581-582, 583-587).

855. Mr. Johnson testified credibly and knowledgeably about how consumers navigate and use the TurboTax website, including the TurboTax homepage, Free Edition landing page, Products & Pricing Page, and SKU Selector. (Johnson (Intuit) Tr. 593-599, 603). Mr. Johnson described in detail how, in numerous places on the TurboTax website, consumers are able to readily access comprehensive information about the tax situations that are covered, and not covered, by TurboTax Free Edition. (Johnson (Intuit) Tr. 594-598).

856. Mr. Johnson's tone and demeanor during his testimony evinced that he was testifying truthfully, based on his personal experiences. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

2. Cathleen Ryan

857. Intuit presented fact testimony at trial from current Intuit marketing executive Cathleen Ryan. (Ryan (Intuit) Tr. 686). Ms. Ryan became Senior Vice President of Marketing at Intuit in February 2022. (Ryan (Intuit) Tr. 688). Prior to that, Ms. Ryan served successively as Manager, Director, and Vice President in Intuit's marketing group. (Ryan (Intuit) Tr. 687).

858. Ms. Ryan was credible and knowledgeable about the topics addressed during her testimony. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

859. Ms. Ryan testified credibly and knowledgeably about Intuit's TurboTax business strategy. She testified that marketing free TurboTax SKUs benefits Intuit because consumers with simple tax returns are easier to acquire than those with more complex tax situations, as consumers with simple returns are typically younger and less set in their ways when it comes to tax preparation. (Ryan (Intuit) Tr. 702). Consistent with Mr. Johnson, Ms. Ryan further explained that Intuit seeks to acquire and retain customers with simple tax returns because the

company's hope is that these customers will continue to use TurboTax over time, as their tax situations become more complex and require the use of paid products. (Ryan (Intuit) Tr. 702-703).

860. Ms. Ryan testified credibly and knowledgeably about Intuit's TurboTax marketing strategy. Like Mr. Johnson, Ms. Ryan testified that it is not Intuit's strategy or intent to trick customers into believing they can file for free when they must pay; such a strategy would actually harm Intuit's business, which depends on returning customers. (Ryan (Intuit) Tr. 704, 747). Instead, Ms. Ryan explained, Intuit strives to get customers in the right SKU for their tax situation from the start by (1) being transparent in marketing communications, and (2) targeting advertising for free products toward individuals who qualify for those products and away from individuals who do not qualify. (Ryan (Intuit) Tr. 704-705, 747-748).

861. Ms. Ryan testified credibly and knowledgeably about how Intuit's process for developing its ads is consistent with its broader marketing strategy. As Ms. Ryan explained, TurboTax ads are developed through an iterative process involving several rounds of review from multiple stakeholders. (Ryan (Intuit) Tr. 699-701). She explained that during the review process, ads are carefully reviewed to ensure they are not deceptive or misleading, and if any stakeholder considered an ad to be deceptive or misleading, the ad would not make it on the air. (Ryan (Intuit) Tr. 701-702).

862. Ms. Ryan testified credibly and knowledgeably about the copy testing that was conducted on some of Intuit's TurboTax ads. As she explained in detail, the results of those copy tests did not in any way suggest that the ads were misleading. (Ryan (Intuit) Tr. 713-715, 722-725, 735-740, 771-775).

863. Ms. Ryan testified credibly and knowledgeably about the ads that were ultimately produced from Intuit's iterative process. As she explained in detail, ads for free TurboTax SKUs—which she played a role in approving—were not intended to convey that all TurboTax SKUs are free; to the contrary, the ads consistently included the name of the product being advertised and its qualifications. (Ryan (Intuit) Tr. 700-702, 704, 712, 716, 718, 722, 727, 733-734, 741, 743, 749, 753, 758, 760).

864. Ms. Ryan testified credibly and knowledgeably about the Consent Order that Intuit entered into with the attorneys general of all 50 states and the District of Columbia, and how that Consent Order imposes additional requirements on Intuit's advertisements for free TurboTax SKUs. (Ryan (Intuit) Tr. 755-756). Ms. Ryan testified that Intuit has complied, and will continue to comply, with the Consent Order's requirements. (Ryan (Intuit) Tr. 757). She also testified credibly about how Complaint Counsel's additional proposed requirements for TurboTax's ads would harm consumers, by dissuading those that qualify for TurboTax Free Edition from using it. (Ryan (Intuit) Tr. 776-777).

865. Ms. Ryan's tone and demeanor during her testimony evinced that she was testifying truthfully, based on her personal experiences. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

3. Jack Rubin

866. Intuit presented fact testimony at trial from current Intuit marketing executive Jack Rubin. (Rubin (Intuit) Tr. 1498). Mr. Rubin joined Intuit in 2018 as the Vice President of Marketing Strategy for the Consumer Group—the Intuit business unit that includes TurboTax—and he remains primarily focused on TurboTax marketing strategy. (Rubin (Intuit) Tr. 1498-1501).

867. Mr. Rubin was credible and knowledgeable about the topics addressed during his testimony. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

868. Mr. Rubin testified credibly and knowledgeably about Intuit's TurboTax business strategy. Consistent with Mr. Johnson and Ms. Ryan, he explained that Intuit offers TurboTax Free Edition as part of a long-term growth strategy, under which the company seeks to develop long-term relationships with customers with simple tax returns, in the hope that they will continue to use TurboTax over time, as their tax situations become more complex over time and require use of paid products. (Rubin (Intuit) Tr. 1522-1523).

869. Mr. Rubin testified credibly and knowledgeably about how it is essential to Intuit's business strategy that consumers understand the qualifications for free TurboTax SKUs. (Rubin (Intuit) Tr. 1542, 1559-1560, 1583-1585). Consistent with Mr. Johnson, Mr. Rubin explained that Intuit aligns the qualifications for those free TurboTax SKUs with the IRS's definition of "simple tax return" in order to make it easy for consumers to understand which SKU is right for their tax situation. (Rubin (Intuit) Tr. 1542). Mr. Rubin testified credibly that approximately 60 million tax returns each year meet the definition of simple tax return, and he testified credibly that, each year, over half of the taxpayers who file their taxes online have simple returns. (Rubin (Intuit) Tr. 1594-1596). Mr. Rubin further explained that Intuit tested consumer comprehension of the phrase "simple tax return" and determined that consumers found the phrase easy to understand. (Rubin (Intuit) Tr. 1544-1546).

870. Mr. Rubin testified credibly and knowledgeably about Intuit's TurboTax marketing strategy. Like Mr. Johnson and Ms. Ryan, he testified credibly that it is not Intuit's strategy to deceive customers into believing they can file for free when they actually cannot.

(Rubin (Intuit) Tr. 1525-1526, 1529-1531). Consistent with Mr. Johnson and Ms. Ryan, he explained that deceiving customers would hurt Intuit's business—which depends on customers having positive experiences, returning in subsequent years, and encouraging others to also try TurboTax. (Rubin (Intuit) Tr. 1525-1526, 1529-1531). And again consistent with Mr. Johnson and Ms. Ryan, Mr. Rubin testified that Intuit's intent in running advertisements about free TurboTax products has always been to convey to consumers with simple tax returns who qualify to use free TurboTax SKUs that those particular TurboTax SKUs are available to them for free. (Rubin (Intuit) Tr. 1524-1525). For that reason, Mr. Rubin explained, Intuit targets advertising for free TurboTax SKUs toward consumers who would qualify for those SKUs. (Rubin (Intuit) Tr. 1523-1525, 1534-1535, 1596-1597). Mr. Rubin credibly testified that Intuit would not have run any ads that were deceptive or misleading, and that Intuit continuously considers ways to make its ads even more clear. (Rubin (Intuit) Tr. 1562, 1599).

871. Mr. Rubin testified credibly and knowledgeably about the TurboTax website. He explained that consumers can access the TurboTax Free Edition landing page numerous ways, including through search results, TurboTax blog content, TurboTax press releases, and by clicking on TurboTax display ads. (Rubin (Intuit) Tr. 1564-1565). Once consumers reach the website, Mr. Rubin explained, there are myriad ways they can learn whether they qualify for TurboTax Free Edition, before inputting any of their personal information. (Rubin (Intuit) Tr. 1564-1569).

872. Mr. Rubin testified credibly and knowledgeably about Intuit's efforts to ensure customers have positive experiences with TurboTax. Consistent with Mr. Johnson and Ms. Ryan, he testified that Intuit works extensively to ensure that consumers begin their filing experience in the correct SKU and that they finish their in that same SKU. (Rubin (Intuit) Tr.

1583-1584). For example, Mr. Rubin credibly testified about how Intuit created the SKU Selector in order to make it easier for customers to choose the right SKU for their individual tax situations. (Rubin (Intuit) Tr. 1575-1577, 1580-1581). Through these efforts, Mr. Rubin explained, Intuit's hope is that each customer will not need to be presented with an upgrade screen; however, whenever a customer enters information that does require them to upgrade, Intuit ensures the customer is notified immediately. (Rubin (Intuit) Tr. 1583-1584).

873. Mr. Rubin testified credibly and knowledgeably about how Intuit has consistently sought to improve TurboTax Free Edition by adding additional features, services, and functionality. (Rubin (Intuit) Tr. 1539-1540). He testified that Intuit has enhanced TurboTax Free Edition by providing customers the ability to review and import information from their prior year's tax return and by allowing customers to review their prior year(s)' tax returns. (Rubin (Intuit) Tr. 1540). Mr. Rubin explained that each of these services were previously offered to customers for a fee, but that Intuit incorporated them into TurboTax Free Edition because the company is committed to delivering the best free offering in the marketplace for its customers. (Rubin (Intuit) Tr. 1540).

874. Mr. Rubin testified credibly and knowledgeably about the numerous business metrics that Intuit uses to monitor its customers' experiences. He testified credibly that the abandonment rate for TurboTax Free Edition is the same for all other TurboTax SKUs, indicating that consumers abandon for reasons common to all products—not because they expect to file for free but are then informed that they must pay. (Rubin (Intuit) Tr. 1585-1588). He testified credibly about how TurboTax customer views are overwhelmingly positive, which he credibly explained is the opposite of what Intuit would expect to see if consumers were deceived about their ability to file for free. (Rubin (Intuit) Tr. 1530-1531). And he testified credibly

about the TY20 NPS Study (GX665 (Intuit)); as he explained, that study demonstrates that Intuit is successful in its efforts to target its ads for free TurboTax SKUs toward consumers who would qualify, because it shows that the percentage of customers who are aware that TurboTax offers a free SKU is barely higher than the percentage of customers who actually file their taxes with TurboTax Free Edition. (Rubin (Intuit) Tr. 1532-1533, 1622-1623).

875. Mr. Rubin testified credibly and knowledgeably about the Consent Order that Intuit entered into with the attorneys general of all 50 states and the District of Columbia. He explained that Intuit maintains that none of its ads have ever been deceptive, but that the company agreed to the Consent Order because many of the order's terms encompassed practices that Intuit was already engaging in, and because the agreement provided Intuit an opportunity to be even more clear in its ads while continuing to offer TurboTax Free Edition to the millions of people who qualify. ((Rubin (Intuit) Tr. 1598-1600). Consistent with Ms. Ryan, Mr. Rubin credibly testified that Intuit has taken a number of measures to ensure that all TurboTax marketing and advertising complies with the Consent Order, and that Intuit intends to continue complying. (Rubin (Intuit) Tr. 1600-1601).

876. Mr. Rubin testified credibly and knowledgeably about Intuit's participation in the IRS Free File program. (Rubin (Intuit) Tr. 1506-1521). He testified that the IRS Free File program was launched in Tax Year 2002 to provide free online tax preparation services to eligible taxpayers and to increase the percentage of federal returns filed online. (Rubin (Intuit) Tr. 1508, 1510). Intuit's participation in the Free File program, Mr. Rubin credibly explained, was completely separate from its commercial TurboTax product lineup; Intuit did not view the program as a means to advertise its commercial TurboTax offerings and ensured that consumers who started in the IRS Free File program software and later visited the TurboTax website, were

directed back to the Free File Program. (Rubin (Intuit) Tr. 1513-1514, 1519-1520). Mr. Rubin also credibly explained that Intuit decided to terminate its participation in the IRS Free File program in 2021, due in part to the FTC's demand that Intuit promote the IRS Free File software on its commercial website—which would have violated the terms of the IRS program. (Rubin (Intuit) Tr. 1510, 1514).

877. Mr. Rubin's tone and demeanor during his testimony evinced that he was testifying truthfully, based on his personal experiences. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

B. Expert Witnesses

1. John Hauser

878. Intuit presented expert testimony at trial from Dr. John Hauser, the Kirin Professor of Marketing at the MIT Sloan School of Management. (Hauser (Intuit) Tr. 838-839). Dr. Hauser was qualified to offer expert testimony concerning the opinions contained in his expert report. (Hauser (Intuit) Tr. 838-841; RX1017 (Intuit) at 1, A-1).

879. Dr. Hauser's expert opinions were the product of reliable principles and methods, and were helpful to the Court. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

880. Dr. Hauser's field of specialization is marketing science, which is the application of scientific methods to study marketing-related issues. (Hauser (Intuit) Tr. 839). He has extensive experience designing experiments and conducting survey research. (Hauser (Intuit) Tr. 839, 842-843; RX1017 (Hauser Expert Report) ¶1).

881. Dr. Hauser demonstrated that he was credible and knowledgeable about the topics addressed in his testimony. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

882. Dr. Hauser testified credibly and knowledgably about how he designed his Disclosure Efficacy Survey in accordance with scientific best practices and in a manner that enabled him to assess causality. (Hauser (Intuit) Tr. 847-869, 1018-1034). He also testified credibly and knowledgably about how the results of his Disclosure Efficacy Survey are inconsistent with Complaint Counsel's hypotheses in this case and indicate that the challenged ads are not deceptive. (Hauser (Intuit) 869-875).

883. Dr. Hauser also testified credibly and knowledgably about how to analyze and understand the results of Intuit's TY20 Copy Test (GX460 (Intuit)), and about why the results of that test do not suggest that the challenged ads are deceptive. (Hauser (Intuit) Tr. 876-885).

884. Dr. Hauser testified credibly and knowledgably about why Professor Novemsky's survey was scientifically invalid and is not reliable evidence. As Dr. Hauser credibly explained, Professor Novemsky's survey was not designed to assess causality, asked leading questions that encouraged participants to provide the answers that Professor Novemsky wanted, used an unrepresentative, biased survey population, and overstated his results. (Hauser (Intuit) Tr. 893-954).

885. Dr. Hauser's tone and demeanor during his testimony evinced that he was testifying truthfully. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

2. Peter Golder

886. Intuit presented expert testimony at trial from Peter Golder, a professor of marketing at Dartmouth College's Tuck School of Business. (Golder (Intuit) Tr. 1041, 1043). Professor Golder was qualified to offer expert testimony concerning the opinions contained in his expert report. (RX1018 (Golder Expert Report) ¶¶1-4, A-1 to A-16; Golder (Intuit) Tr. 1042-1045, 1047-1049).

887. Professor Golder's expert opinions in this case were the product of reliable principles and methods, and were helpful to the Court. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

888. In forming his opinions in this case, Professor Golder relied on well-respected marketing research literature, his experience and expertise, a number of analyses he performed, customer outcome metrics he reviewed, and TurboTax advertising and marketing materials. (Golder (Intuit) Tr. 1051-1053).

889. Professor Golder demonstrated that he was credible and knowledgeable about, the topics addressed during his testimony. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

890. Professor Golder testified credibly and knowledgeably about reasonable consumers in the tax-preparation industry. He explained how reasonable consumers are familiar with and regularly encounter free product offers with limitations, both outside and within the tax-preparation industry. (Golder (Intuit) Tr. 1088-1099). And he explained how reasonable consumers demonstrate skepticism toward free product offerings, and therefore are unlikely to assume that TurboTax is necessarily free for them. (Golder (Intuit) Tr. 1095-1099).

891. Professor Golder testified credibly and knowledgeably about the consumer buying process. As he explained, consumers' selection of a tax-preparation provider is a high-involvement purchase process, meaning they engage with a variety of information sources, conduct research, evaluate alternatives, and do not rely solely on advertisements. (Golder (Intuit) Tr. 1060-1087).

892. Professor Golder testified credibly and knowledgeably about his analysis of the disclosures in Intuit's advertising for free TurboTax SKUs. He explained how those ads effectively communicate the existence of a restriction and category of that restriction, direct consumers to the TurboTax website for more information, and provide information in a manner that consumers can process it. (Golder (Intuit) Tr. 1099-1132). Professor Golder further testified that the disclosures in Intuit's advertising for free TurboTax SKUs were in the form, location, and amount of detail that consumers expect and are familiar with. (Golder (Intuit) Tr. 1111-1116, 1153-1155).

893. Professor Golder testified credibly and knowledgeably about his analysis of the TurboTax website. Professor Golder explained how the TurboTax website is successfully integrated into Intuit's advertising for TurboTax, because the ads' disclosures encourage consumers to visit the TurboTax website, and because consumers indeed must visit the website in order to use or purchase TurboTax online products. (Golder (Intuit) Tr. 1067-1069, 1124-1132). Professor Golder further explained that, by encouraging consumers to visit the TurboTax website, Intuit's ads reinforce natural consumer behavior, because consumers understand that they can visit websites to find additional information. (Golder (Intuit) Tr. 1126).

894. Professor Golder testified credibly and knowledgeably about the benchmarking analysis he performed comparing video and social media display ads for free TurboTax SKUs

with ads from 18 benchmark companies, using metrics from the FTC's “.com Disclosures” guidelines. (Golder (Intuit) Tr. 1132-1163). As Professor Golder explained, that benchmarking analysis showed that the disclosures in TurboTax’s ads products were comparable or superior to the disclosures in the other companies’ advertisements. (Golder (Intuit) Tr. 1148-1151, 1156-1160).

895. Professor Golder testified credibly and knowledgably about the effects that would result from the Proposed Order sought by Complaint Counsel in this case. (Golder (Intuit) Tr. 1164-1184). Professor Golder explained how Complaint Counsel’s burdensome proposed disclosures would lead to information overload, be out of step with industry norms, lead to less TurboTax free advertising, decrease consumer awareness of free tax filing options, and ultimately lead to fewer consumers filing for free. (Golder (Intuit) Tr. 1164-1184).

896. Professor Golder testified credibly and knowledgably about the variety of analyses he performed with respect to consumer outcomes, including consumer complaints and retention rates. (Golder (Intuit) Tr. 1184-1214). With respect to consumer complaints, Professor Golder testified that number of complaints identified by Complaint Counsel is miniscule compared to the millions of TurboTax customers during the relevant time period. (Golder (Intuit) Tr. 1195-1196, 1208). As he explained, one would expect the number of consumer complaints to be significantly higher if Intuit had engaged in a multi-year, multi-channel, multi-modal advertising campaign to deceive customers. (Golder (Intuit) Tr. 1189-1190, 1193-1194, 1212-1213). Professor Golder also testified credibly about his independent coding analysis of Complaint Counsel’s identified complaints, which showed that many of those complaints are not relevant to this action. (Golder (Intuit) Tr. 1197-1208). And he testified credibly about his

complaint benchmarking analysis, which showed that Intuit's rate of BBB complaints was far lower than that of benchmark companies. (Golder (Intuit) Tr. 1208-1213).

897. Professor Golder's tone and demeanor during his testimony evinced that he was testifying truthfully about the topics covered in his testimony. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

3. Bruce Deal

898. Intuit presented expert testimony from Bruce Deal at trial. (Deal (Intuit) Tr. 1291). Mr. Deal was qualified to offer expert testimony concerning the opinions contained in his expert report. (Deal (Intuit) Tr. 1291-1293; RX1027 (Deal Expert Report) ¶¶1-2, A-1 to A-23).

899. Mr. Deal's expert opinions in this case were the product of reliable principles and methods, and were helpful to the Court. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

900. Mr. Deal demonstrated that he was credible and knowledgeable about and the topics addressed during his testimony. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

901. Mr. Deal testified credibly and knowledgeably about the tax-preparation industry. As Mr. Deal testified, the industry is characterized by a relatively stable customer base, repeat interactions every tax season, a large number of tax-preparation options, and low costs to consumers of switching from one tax-preparation provider to another. (Deal (Intuit) Tr. 1296-1303, 1308-1321). In light of these characteristics, deception would not be a rational business strategy in the tax-preparation market. (Deal (Intuit) Tr. 1321).

902. Mr. Deal testified knowledgeably and credibly about his analysis of TurboTax customer data. In the first phase of that analysis, Mr. Deal credibly explained, he found that

97.6% of the 55.5 million TurboTax customers in Tax Year 2021 did not exhibit characteristics of being deceived, because they either did not pay to file, had prior experience with paid TurboTax SKUs, or evinced a preference for paid products. (Deal (Intuit) Tr. 1322-1359, 1389). And in the second phase of the analysis, Mr. Deal found that only 510 of the 1.3 million Tax Year 2021 customers was associated with direct evidence of possible deception. (Deal (Intuit) Tr. 1359-1368, 1375-1377).

903. Mr. Deal's tone and demeanor during his testimony evinced that he was testifying truthfully about the topics covered in his testimony. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

4. Rebecca Kirk Fair

904. Intuit presented expert testimony from Rebecca Kirk Fair through a trial deposition. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 1). Ms. Kirk Fair was qualified to offer expert testimony concerning the opinions contained in her expert report. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 6-9; RX1016-A (Kirk Fair Expert Report) ¶¶1-5).

905. Ms. Kirk Fair has extensive experience with designing, conducting, and evaluating consumer surveys. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 6-10; RX1016-A (Kirk Fair Expert Report) ¶¶1-6). Ms. Kirk Fair has served as an expert for the FTC in previous matters. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 6-9; RX1016-A (Kirk Fair Expert Report) ¶¶1-5).

906. Ms. Kirk Fair's expert opinions in this case were the product of reliable principles and methods, and were helpful to the Court. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

907. Ms. Kirk Fair demonstrated that she was credible and knowledgeable about the topics addressed during her testimony, including her survey and its results. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 6-9; RX1016-A (Kirk Fair Expert Report) ¶18). Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

908. Ms. Kirk Fair testified knowledgeably and credibly about the design and purpose of her survey, including how she designed her survey in accordance with best practices. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 15-38). She also testified knowledgeably and credibly about how she analyzed the results from her survey and the conclusions she was drew from those results. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 38-63).

909. Ms. Kirk Fair credibly explained that her survey results were inconsistent with Complaint Counsel's theory of deception, namely that consumers feel "locked-in" to upgrading to paid TurboTax SKUs after starting their tax returns with TurboTax Free Edition. (RX1555 (Kirk Fair (Intuit) Trial Dep.) at 15-16, 39-59; RX1016-A (Kirk Fair Expert Report) ¶¶16, 23-26, 33-37).

910. Ms. Kirk Fair's tone and demeanor during her testimony evinced that she was testifying truthfully about the topics covered in her testimony. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

911. Ms. Kirk Fair's testimony was credible and reliable, including with respect to her survey and its results. Complaint Counsel did not elicit testimony or offer evidence at trial suggesting otherwise.

XIV. COMPLAINT COUNSEL'S WITNESSES OFFERED INCREDIBLE AND UNRELIABLE TESTIMONY

A. Diana Shiller

912. Complaint Counsel presented fact testimony at trial from Diana Shiller regarding TurboTax ads and customer complaints. (Shiller (FTC) Tr. 138). Ms. Shiller also submitted four declarations on those topics. (Shiller (FTC) Tr. 264, 266; GX301 (Shiller (FTC) Decl.); GX311 (Shiller (FTC) Decl.); GX319 (Shiller (FTC) Decl.); GX342 (Shiller (FTC) Decl.).

913. Ms. Shiller is a former H&R Block employee and previously filed her taxes for free using TurboTax. (Shiller (FTC) Tr. 205-206). Ms. Shiller is currently an FTC investigator, although her work in this case involved collecting publicly available TurboTax ads that were sent to her by others, or that she obtained by pretexting as a TurboTax customer who qualified to file for free. (Shiller (FTC) Tr. 138-205; GX301 (Shiller (FTC) Decl.) ¶¶1, 4, 44-46; GX311 (Shiller (FTC) Decl.) ¶¶1, 14-21; GX319 (Shiller (FTC) Decl.) ¶¶1, 4-9; GX342 (Shiller (FTC) Decl.) ¶¶1, 4-5, 17-19).

914. Ms. Shiller's testimony did not address the merits of the case, such as the claims the challenged ads conveyed or whether the ads were deceptive, but was instead limited to reshowing TurboTax ads already seen by the court and attempting to authenticate advertisements and consumer complaints already in evidence. (Shiller (FTC) Tr. 142-205; GX301 (Shiller (FTC) Decl.); GX311 (Shiller (FTC) Decl.); GX319 (Shiller (FTC) Decl.); GX342 (Shiller (FTC) Decl.)).

915. Ms. Shiller's testimony and declarations are unreliable and are not credited, for several reasons.

916. Ms. Shiller lacked personal knowledge about the advertisements and customer complaints discussed in her testimony and declarations. (Shiller (FTC) Tr. 189-193, 252-253, 264-268).

917. Ms. Shiller's declarations also call into question her veracity. Ms. Shiller's March 2022 declaration stated under penalty of perjury that the FTC had "received 571 consumer complaints about 'free' TurboTax" in the Sentinel database (GX301 (Shiller (FTC) Decl.) ¶72), and her June 2022 declaration likewise stated under penalty of perjury that the FTC had "received 571 consumer complaints, from January 1, 2016 to March 28, 2022, about 'free' TurboTax" in the database (GX342 (Shiller (FTC) Decl.) ¶220). But as Ms. Shiller admitted, she made these representations without having read most of those complaints and thus could not have known the contents of the vast majority of the complaints that were the subject of her declaration. (Shiller (FTC) Tr. 264-268). Furthermore, counsel for Intuit repeatedly pointed out to Complaint Counsel errors in Ms. Shiller's declaration, but over the period of a year, that declaration was never withdrawn.

918. Ms. Shiller acknowledged that customer complaints often lack context and require follow-up to understand the customer's issue. (RX1390 (Shiller (FTC) Dep.) at 56-57). Ms. Shiller, however, only contacted twelve complainants listed in her declarations and only spoke to two. (RX278 (FTC); RX279 (FTC); RX280 (FTC); *see also* RX1390 (Shiller (FTC) Dep.) at 115-116). She did not contact the majority of complainants and did not confirm their identities, their tax-filing history, or their prior use of TurboTax. (RX1390 (Shiller (FTC) Dep.) at 115, 189; Golder (Intuit) Tr. 1199; GX161 (Maxson (FTC) Dep.) at 353-354).

B. Megan Baburek

919. Complaint Counsel presented fact testimony at trial from Megan Baburek, an FTC data analyst, regarding TurboTax advertising-dissemination data. (Baburek (FTC) Tr. 291).

920. Like Ms. Shiller, Ms. Baburek's testimony was limited to the technical issue of her process for summarizing ad-dissemination data. (Baburek (FTC) Tr. 293).

921. Ms. Baburek's testimony was unreliable and is not credited, again for several reasons.

922. Ms. Baburek lacked personal knowledge to testify about Intuit's advertising, or advertising practices more generally.

923. Ms. Baburek has never worked as a marketing professional (Baburek (FTC) Tr. 330), and she admitted that she had no personal knowledge about how TurboTax advertisements were placed (Baburek (FTC) Tr. 331), or about the TurboTax online advertisement-dissemination data that she summarized (Baburek (FTC) Tr. 329).

924. Ms. Baburek's testimony also demonstrated that she did not fully understand that data. She could not testify to the meaning of the "Big Moment" category mentioned in the data. (Baburek (FTC) Tr. 294). And she testified that she was unaware whether certain text in the data—about qualification terms for free offers—would be displayed alongside online advertisements. (Baburek (FTC) Tr. 332-334).

C. Nathan Novemsky

925. Twice at trial, Complaint Counsel presented testimony by its expert Nathan Novemsky. (Novemsky (FTC) Tr. 347, 1763).

926. Professor Novemsky's affirmative testimony and opinions were unreliable and lacked credibility. His perception study, which underpinned his opinions, did not show

participants any challenged ads, failed to use a test-control experimental design to assess causation, used a non-representative survey population, was biased, encouraged consumers to guess, and otherwise failed to follow established principles of survey design. (*Supra* ¶¶528-622).

927. Professor Novemsky's rebuttal testimony and opinions of Dr. Hauser, Professor Golder, Mr. Deal, and Ms. Kirk Fair were likewise unreliable and lacked credibility. Professor Novemsky again relied on his faulty survey, and he did not conduct any additional study or perform any other analyses to support his rebuttal opinions, instead offering his *ipse dixit* that the opinions of Intuit's experts were in some way deficient. For example, Professor Novemsky baselessly claimed it "may be the case" that the ads in Dr. Hauser's survey were "equally deceptive" without testing any disclosures or Dr. Hauser's survey ads; repeatedly belittled Professor Golder's disclosure benchmarking analysis as involving merely "a ruler and a stopwatch"; deemed that disclosure benchmarking analysis "irrelevant" because it used "tools that ... do not bear on the question of consumer understanding," namely the FTC's ".com Disclosures" guidelines; downplayed Professor Golder's customer-complaint analysis but conceded the FTC presented zero expert analysis of complaint rates; speculated certain customers Mr. Deal determined were not deceived "could have been deceived" without performing any analysis; and opined on the adequacy of TurboTax website hyperlinks and disclosures without conducting any survey testing them. (Novemsky (FTC) Tr. 1776, 1770, 1798-1801, 1812-1816, 1822-1825; *see also* Novemsky (FTC) Tr. 1800 (arguing that compliance with the FTC's guidelines does not necessarily mean an ad is not deceptive)). Professor Novemsky also attempted to undermine Professor Golder's opinions by arguing that consumers are "misers" who are unlikely to undertake any effort to research tax-preparation products,

without conducting any analysis to demonstrate that consumers should be given such little credit. (GX749 (Novemsky Rebuttal Expert Report) ¶100, 234; Novemsky (FTC) Tr. 373, 535).

928. Professor Novemsky's rebuttal opinions were also inconsistent with his own affirmative opinions. For instance, he faulted Dr. Hauser's survey not eliminating the possibility that both the original and revised ads were equally deceptive (Novemsky (FTC) Tr. 1812, 1814-1815), he admitted that his survey did not test consumer understanding of any of the ads or disclosures in Dr. Hauser's survey. (Novemsky (FTC) Tr. 1815-1816).

D. Erez Yoeli

929. Complaint Counsel presented rebuttal testimony from Erez Yoeli at trial regarding the opinions offered by Mr. Deal. (Yoeli (FTC) Tr. 1655, 1657-1658); RX1362 (Yoeli Expert Report) ¶8).

930. Dr. Yoeli's testimony and opinions were not reliable or credible, but rather unsupported *ipse dixit* that were often undermined by his own statements. For example, Dr. Yoeli admitted that he did "very little new analysis" of the data underlying Mr. Deal's opinions and did not try to understand the TurboTax customer data that Mr. Deal analyzed. (Yoeli (FTC) Tr. 1733; RX1396 (Yoeli (FTC) Dep.) at 257). Nor did he review most of the materials Mr. Deal considered in forming his opinions, including legal documents, academic sources, datasets, Intuit employee-deposition transcripts, and internal Intuit documents. (Yoeli (FTC) Tr. 1722-1725, 1730; RX1396 (Yoeli (FTC) Dep.) at 157). In fact, he stated that he reviewed only five produced documents, none of the challenged ads, and none of the Intuit employee depositions or testimony. (RX1396 (Yoeli (FTC) Dep.) at 23, 128, 135). Dr. Yoeli's testimony instead consisted of offering hypotheticals about Mr. Deal's analysis. (Yoeli (FTC) Tr. 1671-1686). By his own admission, "lots of things *can* be true," rendering his hypothetical opinion that

consumers *could* have been deceived “not a very strong claim.” (RX1396 (Yoeli (FTC) Dep.) at 60; Yoeli (FTC) Tr. 1738). Moreover, in offering his opinions, he used a definition of deception that excluded materiality. (RX1396 (Yoeli (FTC) Dep.) at 49-50, 69; Yoeli (FTC) Tr. 1717-1718). And contrary to his opinion, Dr. Yoeli conceded that consumers are less likely to use TurboTax again if they believe they have been deceived. (Yoeli (FTC) Tr. 1738, 1740).

931. Dr. Yoeli never went to the TurboTax website in forming his opinions, and he could not remember reviewing any TurboTax paid-search ads, social-media ads, display ads, or email ads in forming his opinion. (Yoeli (FTC) Tr. 1727-1729). Dr. Yoeli also could not recall the language of disclaimers in the challenged TurboTax ads. (Yoeli (FTC) Tr. 1729). Dr. Yoeli was unfamiliar with TurboTax’s features, including that its refund advance service was free. (Yoeli (FTC) Tr. 1732-1733). Numerous other shortcomings in Dr. Yoeli’s expert work and knowledge base further undermine his opinions. (Yoeli (FTC) Tr. 1717, 1731-1732; RX1396 (Yoeli (FTC) Dep.) at 49).

XV. THE COMMISSION’S DOCUMENTED BIAS

932. On March 29, 2022, the day after the FTC sued Intuit, Chair Khan retweeted from her official Twitter account an FTC tweet about Intuit’s “deceptive Turbotax ‘free’ filing campaign” and the need for an “immediate halt to Intuit’s deceptive ads.” (RX102 (Intuit)).

933. On April 22, 2022, while the FTC’s federal and administrative lawsuits against Intuit were ongoing, Chair Khan publicly suggested in remarks at the 2022 Stigler Center Antitrust Conference that Intuit had engaged in “law-breaking” through TurboTax advertising and that it was “incredibly important” that the FTC stop Intuit’s unlawful “deceptive” conduct (which, as Chair Khan acknowledged in passing, had only been “alleged”). (RX103 (Intuit) at 6).

934. As noted by former FTC Commissioner Wright, the FTC has “ruled in favor of FTC staff and found liability” in “100 percent of cases” in which the commissioners voted out a complaint over the last twenty years, regardless of the ALJ’s recommended decision. (RX101 (Intuit) at 6). Commissioner Wright described that win rate as “a strong sign of an unhealthy and biased institutional process.” (RX101 (Intuit) at 6).

INTUIT'S PROPOSED CONCLUSIONS OF LAW**TABLE OF CONTENTS**

	Page
I. ELEMENTS OF A DECEPTION CLAIM UNDER THE FTC ACT	1
II. COMPLAINT COUNSEL FAILED TO MEET THEIR BURDEN TO PROVE THAT THE CHALLENGED ADS CONVEYED ANY OF THE CLAIMS THEY ALLEGE.....	2
A. Complaint Counsel Did Not Establish That Any Of The Challenged Ads Made Any Of The Express Claims Complaint Counsel Allege.....	2
B. Complaint Counsel Did Not Establish That Any Of The Challenged Ads Implied Any Of The Claims Complaint Counsel Allege.....	4
III. COMPLAINT COUNSEL FAILED TO PROVE THAT A SIGNIFICANT MINORITY OF REASONABLE CONSUMERS WAS LIKELY TO BE DECEIVED	11
A. Complaint Counsel Failed To Prove Deception For The Threshold Reason That Their Theory Of Deception Is Inapposite	12
B. Reasonable Consumers Understand That Free Offers Are Qualified And Are Skeptical Of Those Offers.....	16
C. The Ads Communicated To Consumers The Limitations On The Free Offer Being Advertised.....	20
D. Professor Novemksy's Survey Does Not Show That Intuit's Ads Were Likely To Deceive Reasonable Consumers	24
E. The Number Of Consumer Complaints Identified By Complaint Counsel Proves That No Significant Minority Of Reasonable Consumers Was Deceived	29
F. Data Concerning Consumers' Experiences Show That Reasonable Consumers Were Not Deceived.....	31
G. Reliable Consumer Testing And Survey Evidence Reflects That No Significant Minority Of Reasonable Consumers Was Deceived.....	32
H. Detailed Information Is Clear, Upfront, And Ubiquitous On Turbotax.com.....	33
IV. COMPLAINT COUNSEL FAILED TO PROVE MATERIALITY.....	35

V. COMPLAINT COUNSEL FAILED TO PROVE THAT A CEASE-AND-DESIST ORDER IS WARRANTED38

 A. Complaint Counsel Do Not Challenge Intuit’s Current Ads And Unrebutted Evidence Shows That Those Ads Are Not Deceptive38

 B. Intuit’s Free TurboTax Advertising Is Already Subject To Injunctive Terms Enforceable By Every State And The District Of Columbia That Prohibit All The Conduct Complaint Counsel Seek To Enjoin39

 C. Intuit Is Committed To Clarity In Its Free Advertising41

 D. Complaint Counsel’s Proposed Order Would Be Harmful.....42

VI. COMPLAINT COUNSEL’S CLAIM IS UNTIMELY44

 A. The Statute Of Limitations Bars Consideration Of Outdated Ads44

 B. Laches Bars Consideration of Outdated Ads46

VII. THE PROCEEDING IS UNCONSTITUTIONAL47

 A. The FTC’s Internal Administrative Process Violates The Due Process Clause47

 B. The FTC’s Structure Violates The Separation Of Powers.....49

 C. Congress Unconstitutionally Delegated Legislative Power To The FTC51

 D. Intuit’s Due-Process Rights Have Been Violated By The Reality Or Appearance Of Prejudgment.....52

CONCLUSION.....54

I. ELEMENTS OF A DECEPTION CLAIM UNDER THE FTC ACT

1. Section 5(a) of the FTC Act provides that “deceptive acts or practices in or affecting commerce, are hereby declared unlawful.” 15 U.S.C. §45(a)(1).

2. An advertisement is deceptive under section 5(a) only if “(1) there is a representation, omission, or practice; (2) that is likely to mislead consumers acting reasonably under the circumstances; and (3) the representation, omission, or practice is material.” *FTC v. DirecTV, Inc.*, 2018 WL 3911196, at *5 (N.D. Cal. Aug. 16, 2018) (quotation marks omitted).

3. In Part 3 proceedings, Complaint Counsel “shall have the burden of proof” as to each element and “shall be required to sustain the burden of proof with respect” to “any factual proposition” they assert. 16 C.F.R. §3.43(a).

4. To establish that any advertisement challenged as deceptive was in fact deceptive, therefore, Complaint Counsel have the burden to prove each element by a “preponderance of the evidence.” *Telebrands Corp.*, 140 F.T.C. 278, 426 (2005).

5. Actionable representations can be made through either express or implied claims. *Fanning v. FTC*, 821 F.3d 164, 170 (1st Cir. 2016). A claim is “express” when the ad “directly state[s] the representation at issue.” *Thompson Medical Co.*, 104 F.T.C. 648, 788 (1984). Implied claims are ones that, although not directly stated, are nevertheless conveyed by the “overall net impression” of an advertisement. *Fanning*, 821 F.3d at 171.

6. “Under Commission Rule of Practice 3.51(c)(1), ‘an initial decision shall be based on a consideration of the whole record relevant to the issues decided, and shall be supported by reliable and probative evidence.’” *Telebrands*, 140 F.T.C. at 425. “According to Black’s Law Dictionary, ‘probative evidence’ means having the effect of proof; tending to prove, or actually proving an issue.” *Id.*

II. COMPLAINT COUNSEL FAILED TO MEET THEIR BURDEN TO PROVE THAT THE CHALLENGED ADS CONVEYED ANY OF THE CLAIMS THEY ALLEGE

7. Complaint Counsel failed to satisfy their burden to prove that any of the challenged ads expressly or implicitly conveyed any of the claims Complaint Counsel allege.

8. Complaint Counsel's failure to prove that the ads conveyed the express or implied claims asserted alone justifies judgment in Intuit's favor.

A. Complaint Counsel Did Not Establish That Any Of The Challenged Ads Made Any Of The Express Claims Complaint Counsel Allege

9. Whether an alleged express claim is conveyed by an advertisement requires the ad to "be judged ... as whole, without emphasizing isolated words or phrases apart from their context." *Removatron International Corp. v. FTC*, 884 F.2d 1489, 1496 (1st Cir. 1989); *see also Marksberry v. FCA US LLC*, 606 F.Supp.3d 1075, 1082 (D. Kan. 2022); *Eckler v. Wal-Mart Stores, Inc.*, 2012 WL 5382218, at *3 & n.4, *6 & n.9 (S.D. Cal. Nov. 1, 2012).

10. Throughout this case, Complaint Counsel have articulated a variety of express claims that they contend the challenged ads made. PFF ¶¶206. The ads did not expressly state any of the claims alleged.

11. Complaint Counsel failed to prove that any of the challenged brand video ads expressly conveyed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. PFF ¶¶214-244.

12. Complaint Counsel failed to prove that any of the challenged display ads expressly conveyed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. PFF ¶¶247-262.

13. Complaint Counsel failed to prove that any of the challenged paid-search ads expressly conveyed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. PFF ¶¶265-275.

14. Complaint Counsel failed to prove that any of the challenged email ads expressly conveyed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. PFF ¶¶280-290.

15. Complaint Counsel failed to prove that any of the challenged radio ads expressly conveyed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. PFF ¶¶293-299.

16. Complaint Counsel contend that certain challenged video ads expressly conveyed that “TurboTax is free” because they repeated the word “free.” PFF ¶219. But the word “free,” by itself, is not a representation about TurboTax or any TurboTax product. As the designee for the Commission’s Bureau of Consumer Protection explained, the meaning of the word “depends [on] whether there is any other context for the person that is hearing” it. PFF ¶221. And the use of a single word in an ad cannot be considered in isolation. Rather, ads must “be judged ... as whole, without emphasizing isolated words or phrases apart from their context.” *Removatron*, 884 F.2d at 1496. All the ads that repeated the word “free” also stated, at the same time that they mentioned TurboTax or tax filing at all, that the ad was for a specific TurboTax offer and that there were qualifications. PFF ¶223. In fact, the evidence shows that consumers did not associate the “Free, Free, Free” ads with TurboTax until Free Edition was mentioned. PFF ¶224.

Accordingly, ads that repeated the word “free”—which made up less than one-third of all challenged ads, including almost none of the non-video ads, PFF ¶220—did not explicitly state “TurboTax is free” or any of the other alleged express claims that Complaint Counsel have asserted.

17. Contrary to Complaint Counsel’s assertions about express claims, in fact, the challenged ads expressly stated that the free TurboTax product or offer being advertised was available only to qualifying consumers, and often that additional information was on the TurboTax website. PFF ¶¶215-218, 229-244, 248-262, 266-275, 281-290, 294-299.

18. Complaint Counsel have therefore failed to prove that any of the challenged ads contained any false or misleading express claim. PFF ¶¶215-218, 229-244, 248-262, 266-275, 281-290, 294-299, 302-308.

B. Complaint Counsel Did Not Establish That Any Of The Challenged Ads Implied Any Of The Claims Complaint Counsel Allege

19. “An advertisement will only be found to contain implied claims where the language or depictions are clear enough to permit [a court] to conclude with confidence, after examining the interaction of all of the constituent elements, that they convey a particular implied claim to consumers acting reasonably under the circumstances.” *Telebrands*, 140 F.T.C. at 429 (quotation marks omitted). And “if, based on [an] initial review of the evidence from the advertisement itself, [the court] cannot conclude with confidence that an advertisement can reasonably be read to contain a particular implied message, [the court] will not find the ad to have made the claim unless extrinsic evidence allows [it] to conclude that such a reading of the ad is reasonable.” *Id.* (first alteration in original).

20. Complaint Counsel’s implied-claim theory is inconsistent with the evidence in this case regarding both (1) “consumers acting reasonably under the circumstances” and (2) “the interaction of all the constituent elements” in the challenged ads. *Telebrands*, 140 F.T.C. at 429.

21. Unrebutted evidence indicates that “consumers acting reasonably under the circumstances,” *Telebrands*, 140 F.T.C. at 429, would not have taken away any of Complaint Counsel’s alleged claims because reasonable consumers understand that virtually any free offer from a for-profit company will be qualified—and in particular that free offers for tax-preparation products will be—even if qualifications are not articulated in advertisements. PFF ¶¶470-527.

22. “[A]fter examining the interaction of all of the constituent elements” in the challenged ads, *Telebrands*, 140 F.T.C. at 429, it is clear that the ads did not imply any of the claims alleged by Complaint Counsel. In discerning “implied claims” from an ad’s “net impression,” courts must consider “the entire document,” including “the juxtaposition of various phrases in the document.” FTC Policy Statement on Deception, 103 F.T.C. 174, 176 & n.7 (1984). “The determination” of what an ad conveys, that is, “must be made based on the net impression created by the interaction of different elements in a given ad, not [based on] the elements by themselves.” *Telebrands*, 140 F.T.C. at 429 (alteration in original) (quotation marks omitted); *see also id.* at 286 (evaluating an ad’s claims “[b]ased on the interaction between and among various elements in the ads,” including “the product name, visual images, text, and surrounding circumstances”).

23. Complaint Counsel’s implied-claim theory fails because it depends on ignoring various components of the challenged ads, *see* FTC Policy Statement on Deception, 103 F.T.C. at 176 & n.7; *S.C. Johnson & Son, Inc. v. Clorox Co.*, 241 F.3d 232, 238 (2d Cir. 2001), including “the product name, visual images, text, and surrounding circumstances,” *Telebrands*,

140 F.T.C. at 286. Considering the “entire” ads and “the interaction of different elements,” *id.*, the net impression created by the challenged ads did not include any of the claims alleged by Complaint Counsel. PFF ¶¶215-218, 244, 248-251, 262, 266-268, 275, 281, 290, 294, 299. When taken together, the various elements of the challenged ads left an impression that TurboTax was advertising a free product with specific qualifications, and the details about those qualifications were available on the TurboTax website.

24. *First*, Complaint Counsel failed to prove that the challenged ads’ inclusion of the specific “product name,” *Telebrands*, 140 F.T.C. at 286, was insufficient to prevent reasonable consumers from forming the net impression that all TurboTax products were free, that a TurboTax product was free for everyone, or any of the other claims alleged by Complaint Counsel. One of Complaint Counsel’s witnesses conceded this at trial. PFF ¶317. The ads’ inclusion of the product name was itself sufficient to prevent reasonable consumers from misunderstanding that all TurboTax products were free. *See* PFF ¶¶317-321.

25. *Second*, the inclusion of the phrase “simple tax returns only” (or substantively identical language) in each of the challenged ads conveyed to reasonable consumers that not all tax returns were covered by the product being advertised and thus that not all consumers would qualify to use the product. *See, e.g., Estrella-Rosales v. Taco Bell Corp.*, 2020 WL 1685617, at *2 (D.N.J. Apr. 7, 2020) (approving disclosure with less detail); *Little Caesars Enterprises, Inc. v. Smith*, 895 F.Supp. 884, 888, 899 (E.D. Mich. 1995) (same). The “simple tax returns only” language communicated the existence of qualifications, which is enough to defeat Complaint Counsel’s claim. PFF ¶131. That language also told consumers that the ability to use the free TurboTax offer depended on the complexity of the consumer’s tax returns and that only those

with “simple tax returns” would qualify. PFF ¶¶134-136, 322. That language prevented consumers from forming the net impression Complaint Counsel allege.

26. Complaint Counsel argue that consumers do not understand the precise meaning of the phrase “simple tax returns.” PFF ¶130. But consumers did not need to understand exactly what the phrase “simple tax returns” means to form the net impression that only certain qualifying consumers could use the free TurboTax product advertised. PFF ¶¶131, 314. The phrase “simple tax returns” is sufficient to leave an accurate impression even if consumers do not understand its precise meaning because the phrase at the very least communicates to consumers that there is a restriction and that the category of the restriction relates to tax complexity. PFF ¶¶131, 314-315.

27. Courts routinely approve disclosures that put consumers on notice of qualifications without fully detailing the qualifications in the advertisement itself. One court, for example, held that a disclosure that a fast-food promotion was available “[a]t participating locations for a limited time” and that “[p]rices may vary” was “consistent with ‘the norm of reasonable business practice’” in television advertising and sufficient to put reasonable consumers on notice of the promotion’s restrictions, even though the disclosure did not specify the participating locations, the limited time, or the range of prices. *Estrella-Rosales*, 2020 WL 1685617, at *2 *see also DirecTV*, 2018 WL 3911196, at *15 (reasonable consumers “understand the limitations of how information is presented in a” space-constrained ad for a complex product like tax-preparation software). Another court likewise approved a disclosure that a particular price applied “at participating stores” because that phrase told consumers “that not *all* franchises may follow the advertised price,” even though it did not specify *which* franchises did so. *Little Caesars Enterprises*, 895 F.Supp. at 888, 899 (emphasis added).

28. *Third*, inclusion of language in the challenged ads inviting consumers to “see if you qualify” or “see details” at the TurboTax website further conveyed to reasonable consumers that there were qualifications or details associated with the free TurboTax offer, that not all consumers would qualify to use the product, and that a particular consumer could visit the TurboTax website to learn if that particular consumer would qualify. PFF ¶¶254, 270, 285, 323-329. That language prevented consumers from forming the net impression Complaint Counsel allege.

29. Qualifying language that is sufficiently “legible and understandable” to leave an accurate impression about the claim conveyed precludes liability for allegedly deceptive advertising. FTC Policy Statement on Deception, 103 F.T.C. at 180. The qualifying language just discussed, *supra* ¶¶24-28, was all sufficiently “legible” to ensure that consumers would notice it. PFF ¶¶232, 257, 272, 287, 296.

30. Complaint Counsel failed to offer any evidence that this qualifying language could not be seen (or heard) by reasonable consumers. PFF ¶¶230-231, 255-256, 271, 286, 295. In fact, their witnesses repeatedly acknowledged that the challenged ads included the qualifying language, *see* PFF ¶¶223, 233, 306-307, 317, and it was clear that the challenged ads shown during trial contained prominent qualifying language like “simple returns only,” a proposition with which Complaint Counsel agreed, PFF ¶¶208, 308.

31. Intuit presented significant evidence that the qualifying language was legible. Unrebutted trial testimony from Professor Peter Golder, for example, confirms that the qualifications in the challenged ads were statistically comparable or superior to those in the video and social media ads of 18 benchmark companies across four industries in terms of the qualifying language’s placement, height, color, duration, repetition, proximity in time to the

claim being qualified, and the presence or absence of distracting factors—metrics that are both (1) drawn from the FTC’s “.com Disclosures” guidelines and (2) responsive to Complaint Counsel’s criticisms of the challenged ads. PFF ¶¶234-238, 258-259.

32. The appearance of the qualifications in the challenged ads meets or exceeds the standards established by case law, which has found disclosures to be adequate even when qualifications appeared only “in the closing seconds of the commercial,” *Estrella-Rosales*, 2020 WL 1685617, at *2, or where qualifications are “smaller than most of the text in the advertisement,” *DirecTV*, 2018 WL 3911196, at *8.

33. The presence of noticeable qualifications is by itself sufficient to defeat Complaint Counsel’s claim. Reasonable consumers seeing (or hearing) those qualifications could not reasonably form the net impression that they could file for free using TurboTax regardless of their tax situation. PFF ¶¶239, 314.

34. Finally, an advertiser’s “intent is powerful evidence” of the claim that “in fact was conveyed to consumers.” *Telebrands*, 140 F.T.C. at 304. Here, Complaint Counsel failed to prove Intuit ever intended for any of the challenged ads to imply any of the alleged claims—and the evidence overwhelmingly shows that it did not. Unrebutted evidence indicates that Intuit intended to convey that a specific TurboTax product was free, that it was free only for qualifying consumers, and often that there was additional information on the TurboTax website. PFF ¶¶167-174, 190, 192-202, 405, 852, 857, 860, 870; *see also* PFF ¶¶353-363. That unrebutted evidence of what Intuit “intended to convey ... provides further support for” the foregoing “facial analysis” of the challenged ads, *Telebrands*, 140 F.T.C. at 304, establishing that the ads did not imply any of the claims Complaint Counsel allege.

35. Intuit’s commitment to clarity, and its business interest in being clear with consumers, distinguish this case from other deceptive-advertising cases where companies seek to “profit by deceiving their customers,” *Statement of Commissioner Rebecca Kelly Slaughter Joined by Chair Lina Khan and Commissioner Alvaro M. Bedoya Regarding the Issuance of a Notice of Penalty Offenses on Substantiation of Product Claims* (Mar. 31, 2023), https://www.ftc.gov/system/files/ftc_gov/pdf/rks_substantiation_pno_statement_lk_ab_final.pdf. Here, the unrebutted evidence establishes that the deception alleged by Complaint Counsel would have hurt, not helped, Intuit’s business. PFF ¶¶73, 96, 647. That Intuit’s business interests are aligned with its stated intent to be clear in its advertising provides further “powerful evidence” that the ads did not imply any of the false or misleading claims Complaint Counsel allege. *Telebrands*, 140 F.T.C. at 304.

36. Complaint Counsel failed to prove that any of the challenged brand video ads implicitly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. PFF ¶¶209-212, 243-244.

37. Complaint Counsel failed to prove that any of the challenged display ads implicitly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. PFF ¶¶209-212, 261-262.

38. Complaint Counsel failed to prove that any of the challenged paid-search ads implicitly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. PFF ¶¶209-212, 274-275.

39. Complaint Counsel failed to prove that any of the challenged email ads implicitly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. PFF ¶¶209-212, 289-290.

40. Complaint Counsel failed to prove that any of the challenged radio ads implicitly claimed that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel. PFF ¶¶209-212, 298-299.

III. COMPLAINT COUNSEL FAILED TO PROVE THAT A SIGNIFICANT MINORITY OF REASONABLE CONSUMERS WAS LIKELY TO BE DECEIVED

41. “An ad is misleading if at least a significant minority of reasonable consumers are likely to take away the misleading claim.” *Telebrands*, 140 F.T.C. at 291. Complaint Counsel thus had the burden to prove that the challenged ads were “likely to mislead consumers acting reasonably under the circumstances,” *DirectTV*, 2018 WL 3911196, at *5. Not just any consumers, but “*reasonable* consumers.” *Telebrands*, 140 F.T.C. at 291 (emphasis added). And not just any number of those consumers, but a “*significant* minority” of them. *Id.* (emphasis added).

42. Complaint Counsel failed to carry their burden to prove that at least a significant minority of reasonable consumers was likely to take away a misleading claim from the challenged ads. Their claim independently fails for that reason.

43. None of the challenged brand video ads misled reasonable consumers into believing that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel.

44. None of the challenged display ads misled reasonable consumers into believing that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel.

45. None of the challenged paid-search ads misled reasonable consumers into believing that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel.

46. None of the challenged email ads misled reasonable consumers into believing that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel.

47. None of the challenged radio ads misled reasonable consumers into believing that all TurboTax SKUs were free, that TurboTax was free to everyone, that TurboTax would necessarily be free for the viewer, or any of the other claims asserted by Complaint Counsel.

48. Extrinsic evidence further demonstrates that Complaint Counsel failed to prove that at least a significant minority of reasonable consumers was likely to take away a misleading claim from the challenged ads.

A. Complaint Counsel Failed To Prove Deception For The Threshold Reason That Their Theory Of Deception Is Inapposite

49. According to Complaint Counsel, the challenged ads conveyed some version of the claim that “TurboTax will be free for the consumer watching the ad,” PFF ¶206, and that claim was “likely to mislead reasonable consumers” because “[i]t was not true for two-thirds of American taxpayers,” PFF ¶463. But the “appropriate denominator” to “assess who qualifies” for free TurboTax products is not “[a]ll U.S. taxpayers” because that is “not the target market in

this case.” PFF ¶464. The relevant denominator is limited to those consumers actually “in the market for an online tax preparation product.” PFF ¶464.

50. Independently, Complaint Counsel have failed to offer a viable theory of what it means for consumers to have been deceived in this case. Complaint Counsel contend that the challenged ads functioned as “deceptive door-openers,” PFF ¶467—that is, that the ads were deceptive simply by virtue of driving consumers to the TurboTax website, where consumers encountered more detailed information about Intuit’s product lineup.

51. The theory Complaint Counsel initially alleged in the complaint was that consumers were deceived by TurboTax ads into coming to the TurboTax website, and that the website then further duped consumers into spending substantial time and effort before Intuit performed a “bait and switch,” telling consumers at the last minute that their taxes would not be free. PFF ¶11. No evidence was adduced to support this theory, and Professor Novemsky, Complaint Counsel’s principal expert, acknowledged that by the time consumers had invested time and effort in preparing their taxes, they had ample opportunity to learn of the qualifications for Free Edition. PFF ¶370; *see also* PFF ¶452. Intuit’s fact witnesses likewise walked through the website repeatedly, demonstrating that consumers had a full and fair opportunity to learn of the qualifications to file for free on TurboTax before consumers even gave Intuit their name. PFF ¶¶364-441.

52. In any event, Complaint Counsel’s “deceptive door-opener” theory fails. As a threshold matter, it is misplaced in this case because simply visiting the TurboTax website is meaningful only if, once there, the consumer pays money that they otherwise would not have or is deceived into doing something they would not otherwise have done that is deleterious. The mere fact of the door “opening” in this case is not enough to establish deception. *See, e.g.,*

Washington v. Hyatt Hotels Corp., 2020 WL 3058118, at *5 (N.D. Ill. June 9, 2020) (rejecting deception claim even where consumers had to spend significant time on a website before encountering price disclosures); *Harris v. Las Vegas Sands L.L.C.*, 2013 WL 5291142, at *2, *5-6 (C.D. Cal. Aug. 16, 2013) (same).

53. Complaint Counsel’s “deceptive door-opener” theory fails because courts assessing deceptive-advertising claims must consider all “information *readily available* to the consumer that could easily resolve the alleged ambiguity,” *Moore v. Trader Joe’s Co.*, 4 F.4th 874, 882 (9th Cir. 2021) (emphasis added). The TurboTax website was “readily available to the consumer,” *id.*, and made complete product information accessible instantaneously. The website was expressly mentioned and/or linked by every one of the challenged ads. See PFF ¶¶215, 218, 222, 244. Consumers could readily reach it by clicking on any of the challenged display, paid-search, or email ads, PFF ¶¶253-254, 269-270, 284-285, as well as “through search results,” “TurboTax Blog content,” “press releases,” and “articles written by the media,” PFF ¶387, 469, 871. In fact, any consumer “interested in trying to use TurboTax” *had* to “access the product through” the TurboTax website (or mobile app equivalent). PFF ¶364; *see also* PFF ¶469. It took only “a few seconds” to get to the website, and once on the website it took only “five to ten seconds” to encounter full eligibility information for free TurboTax offers. PFF ¶364. That information, moreover, was accessible before consumers “ha[d] to input their name or any other personal information.” PFF ¶469. Under these circumstances, the information on the TurboTax website surely qualifies as “readily available to the consumer” and thus must be considered in assessing Complaint Counsel’s claim, *Moore*, 4 F.4th at 882.

54. Case law applying the “deceptive door-opener” concept confirms that Complaint Counsel’s reliance on the concept is misplaced. The concept originated in *Resort Car Rental*

System, Inc. v. FTC, 518 F.2d 962 (9th Cir. 1975), a case about a rental-car company that called itself “Dollar-A-Day,” only to reveal that its rental cars were in fact *not* a dollar-a-day after consumers physically traveled to a brick-and-mortar facility, *see Resort Car Rental System, Inc.*, 83 F.T.C. 234, 281-282 (1973). Unlike in *Resort Car*, in this case, the product advertised as free *was* free and obtaining full product information on the TurboTax website entailed virtually no time or effort. *See* PFF ¶¶364-370, 484, 526-527, 790-791. Moreover, in this case, consumers could browse multiple, competing products simultaneously, PFF ¶¶55, 509—something not possible in the physical stores for which the “deceptive door-opener” concept was developed. Put simply, the online context is different, and courts in that context have rejected deception claims where price disclosures occurred *at the point of sale*, i.e., much later than consumers see qualifications on the TurboTax website. *See, e.g., Washington*, 2020 WL 3058118, at *5; *Harris*, 2013 WL 5291142, at *2, *5-6.

55. Other case law further confirms that the door-opener concept is inapposite here. In *FTC v. DirecTV, Inc.*, the court held the “deceptive door opener” concept “inapplicable” where (1) “nothing in [the advertisement at issue] contradicts the true terms of [the advertiser’s] provision of services” and (2) the advertisement at issue is “for a complex product,” because “a reasonable consumer would understand the limitations of how information is presented in a” space- or time-constrained ad for a complex product. 2018 WL 3911196, at *15. The same is true in this case: Nothing in the challenged ads contradicts the true terms of the advertised offers. *See supra* Part II. And evidence from both parties indicates that “the level of information that’s contained in the eligibility requirements [for Intuit’s free TurboTax offers] could not be effectively communicated in a” space- or time-constrained ad, PFF ¶841, and that that level of

information “would be out of step with what consumers” expect, PFF ¶¶845, *see also* PFF ¶¶829-835, 839-844, 846-847.

56. Complaint Counsel’s door-opener theory independently fails because it is refuted by the record in this case. The results of Dr. John Hauser’s Disclosure Efficacy Survey were “inconsistent with the hypothesis that TurboTax’s ad[s] served as misleading door openers” because if the ads had been door-openers as Complaint Counsel allege, the survey would have shown “fewer people statistically considering” TurboTax when Dr. Hauser “change[d] the advertisements” in the manner Complaint Counsel seek to require, and instead when Dr. Hauser made those changes, there was “no statistical difference” in the number of consumers who would consider TurboTax. PFF ¶¶737-738. Thus, even if prompting consumers to visit the TurboTax website could constitute actionable deception under a “door-opener” theory (and it cannot, *see supra* ¶¶51-55), Complaint Counsel’s theory would still fail because the criticized characteristics of the challenged ads are not what caused consumers to consider using TurboTax to start their return.

57. In sum, the “deceptive door-opener” concept is inapplicable and finds no support in the record.

B. Reasonable Consumers Understand That Free Offers Are Qualified And Are Skeptical Of Those Offers

58. As noted, to prevail, Complaint Counsel had to prove that Intuit’s advertising was deceptive to “not just any consumers,” but to a significant minority of “consumers acting reasonably.” *Southwest Sunsites, Inc. v. FTC*, 785 F.2d 1431, 1436 (9th Cir. 1986). And reasonable consumers are presumed to understand concepts that “are commonplace in the [relevant] market,” *Ebner v. Fresh, Inc.*, 838 F.3d 958, 965 (9th Cir. 2016), including when qualifications or requirements are “often ... associated with” a product, *Marksberry*, 606

F.Supp.3d at 1081. The evidence in this case regarding “the background knowledge of the reasonable consumer,” *Dinan v. Sandisk LLC*, 2019 WL 2327923, at *6 (N.D. Cal. May 31, 2019), makes clear that reasonable consumers in the tax-preparation industry were not likely to be misled by the challenged ads.

59. Ample evidence supports the conclusion that reasonable consumers understand that free offers in the context of tax-preparation products are qualified, even if those qualifications are not articulated in advertisements. PFF ¶¶471-484. All major players in the tax-preparation industry use the same business model, offering a basic free product for consumers with simple tax returns and paid products for more complex tax situations. *See* PFF ¶¶481-482; *see also United States v. H&R Block, Inc.*, 833 F.Supp.2d 36, 46-48 (D.D.C. 2011) (describing this model as “an entrenched part of the [online tax preparation] market”). The model’s ubiquity leads consumers to expect free tax-preparation offers to have qualifications—even if those qualifications are not expressly stated. PFF ¶¶483-484.

60. Many consumers are also familiar with TurboTax’s particular offerings. Nearly █████ of tax returns filed online are filed using TurboTax, and nearly █████ of TurboTax customers each year are returning customers, meaning that most consumers using TurboTax to file their taxes have already used TurboTax in the past. PFF ¶¶48, 93. Many of those consumers are aware of TurboTax’s paid products based on their past experiences with TurboTax. PFF ¶¶669-670. That familiarity with paid products would prevent reasonable consumers from believing that all TurboTax products were free or that TurboTax necessarily would be free for them. PFF ¶¶671. Instead, those consumers would understand at a minimum that they would need to determine whether they qualified for a free TurboTax product in a given year. PFF ¶671.

61. Even beyond the tax-preparation market, reasonable consumers routinely encounter free offers, and so are aware that free offers are qualified even when the qualifications are not expressly stated. Support for that conclusion includes (1) evidence that reasonable consumers understand that for-profit companies (like Intuit) need to make money to stay in business, *see* PFF ¶¶483-485, 487-488, 493; (2) evidence that consumers are exposed to a wide variety of free offers that are virtually always qualified, even when no qualification is stated, *see* PFF ¶¶473-474; (3) evidence that consumers harbor significant “free skepticism,” i.e., “a natural expectation that ... costs are involved,” PFF ¶¶485-490; and (4) evidence that consumers exhibit “care and consideration,” including by consulting a variety of information sources and evaluating alternatives, before selecting a tax-preparation product, PFF ¶¶506, 513, 783; *see also* PFF ¶¶471-472, 487, 502-509, 507-508.

62. The fact that consumers would see Intuit’s ads before completing, or even starting, the high-involvement selection process of purchasing a tax-preparation product further reduces the likelihood of deception. PFF ¶¶158-160, 180-181, 183, 188-190, 512-513. The various stages of consumer awareness of a product or brand is often described in terms of a “marketing funnel.” PFF ¶¶156-157. Television and other advertising are at the top of TurboTax’s marketing funnel, and these ads are designed to “drive awareness and consideration of the brand and its products.” PFF ¶¶157, 159, 510. Reasonable consumers expect and understand that information conveyed at the top of the marketing funnel will be limited, and that more information is available. PFF ¶511. Those consumers are thus not likely to be misled by that top-of-funnel advertising. PFF ¶¶510-513.

63. Consumers’ understanding of and interactions with online ads underscore Complaint Counsel’s failure to prove that reasonable consumers were likely to be misled by the

challenged ads. Consumers viewing online ads—including display, paid-search, and email ads—understand based on experience that they can get additional information by clicking on the ads. PFF ¶¶520, 522, 524. That ability to quickly gain access to complete details about a free offer, and consumers’ understanding that they can do so, reinforce that consumers do not expect that all information will be provided in an online ad or immediately jump to the conclusion that they will qualify for a free offer. In fact, consumers would be overwhelmed if full details were provided in that format. PFF ¶¶522-524. Complaint Counsel offered no evidence specific to online ads (or any other kind of ad) demonstrating that consumers were likely to be misled.

64. Complaint Counsel pointed in their pretrial brief to a single tax-prep product purportedly offered “at no charge to all consumers,” PFF ¶494—but that product does not support Complaint Counsel both because there is [REDACTED] for that little-used product, PFF ¶495, and, more significantly, because that product is *not* in fact free for “all consumers,” PFF ¶496.

65. Complaint Counsel are also wrong that the existence of “many online products” that *are* free—such as Google, Facebook, YouTube, and Spotify—would lead reasonable consumers to understand that all TurboTax products were free. PFF ¶400. Rather than identifying “completely free” products, Complaint Counsel have mostly identified additional examples of products that have free offers with restrictions along with paid options with additional features. PFF ¶500. These examples confirm that consumers are familiar with (and thus would expect) free offers to have certain restrictions while being accompanied by paid options. PFF ¶¶478-480, 500. And regardless, none of Complaint Counsel’s examples involves a tax-preparation product; those examples thus say nothing about what is commonplace in the

relevant market in this case, *Ebner*, 838 F.3d at 965; *see also Critcher v. L'Oreal USA Inc.*, 2019 WL 3066394, at *5 (S.D.N.Y. July 11, 2019), *aff'd*, 959 F.3d 31 (2d Cir. 2020).

C. The Ads Communicated To Consumers The Limitations On The Free Offer Being Advertised

66. The challenged ads themselves belie any theory of deception. Again, none of those ads ever conveyed, expressly or implicitly, that the free offer being advertised was unqualified. *Supra* Part II. Instead, the ads made consumers aware of the category of qualification and where consumers could learn more.

67. To start, many of the challenged ads expressly informed consumers of the specific SKU being advertised. *See* PFF ¶¶212, 215, 226-228, 250-251, 281, 294, 306, 310. Most display ads, for instance, stated that the ad was for “TurboTax Free Edition” or “TurboTax Live Basic.” PFF ¶¶250-251. And over the last several years, the company has mandated that its Free Edition video ads include the logo of the SKU being advertised. PFF ¶¶103, 173.

68. The FTC’s “.com Disclosure” guidelines specify that “[w]hen identifying the[] claims” in an ad, the analysis must “consider the ad as a whole, including the ... product name.” PFF ¶320. The challenged ads’ identification of a specific product made clear to reasonable consumers that there were multiple TurboTax SKUs and that only the one being advertised was free. PFF ¶319.

69. Complaint Counsel failed to prove that consumers do not understand the phrase “simple tax returns.” A “reasonable consumer understands” concepts that “are commonplace in the [relevant] market.” *Ebner*, 838 F.3d at 965. And the phrase “simple tax returns” is ubiquitous in the tax-preparation industry, used by the IRS, other government entities, and all major private players in the industry. PFF ¶¶119, 122-123, 141-143, 453-454, 458-459.

Reasonable consumers are therefore deemed to understand that phrase as a matter of law. *See Ebner*, 838 F.3d at 965.

70. Even if the phrase “simple tax returns” were not commonplace in the market, Complaint Counsel failed to prove that consumers did not understand it, and in fact the evidence shows that they do. *See* PFF ¶¶122-123, 134, 136, 635, 869.

71. Complaint Counsel have suggested that what qualified as a “simple tax return” changed repeatedly over the years, which they say proves that consumers did not understand that phrase. *See* Complaint Counsel’s Pretrial Brief at 7 (Feb. 17, 2023); Complaint Counsel’s Pretrial Proposed Findings of Fact at 3-4 (Feb. 17, 2023). That argument is mistaken. Intuit has always defined “simple tax return” as returns filed using the most basic form made available by the IRS. PFF ¶¶119-123, 147. And while Intuit has occasionally expanded the tax situations covered by Free Edition, those expansions meant only that a taxpayer with an [REDACTED] [REDACTED] would not [REDACTED] [REDACTED]. PFF ¶148.

72. Intuit also introduced un rebutted evidence that the level of detail provided by the phrase “simple tax returns only” was appropriate for both the media and the stage of the buying process in which the phrase was used. Lengthier disclosures would have been ineffective, overwhelming consumers with a block of inscrutable text that they likely would have ignored. PFF ¶¶138-140, 332-333, 523, 833-835, 838, 840-842, 845-846.

73. The phrase “simple tax returns” has the added benefit of being straightforward and avoiding complicated tax jargon that would have confused consumers. PFF ¶¶122-123, 135-136, 139-140, 333. Reasonable consumers understand the phrase “simple tax returns” better than references to specific IRS forms when describing the qualifications for free tax-preparation

products. PFF ¶139. Likewise, qualitative consumer feedback confirms that more detailed disclosures would overload consumers with excessive information. PFF ¶140.

74. Finally, even if reasonable consumers were uncertain about whether they had a “simple tax return,” they would conduct research—and the answer was easy to find, in the places reasonable consumers knew to look, including in online reviews and on the TurboTax website (which many of the ads specifically invited consumers to visit for more information). *See* PFF ¶¶131-133, 503-509, 786.

75. “To analyze whether ... ambiguity could mislead a reasonable consumer,” courts “consider[] other information readily available to the consumer that could easily resolve the alleged ambiguity,” *Moore*, 4 F.4th at 882. That approach is consistent with “the general principle that deceptive advertising claims should take into account all the information available to consumers.” *Bell v. Publix Super Markets, Inc.*, 982 F.3d 468, 477 (7th Cir. 2020). The fact that many of the challenged ads directed consumers to the TurboTax website, or linked directly to the website, forecloses Complaint Counsel’s contention that the ads were ambiguous and/or left a misleading net impression.

76. Courts have approved disclosures that, like the ones challenged here, “put consumers on notice that the complete details of the” offer may be found elsewhere. *Platt v. Winnebago Industries, Inc.*, 960 F.3d 1264, 1277 (10th Cir. 2020). For instance, the court in *Marksberry* held that “the mere fact that each advertisement” for a vehicle warranty “did not set forth all the details or requirements of the Warranty *on the advertisement* does not indicate” deception because “[t]he advertisements informed consumers to review the Warranty for full details, and the full details were included in the warranty booklet.” 606 F.Supp.3d at 1083.

77. In a similar vein, courts have held that consumers' ability to easily access complete offer details suffices to render an advertisement not deceptive even where, unlike here, the advertisement does *not* specify where those details can be found. For instance, one court held that "the absence of complete price information in the advertisements" for a pharmacy did not render the ads misleading because "the information which the state would require plaintiff to include in the advertisements[—]complete information as to the price of every prescription drug offered at plaintiff's store[—was] readily available to consumers," including "by telephoning the store ... or by asking store personnel." *South Ogden CVS Store, Inc. v. Ambach*, 493 F.Supp. 374, 380 (S.D.N.Y. 1980). The qualifying language here is adequate because it *does* specify where complete offer information is available. See *Platt*, 960 F.3d at 1277; *Marksberry*, 606 F.Supp.3d at 1083.

78. The challenged ads' instruction to visit the website was particularly appropriate given the stage in the buying process at which consumers viewed the ads. PFF ¶¶160, 241, 313, 326. That invitation reinforced what consumers already knew to do, and what they routinely do for "high-involvement" products like tax-preparation software (especially products that consumers use and/or purchase online): go to the product's website for further details. PFF ¶¶326, 369-370, 505, 526, 790. It is not deceptive for an ad to give consumers accurate information (that they expect to receive) about where they can learn complete information about a free product or offer being advertised.

79. "Because the advertisement[s] adequately disclose[d]" the advertised products' qualifications, "the net impression of the advertisement[s] on [their] face would not be likely to mislead a reasonable consumer." *DirecTV*, 2018 WL 3911196, at *9.

D. Professor Novemksy's Survey Does Not Show That Intuit's Ads Were Likely To Deceive Reasonable Consumers

80. Complaint Counsel rely on the survey conducted by Professor Nathan Novemsky to attempt to quantify whether reasonable consumers were likely to be deceived by free TurboTax ads. But that survey is unreliable and offers no support for Complaint Counsel's claim.

81. *First*, the survey is unreliable because Professor Novemsky declined to show respondents any of the challenged ads or the TurboTax website. *See* PFF ¶¶534-536. As Professor Novemsky acknowledged, survey participants would have answered the questions "having seen whatever they saw in the world"—which may well not have included any TurboTax ads. PFF ¶538. Moreover, given that participants were not shown any TurboTax marketing, they had to answer entirely from memory. PFF ¶536. This kind of "memory test" is essentially "useless." *Instant Media, Inc. v. Microsoft Corp.*, 2007 WL 2318948, at *15 (N.D. Cal. Aug. 13, 2007). That is why courts have excluded surveys like this one that were "little more than a memory test." *Starter Corp. v. Converse, Inc.*, 170 F.3d 286, 297 (2d Cir. 1999).

82. *Second*, Professor Novemsky's survey is unreliable because it does not use a test-and-control methodology. "[C]ourts routinely hold[that] a survey's lack of a control group or control questions constitutes [a] ground for granting a Rule 702 motion to exclude." *Valador, Inc. v. HTC Corp.*, 242 F.Supp.3d 448, 463 (E.D. Va.), *aff'd*, 707 F.App'x 138 (4th Cir. 2017); *Reinsdorf v. Skechers U.S.A.*, 922 F.Supp.2d 866, 878-879 (C.D. Cal. 2013) (excluding a survey that lacked a control because it lacked "fundamental reliability"). Because Professor Novemsky did not employ a test-and-control methodology, PFF ¶¶531-540, his survey cannot be relied upon to determine whether the challenged ads caused any deception. Professor Novemsky's failure to

use a control group also means he had no way of preventing the survey questions from influencing his results. PFF ¶539.

83. *Third*, Professor Novemsky’s survey was unreliable because the results are based on two questions that were both “contaminated by bias [in that] their wording primed respondents to” give particular responses, *Fish v. Kobach*, 309 F.Supp.3d 1048, 1060 (D. Kan. 2018), *aff’d sub nom. Fish v. Schwab*, 957 F.3d 1105 (10th Cir. 2020); *see Macmillan, Inc., et al.*, 96 F.T.C. 208 (1980) (noting that “[b]ias can be introduced through ... the manner in which questions are asked in a survey,” and that “[a]nything which suggests one answer as opposed to another has the potential for creating bias”). The first question (“TAT240”) was the question Professor Novemsky used to identify the survey participants that were under a misimpression about their ability to file for free, and its answers included the options “I think I can file ... for free” and “I don’t think I can file ... for free,” which encouraged respondents to guess about what they “thought” might be true. PFF ¶¶567-569. Moreover, respondents were encouraged to select “I think I can file ... for free” in particular, because TAT240 was preceded by several other questions about whether “TurboTax” was free; by repeatedly raising the issue of TurboTax being free, respondents were primed into thinking that “I think I can file for free” was the answer to TAT240 that the survey was looking for. PFF ¶569. Indeed, several participants actually voiced that they believed they could file for free because of what the survey had indicated to them. PFF ¶¶575-576. Those responses suggest a more widespread problem with the survey, rendering its results unreliable. PFF ¶577.

84. The second key question in the survey (“TAT255”) was used to identify the source of the survey participants’ purported misimpressions. PFF ¶¶591-592. Two of the five answer choices in that question conformed to Complaint Counsel’s allegations in this case,

increasing the likelihood that participants would respond in a way that Professor Novemsky was hoping for. PFF ¶593. In addition, by the time survey participants reached TAT255, they had already seen “TurboTax” mentioned twelve times over the course of just five questions. PFF ¶594. As a result, the participants likely understood that the researcher wanted them to choose one of the TurboTax-related answers that conformed to Complaint Counsel’s allegations. PFF ¶594. If Professor Novemsky had used a control group, he could have measured the magnitude of this effect and subtracted it out of his results. PFF ¶¶539, 595. But without a control group, he had no way of preventing the survey itself from influencing the results. PFF ¶¶539, 595.

85. *Fourth*, Professor Novemsky’s survey was unreliable because of its “woefully low response rate.” *In re Autozone, Inc.*, 2016 WL 4208200, at *17 (N.D. Cal. Aug. 10, 2016). The 607 people who completed the survey represented less than *five percent* of the 12,249 who started it. PFF ¶542. Low response rates render surveys unreliable and pose an impermissible risk of bias. *See, e.g., Autozone*, 2016 WL 4208200, at *17 (citing cases in excluding as unreliable a survey with a response rate of 3.43%); *University of Kansas v. Sinks*, 2008 WL 755065, at *4 (D. Kan. Mar. 19, 2008) (noting that a 2.16% response rate is “by any standard ... quite low” and that it was “extremely likely that [such a low response rate] exerted a bias on the results” (citation omitted)).

86. *Fifth*, the survey is unreliable because Professor Novemsky’s survey population included only respondents who were likely unfamiliar with TurboTax’s advertising and products. Professor Novemsky excluded from his survey pool (1) all participants who indicated they would have simple returns and therefore qualify to file for free, PFF ¶¶543-545, and (2) all participants who had already filed their tax return for Tax Year 2021 by the time they took the survey in March 2022, PFF ¶¶546-549. Professor Novemsky also designed Group A—which he called his

“main group of interest”—to include only participants who had not used TurboTax in the last three years and were thus unlikely to have seen or paid attention to TurboTax advertising. PFF ¶¶550-552.

87. Courts routinely reject surveys that have an unrepresentative and biased survey population. *See Citizens Financial Group, Inc. v. Citizens National Bank of Evans City*, 383 F.3d 110, 118-121 (3d Cir. 2004) (affirming the exclusion of a survey that used an unrepresentative sample); *Amstar Corp. v. Domino’s Pizza, Inc.*, 615 F.2d 252, 264 (5th Cir. 1980) (“[W]e do not believe that the proper universe was examined, and the results of the survey must therefore be discounted.”); *In re Fluidmaster, Inc., v. Water Connector Components Product Liability Litigation*, 2017 WL 1196990, at *28 (N.D. Ill. Mar. 31, 2017) (finding survey testimony unreliable where the expert did not survey a representative sample population); *Malletier v. Dooney & Bourke, Inc.*, 525 F.Supp.2d 558, 630-631 (S.D.N.Y. 2007) (finding a survey methodology unreliable where respondents were not representative of the consumers whose confusion mattered in the case).

88. *Sixth*, Professor Novemsky failed to safeguard against potential biases within his survey population, rendering the survey unreliable. Because bias causes “lack of reliability,” “it is imperative to make the effort to avoid it.” *Macmillan, Inc.*, 96 F.T.C. 208; *see also Standard Oil Co. of California*, 84 F.T.C. 1401 (1974) (faulting survey due to “the possibility of various kinds of bias”). Professor Novemsky failed to make an effort to avoid bias by, for example, failing to screen out participants who might have been biased against Intuit due to awareness about the FTC’s investigation into the company. PFF ¶¶560-564.

89. Professor Novemsky introduced another likely source of bias into the survey by allowing respondents to opt out. When participants completed the survey, they were informed

that the survey was “being conducted on behalf of the [FTC], the nation’s consumer protection agency, in order to collect information about the reactions and experiences of potential customers to advertisements by Intuit, the maker of TurboTax,” and that respondents’ answers “could help [the FTC] further [its] mission under the FTC Act to protect consumers.” PFF ¶¶555-556. Upon receiving that information, over 20% of the participants chose to opt out of the survey, and their answers to the survey questions were deleted. PFF ¶557.

90. By allowing participants to opt out after disclosing the survey’s sponsor and purpose, Professor Novemsky created a large risk that individuals with favorable views towards Intuit—who would not want to contribute to something that would be harmful to the company—would be disproportionately likely to opt out. PFF ¶¶558-559. The results from such a non-representative survey are unreliable. As the Commission itself has recognized, “complete[] transparen[cy] about the nature or purpose of a survey” may “create bias in ... consumers’ decision to participate in the survey or potentially result in biased responses”—a flaw that “would affect the accuracy and validity of the information collected and effectively nullify the survey.” PFF ¶558. The Commission has repeatedly argued to federal courts that revealing a survey’s sponsor and purpose is an error that, at minimum, warrants giving the survey less weight. FTC’s Mot. To Exclude Expert Testimony (Dkt. 155) at 7, *FTC v. LendingClub Corp.*, No. 3:18-cv-02454 (N.D. Cal. Feb. 27, 2020); FTC’s Reply ISO Mot. for Summ. J. (Dkt. 315) at 8, *FTC v. Kutzner*, No. 8:16-cv-00999 (C.D. Cal. Aug. 14, 2017); *see also Autozone*, 2016 WL 4208200 at *8 (excluding a survey because its purpose “was no mystery,” creating “a problem of self-interest bias”).

91. *Seventh*, Professor Novemsky’s results are inconsistent with other metrics concerning consumers’ understanding of their ability to file for free using TurboTax. PFF

¶¶609-610, 702-711, 743-745. The significant gap between Professor Novemsky’s results and the rest of the evidence in this case provides further support for finding Professor Novemsky’s survey unreliable. *See* PFF ¶¶612-613.

92. *Finally*, Professor Novemsky overstated the results of the survey, which in fact reveal that only a small percentage of the respondents who attributed their misimpression to the TurboTax advertisements and/or website did so with any reasonable degree of reliability. PFF ¶614. The proportion of respondents who (1) were mistaken about their Free Edition eligibility, (2) gave consistent survey responses, and (3) named only TurboTax advertisements and/or the TurboTax website as the source of their impression was just 5.6%. PFF ¶¶620-622; *see also* PFF ¶¶615-619. That 5.6% is far below what is required to prove deception. *See Telebrands*, 140 F.T.C. at 446-448 (“FTC cases suggest that the Commission would be justified in considering levels of ten percent net takeaway sufficient,” and citing cases holding similarly).

E. The Number Of Consumer Complaints Identified By Complaint Counsel Proves That No Significant Minority Of Reasonable Consumers Was Deceived

93. Complaint Counsel point to 228 consumer complaints found in the FTC’s Consumer Sentinel database in support of their argument that reasonable consumers were likely to be deceived by the challenged ads. PFF ¶¶627-630. That reliance is misplaced.

94. To start, the 228 complaints identified by Complaint Counsel are likely not all relevant or reliable. Several complaints do not relate to the deception alleged here, and for many others the relevance is unclear. PFF ¶¶634-636. Some complaints, for instance, appear to parrot reporting about Intuit in the news media, PF ¶634, making it unclear whether the complaints are describing the consumers’ actual experiences. Complaint Counsel’s investigator also recognized that many consumers did not include all relevant information in their complaints. PFF ¶¶633, 918.

95. Given the uncertain relevance and reliability of many of the complaints, it was important to verify the complaints' accuracy and confirm that they had probative value in this proceeding. Yet Complaint Counsel did not contact most of the consumers or otherwise confirm the complaints' accuracy or relevance. PFF ¶¶633. Instead, Complaint Counsel's investigator attempted to contact just twelve complainants, and ultimately spoke to only two. PFF ¶¶918. Moreover, Complaint Counsel's investigator did not read most of the complaints she compiled for this proceeding. PFF ¶¶917. Irrelevant and unreliable complaints do not support Complaint Counsel's claim.

96. Even considering all 228 complaints identified by Complaint Counsel, that small number proves that no significant minority of reasonable consumers was deceived. PFF ¶¶631. The 228 complaints represent just 0.0003% of the 86.4 million TurboTax customers who completed at least one return during the Tax Year 2015 to 2021 period. PFF ¶¶631-632. When calculated in terms of complaints per 1,000 consumers, the complaint rate would be only 0.0025—much lower than the range of 0.35 to 143.8 in other FTC consumer protection cases. PFF ¶¶641-642; *see also* PFF ¶¶643-644, 646. And when calculated based on the contention that over 100 million consumers could have been deceived, the complaint rate is so low that Complaint Counsel's rebuttal expert, Mr. Yoeli, said he "can't keep track of the zeros." PFF ¶¶645. Those small complaint rates do not support a finding that a significant minority of reasonable consumers was deceived.

97. The small number of complaints is also inconsistent with the allegation of widespread deception given how many times the challenged ads ran. Over the six-year period in which the 228 complaints were submitted, Intuit's ads were distributed tens of billions of times. PFF ¶¶637. During just two of the years covered in the complaint—Tax Years 2020 and 2021—

the ads at issue were displayed over 15 billion times and clicked on over 130 million times. PFF ¶637. Even considering only the advertisement clicks from Tax Years 2020 and 2021, and ignoring consumers who would have seen ads through other mediums in other years, the full set of 228 complaints amount to just 0.000175% of those who clicked a TurboTax ad. PFF ¶637. A complaint rate that low does not support finding that a significant minority of reasonable consumers was deceived.

98. If Intuit had engaged in a multi-year marketing campaign that was deceptive, as Complaint Counsel contend, one would expect to see a significant number of consumer complaints. PFF ¶¶624-625, 647. But, as in *DirecTV*, “this case did not involve the type of strong proof the Court would expect to see in a case ... based on a claim that” millions of consumers were exposed to deceptive ads over a period of several years. *DirecTV*, 2018 WL 3911196, at *19; *see also* PFF ¶647.

99. Professor Golder’s complaint benchmarking analysis provides further evidence that consumers have not complained about Intuit’s advertising at rates that reflect deception. PFF ¶¶638-640. That far fewer consumers complained about Intuit relative to other companies further undermines the suggestion that Intuit engaged in a deceptive advertising campaign, much less in a widespread and long-term one.

F. Data Concerning Consumers’ Experiences Show That Reasonable Consumers Were Not Deceived

100. Numerous metrics concerning consumers’ experiences with TurboTax provide evidence that those experiences were consistent with consumers’ expectations, including expectations created by the challenged ads. *See DirecTV*, 2018 WL3911196, at *18.

101. Intuit data demonstrates that reasonable consumers were not misled into believing that all TurboTax products were free or that TurboTax would be free for them, only to find out

later that was not the case. PFF ¶¶648-662. For example, consumers abandon TurboTax's paid and free products at the same 22% rate, reflecting that consumers were not abandoning because they expected to file for free but were then informed that they must pay to file with TurboTax. PFF ¶¶656-658. Moreover, more than █████ of consumers between Tax Years 2014 and 2021 started and finished in the same TurboTax SKU, demonstrating that Intuit is successful in getting customers started in the right SKU for their tax situation and not misleading those consumers. See PFF ¶¶661-662; see also PFF ¶¶659-660. Intuit's 83% retention rate for paid TurboTax customers—the consumers who allegedly were deceived into inaccurately thinking they could file for free—further reflects that TurboTax consumers were not deceived. PFF ¶¶649-651. And TurboTax's consistently high customer ratings and positive reviews exhibit the absence of consumer anger or frustration that would be expected if Intuit had deceived those consumers. PFF ¶¶652-654.

102. Reliable testimony and expert analysis from Bruce Deal further undermines Complaint Counsel's claim that the challenged ads were likely to have deceived reasonable consumers. As Mr. Deal explained, Intuit's Tax Year 2021 customer-level data reflects that only 510 customers, less than 1% of the Tax Year 2021 customer base, even potentially viewed themselves as having been deceived. PFF ¶¶679-682; see also PFF ¶¶663-678.

G. Reliable Consumer Testing And Survey Evidence Reflects That No Significant Minority Of Reasonable Consumers Was Deceived

103. Where deceptiveness is not apparent from the face of the challenged advertising, courts “will not find” a likelihood of deception “unless extrinsic evidence allows [it] to conclude” that reasonable consumers were likely to be deceived. *Telebrands*, 140 F.T.C. at 429; see also *United States v. Bayer Corp.*, 2015 WL 5822595, at *11 (D.N.J. Sept. 24, 2015); accord *FTC v. National Urological Grp., Inc.*, 645 F.Supp. 2d 1167, 1193 (N.D. Ga. 2008), *aff'd*, 356

Fed. Appx. 358 (11th Cir. 2009). This Court will not find a likelihood of deception where the “available extrinsic evidence” cuts *against* such a finding. *Kraft, Inc. v. FTC*, 970 F.2d 311, 322 (7th Cir. 1992).

104. Complaint Counsel did not offer any reliable consumer testing that supports their claim that reasonable consumers were likely to be deceived by the challenged ads. Their primary evidence—Professor Novemsky’s survey—cannot be relied on for all the reasons given above. *See* PFF ¶¶528-622. Complaint Counsel have not offered any other survey evidence establishing that reasonable consumers were likely to be deceived.

105. Intuit, meanwhile (despite having no burden of proof), offered reliable consumer testing and survey evidence establishing that the challenged ads were not likely to deceive reasonable consumers. *See* PFF ¶¶683-721.

106. Reliable expert survey evidence further reflects that no significant minority of reasonable consumers was deceived by the challenged ads. *See* PFF ¶¶722-760.

H. Detailed Information Is Clear, Upfront, And Ubiquitous On TurboTax.com

107. To the extent consumers were uncertain or confused about whether a free TurboTax offer being advertised was qualified or whether it was free for them, TurboTax’s website would have promptly made clear both the existence and the specifics of the qualifications for the offer. Because the information on the TurboTax website is “readily available to the consumer,” it must be considered. *Moore*, 4 F.4th at 882.

108. At the TurboTax website, consumers were (and are) presented with clear, prominent, and repeated information about the qualifications for TurboTax’s free offers. PFF ¶¶374-378, 390, 396-397, 415-416. The presence of repeated hyperlinks also informs consumers of the existence of a restriction, thereby making clear the free TurboTax offer is not unqualified. PFF ¶314; *see also* PFF ¶¶520-521; *cf.* RX96 (FTC .com Disclosures Guidelines) at 11-13, A-8.

Moreover, this information is visible before consumers begin preparing their returns or even give TurboTax their name. PFF ¶¶396. Several of Complaint Counsel’s witnesses acknowledged the extensive nature of the website’s disclosures and how quickly consumers would see the qualifications for free TurboTax offers. PFF ¶¶369-370.

109. When consumers clicked a “simple returns” hyperlink on any of the TurboTax webpages, a window detailing the qualifications for the free offer in question popped up on the screen. PFF ¶¶379-383, 391, 415-416. Including these details in a pop-up screen made them more noticeable because it “disrupt[ed] the consumer’s viewing pattern to draw their attention to something that’s really important.” PFF ¶383. Using a pop-up screen was also important because doing so avoided overwhelming consumers with too much information that they would be likely to tune out. PFF ¶¶379, 383.

110. The TurboTax Products & Pricing page and SKU selector tool, seen by all new customers before starting their tax return, also serve as a bulwark against deception. PFF ¶¶408-409. That page provided additional details about each TurboTax product, including the prices of each and relevant qualifications, PFF ¶¶413-414, and multiple disclosures stating that TurboTax Free Edition is available for “simple tax returns only,” PFF ¶¶415-416. The Products & Pricing also included a “SKU selector” tool, which enables consumers to receive a recommendation for the TurboTax SKU most likely suited to their tax situation. PFF ¶¶419-420.

111. TurboTax’s website (1) provided consumers with all the information they would need to determine whether they qualified for a free offer, (2) presented that information in a way most likely to be useful to consumers, and (3) made that information available before consumers started preparing their return. The ample disclosures of free product eligibility and tools to assist

consumers in their SKU selection process on TurboTax’s website further undermine any claim that consumers were deceived.

IV. COMPLAINT COUNSEL FAILED TO PROVE MATERIALITY

112. To establish liability, Complaint Counsel had the burden to prove that any alleged deception was material, i.e., “likely to affect a consumer’s choice of or conduct regarding a product,” FTC Policy Statement on Deception, 103 F.T.C. at 182. Complaint Counsel failed to meet that burden. They have not argued that any purportedly misleading claim allegedly conveyed by the challenged ads “was likely to influence consumers’ purchasing decisions,” *Apotex Inc. v. Acorda Therapeutics, Inc.*, 823 F.3d 51, 68 (2d Cir. 2016), nor have they offered evidence that any such claim was likely to affect any other relevant conduct.

113. Complaint Counsel’s theory of materiality—that the alleged deception was material because consumers were drawn to the TurboTax website by the challenged ads and thus wasted time, effort, and in some cases money, amounting to harm that “can’t be remedied by subsequent disclosures,” PFF ¶781—is refuted by the record in this case.

114. Consumers do not make a decision about whether to purchase a TurboTax product until they have completed their tax return and are about to file it, which occurs after seeing the TurboTax website, any upgrade screens encountered within a TurboTax product (if any), and a final summary of the products they are purchasing. PFF ¶782. As Complaint Counsel have recognized, “consumers learn that TurboTax Free Edition is not free for them prior to purchasing a paid version of TurboTax.” PFF ¶782. Professor Golder further explained that consumers have not “already made their purchase decision” when they arrive at the TurboTax website, in part because the selection of a particular tax-filing method entails “a high-involvement purchase process,” which consumers approach with “care and consideration” and “in a thoughtful, deliberative manner.” PFF ¶782.

115. Complaint Counsel offered no evidence proving that advertisements seen before arriving on the TurboTax website are material to consumers' ultimate purchasing decision. PFF ¶779.

116. Complaint Counsel also failed to prove that any allegedly misleading claim conveyed by the challenged ads was responsible for driving consumers to the TurboTax website or causing consumers to pay for TurboTax. PFF ¶784. And other unrebutted evidence shows that reasonable consumers do not rely solely (or even primarily) on ads when making decisions to try or purchase a tax-preparation product, but rather consult multiple sources, including friends and family, internet research, third-party reviews, and the IRS website. *See* PFF ¶¶505, 736-742, 786-787. That undermines any suggestion that the claims in the challenged ads were material.

117. Complaint Counsel's theory independently fails because even if the claims allegedly conveyed by Intuit's ads drove consumers to the TurboTax website, that does not establish materiality. It takes only "a few seconds" to access the TurboTax website and the full product information presented there. PFF ¶790; *accord* PFF ¶793. This full product information was always accessible before consumers "ha[d] to input their name or any other personal information." PFF ¶791. And for consumers who did input information to start the process of filing a return, they typically encountered a required upgrade screen, if such a screen were encountered at all, within just 30 minutes (a figure that likely overstates how long consumers were actively using the website). PFF ¶¶668, 792-793. Complaint Counsel have not met their burden to prove how, under these circumstances, merely visiting the TurboTax website is sufficient to establish materiality. *See* 16 C.F.R. §3.43(a)

118. Finally, the challenged ads are not presumptively material simply because they mention the word free. Because the products advertised in the challenged ads *were* free, any alleged misrepresentation was not about the *cost* of the advertised product, but rather about the product's *qualifications*, i.e., about particular consumers' ability to use the product (at the accurately advertised free price). This distinguishes this case from the authority relied upon by Complaint Counsel, in which a "free" claim was deemed material because the product *was not actually free*; rather, consumers had to either "assume the obligation to purchase at least four books ... over a period of a year," or subsequently "pay[] for the so-called 'free' book," *Book-of-the-Month Club*, 48 F.T.C. 1297, 1299 (1952).

119. Complaint Counsel failed to prove that any of the claims allegedly conveyed in any of the challenged brand video ads were material.

120. Complaint Counsel failed to prove that any of the claims allegedly conveyed in any of the challenged display ads were material.

121. Complaint Counsel failed to prove that any of the claims allegedly conveyed in any of the challenged paid-search ads were material.

122. Complaint Counsel failed to prove that any of the claims allegedly conveyed in any of the challenged email ads were material.

123. Complaint Counsel failed to prove that any of the claims allegedly conveyed in any of the challenged radio ads were material.

124. Complaint Counsel failed to prove that any of the claims allegedly conveyed in any of the challenged ads were material.

V. COMPLAINT COUNSEL FAILED TO PROVE THAT A CEASE-AND-DESIST ORDER IS WARRANTED

125. In addition to their burden to prove deception, Complaint Counsel bear the burden of “satisfy[ing] the court that relief [for any deception] is needed.” *Benco Dental Supply Co.*, 2019 WL 5419393, at *75 (F.T.C. Oct. 15, 2019) (quoting *United States v. W. T. Grant Co.*, 345 U.S. 629, 633 (1953)).

126. The only remedy available in this proceeding is “an order requiring [Intuit] to cease and desist from using any act or practice found to be deceptive.” 15 U.S.C. §45(b).

127. A cease-and-desist order is appropriate only “to prevent illegal practices in the future.” *FTC v. Ruberoid Co.*, 343 U.S. 470, 473 (1952). Such an order may not be issued “to fasten liability on [Intuit] for past conduct.” *FTC v. Cement Institute*, 333 U.S. 683, 706 (1948); *see also Coro, Inc. v. FTC*, 338 F.2d 149, 153 (1st Cir. 1964) (“The Commission ... is not empowered to issue a cease and desist order as punishment for past offenses.”).

128. To obtain a cease-and-desist order, Complaint Counsel bore the burden of proving the existence of “some cognizable danger of recurrent violation.” *W. T. Grant*, 345 U.S. at 633; *see also Benco Dental*, 2019 WL 5419393, at *75.

129. The “cognizable danger” standard is more rigorous than the “mere possibility” standard that governs mootness. *W. T. Grant*, 345 U.S. at 633.

130. Complaint Counsel failed to carry their burden to prove that there is a cognizable danger of recurrent violations in the future. To the contrary, the evidence establishes that there is no such cognizable danger here.

A. Complaint Counsel Do Not Challenge Intuit’s Current Ads And Unrebutted Evidence Shows That Those Ads Are Not Deceptive

131. Complaint Counsel offered no evidence that any *current* advertisements are deceptive, and in fact conceded at trial that they are not challenging Intuit’s Tax Year 2022 ads,

see PFF ¶803. Instead, Complaint Counsel expressly limited the relevance of Intuit’s current ads to “remedy.” PFF ¶803.

132. Although it did not have the burden of doing so, Intuit has produced un rebutted evidence that its current ads are not deceptive. For example, earlier this year Intuit [REDACTED]

[REDACTED] PFF ¶¶702-713. The results from this copy testing are inconsistent with the notion that reasonable consumers would be misled by Intuit’s current ads into believing that all of TurboTax is free.

133. The Tax Year 2022 ads, and the improvements made to the disclosures in those ads, further demonstrate that those ads are not deceptive. PFF ¶¶337-338, 343, 825. The verbal disclosures say that the offer is only available to consumers “filing a simple return” and tell consumers to “see if you qualify at turbotax.com.” PFF ¶¶338, 343. Furthermore, Intuit has increased the size of the written disclosures in many of its ads, and added additional disclosures that make them plainly legible. PFF ¶340.

B. Intuit’s Free TurboTax Advertising Is Already Subject To Injunctive Terms Enforceable By Every State And The District Of Columbia That Prohibit All The Conduct Complaint Counsel Seek To Enjoin

134. Because Intuit’s current ads are not deceptive, Complaint Counsel had to find something else to establish the “cognizable danger of recurrent violation” that is required for prospective relief, *W. T. Grant*, 345 U.S. at 633. They did not do so, including because any potentially deceptive conduct that might hypothetically occur in the future is already enjoined.

135. “[A] suit becomes moot[] ‘when the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.’” *Chafin v. Chafin*, 568 U.S. 165, 172 (2013). That is the situation here. Complaint Counsel’s proposed order, and any order this

Court would have authority to issue, would overlap with the Consent Order with the attorneys general of every state and the District of Columbia, by which Intuit has been legally bound since June 2022, PFF ¶809, because the latter already precludes Intuit from engaging in the advertising practices alleged in this case to have been deceptive, as well as substantially similar practices. For example, the “Free, Free, Free” television ads—which Intuit had already voluntarily pulled from the airwaves, *see* PFF ¶¶7-8—are specifically barred by the Consent Order. *See* PFF ¶213. Additional provisions of the order require “Clear and Conspicuous” disclosures in Intuit’s advertising, including written disclosures that not all taxpayers qualify and, in all video ads eight seconds or longer, corollary verbal disclosures. *See* PFF ¶¶809-819.

136. Because the Consent Order provides substantively the same relief Complaint Counsel are seeking and potentially entitled to in this proceeding, “[t]here is nothing for this court to enjoin” and a cease-and-desist order is unwarranted and improper. *Wold v. Robart*, 2018 WL 1135396, at *5 (E.D. Wis. Feb. 28, 2018).

137. Complaint Counsel have offered no basis for the Court to have a “reasonable expectation” that the complained-of conduct could recur even though the Consent Order bars it. *South Carolina State Board of Dentistry*, 138 F.T.C. 229, 262 (2004) (citing *W. T. Grant*, 345 U.S. at 632); *see also Already, LLC v. Nike, Inc.*, 568 U.S. 85, 97 (2013) (finding a case moot, in light of a “covenant promising” no future violations of the type alleged); *iMortgage Services, LLC v. Louisiana Real Estate Appraisers Board*, 2023 WL 2254528, at *2-5 (M.D. La. Feb. 27, 2023) (finding a case moot because any relief would be “redundant” to FTC consent decree, and prospect of FTC enforcement “preclude[d] a reasonable expectation that the wrong w[ould] be repeated”).

138. Although it did not have the burden of doing so, Intuit presented unrebutted evidence of its intent to comply with the Consent Order. Such evidence included testimony about how Intuit has complied with the Consent Order since it became effective, PFF ¶¶823-828, as well as testimony about the internal steps Intuit has taken to ensure compliance going forward, PFF ¶¶821-822. In light of this uncontroverted testimony, and the lack of contrary evidence from Complaint Counsel, the notion that Intuit might fail to comply with the Consent Order's terms in the future is too speculative to avoid mootness. *See iMortgage Services*, 2023 WL 2254528, at *4.

139. At the very least, the Consent Order provides “powerful assurances of [Intuit’s] future compliance” with the FTC Act, preventing any “cognizable danger” of future violations and precluding prospective relief. *TRW, Inc. v. FTC*, 647 F.2d 942, 954 (9th Cir. 1981). The Consent Order is part of a binding California court judgment, enforceable against Intuit by 51 attorneys general. Under these circumstances, there is “no reasonable expectation” of future violations of the sort challenged in this proceeding, *W. T. Grant*, 345 U.S. at 633. Intuit’s evidence—including the binding Consent Order and changes Intuit has made to comply with that order—demonstrates that it “is not attempting and does not intend to violate the law,” *New Standard Publishing Co. v. FTC*, 194 F.2d 181, 183 (4th Cir. 1952).

C. Intuit Is Committed To Clarity In Its Free Advertising

140. A respondent’s “intent to comply with the law in the future” is a factor that militates against a cease-and-desist order. *Benco Dental*, 2019 WL 5419393, at *75. When such intent to comply exists, prospective relief based on “substantially outdated” advertising is unwarranted. *FTC v. Merchant Services Direct, LLC*, 2013 WL 4094394, at *3 (E.D. Wash. Aug. 13, 2013). Intuit’s evidenced lack of deceptive intent cuts against entry of a cease-and-desist order. *See Benco Dental*, 2019 WL 5419393, at *75. At the very least, because

“deliberateness of the violation” is a factor “used by the Commission to determine” the proper scope of relief, *Stouffer Foods Corp.*, 118 F.T.C. 746, 811 (1994), the lack of deceptive intent limits the scope of any order that may be issued.

141. Unrebutted testimony from Intuit’s executives establishes Intuit’s intent to comply with the law, rendering a cease-and-desist order unwarranted. PFF ¶¶7-8, 30, 33-38, 174, 850-852. Intuit also offered testimony from its executives explaining how it has voluntarily improved its TurboTax advertisements over the years, with the goal of communicating even more clearly than before the qualifications of free TurboTax products and offers. *See* PFF ¶¶353, 357, 363. Those improvements indicate that Intuit is matching its words with its actions, reinforcing the company’s stated intent to be clear with consumers.

142. “[T]he character of the past violations” should be considered when assessing the ongoing risk of future abuse. *W. T. Grant*, 345 U.S. at 643. To that end, courts have relied on an alleged wrongdoer’s intent to break the law as a justification for forward-looking relief. *E.g.*, *FTC v. Walmart Inc.*, 2023 WL 2646741, at *21 (N.D. Ill. Mar. 27, 2023); *FTC v. Shkreli*, 581 F.Supp.3d 579, 639-640 (S.D.N.Y. 2022). Here, the only evidence regarding intent is that Intuit’s intentions were to be fully honest and transparent. These facts provide an additional reason a cease-and-desist order should be denied.

D. Complaint Counsel’s Proposed Order Would Be Harmful To Consumers

143. Even if otherwise warranted, a cease-and-desist order may be denied based on “the public interest.” *ECM Biofilms, Inc.*, 159 F.T.C. 276, 646 (2015). For example, “the absence of any proof of consumer harm ... militates against a broad remedial order.” *Id.*

144. Complaint Counsel have not offered evidence showing that the proposed order would cure the deception alleged by helping consumers better understand free TurboTax advertising. Because the evidence indicates the relief sought would not improve consumers’

understanding of Intuit’s advertising, and often would be redundant of Intuit’s current advertising practices, no such relief is warranted.

145. Evidence indicates that Compliant Counsel’s proposed relief would in fact be affirmatively harmful to consumers. The evidence establishes that Complaint Counsel’s proposed remedy would harm consumers by overloading them with information, PFF ¶¶138, 383, 834-835, 841-842, 844, exacerbating their natural skepticism of free offers, PFF ¶843, and ultimately causing fewer of them to file for free, PFF ¶843; *see also* PFF ¶¶833, 846. That harm independently militates against granting the relief sought. *See ECM Biofilms*, 159 F.T.C. at 646.

146. Finally, Complaint Counsel’s proposed order would run afoul of the constitution. While under current law the government may compel certain disclosures in commercial speech, it may do so only if the speech at issue is “noncontroversial and not unjustified or unduly burdensome.” *NIFLA v. Becerra*, 138 S.Ct. 2361, 2372 (2018). Complaint Counsel’s proposed order, and in particular its requirement to affirmatively disclose in all advertisements that a majority of taxpayers do not qualify to use TurboTax Free Edition, fails both these elements. The parties dispute whether the entire taxpayer population is the appropriate metric for measuring TurboTax Free Edition’s qualifications. And imposing such a requirement on TurboTax and not its competitors would, on this record, be unjustified. “The Supreme Court made clear in *NIFLA* that a government-compelled disclosure that imposes an undue burden fails for that reason alone.” *American Beverage Ass’n v. City & County of San Francisco*, 916 F.3d 749, 756 (9th Cir. 2019). The disclosures sought by Complaint Counsel impose such a burden and should be rejected for that reason too.

VI. COMPLAINT COUNSEL'S CLAIM IS UNTIMELY

A. The Statute Of Limitations Bars Consideration Of Outdated Ads

147. Although section 5 does not include an express statute of limitations, it is wrong to “assume that” this absence means “Congress intended that there be no time limit on actions.” *DelCostello v. International Brotherhood of Teamsters*, 462 U.S. 151, 158 (1983). “[W]here there is no federal statute of limitations expressly applicable,” courts “‘borrow’ the most suitable statute or other rule of timeliness from some other source.” *Id.*

148. Typically, that other source is “the most closely analogous statute of limitations under state law.” *DelCostello*, 462 U.S. at 158. But where the statute of limitations for a federal cause of action is not borrowed from state law, a related federal law may supply the limitations period. *Reed v. United Transportation Union*, 488 U.S. 319, 324 (1989) (citing cases).

149. Complaint Counsel have cited cases for the proposition that claims under section 5 of the FTC Act are not subject to a statute of limitations. *See* Complaint Counsel’s Opp. to Intuit’s Mot. *In Limine* to Exclude Outdated Advertisements at 3 (Fed. 24, 2023). But those cases all “fail[] to mention the widely recognized rule from *DelCostello*”—the same oversight for which the FTC has previously been faulted, *FTC v. Centro National Corp.*, 2014 WL 7525697, at *7-8 (S.D. Fla. Dec. 10, 2014).

150. Complaint Counsel have also argued that federal equitable claims never borrow statutes of limitations from other sources. *See* Complaint Counsel’s Opp. to Intuit’s Mot. *In Limine* to Exclude Outdated Advertisements at 3-4. But the Supreme Court has never so held, and appellate precedent shows that is not true, *e.g.*, *Held v. Manufacturers Hanover Leasing Corp.*, 912 F.2d 1197, 1200-1201 (10th Cir. 1990) (borrowing a state-law statute of limitations for an equitable cause of action under the Employee Retirement Income Security Act).

151. Here, analogous state *and* federal laws point to a three-year statute of limitations. *See* Cal. Civ. Code §1783; D.C. Code §28-3904; N.Y. C.P.L.R. §214(2); 15 U.S.C. §57b(d).

152. Borrowing from those closely analogous state or federal laws, section 5 claims like the one here are subject to a three-year statute of limitations.

153. Applying that statute of limitations, any challenged advertisements that last ran before January 5, 2019—three years before the effective date of the tolling agreement in this case, PFF ¶5—may not be considered in this proceeding.

154. Complaint Counsel’s assertion that the FTC Act is not subject to a statute of limitations, when combined with their position that laches is unavailable, *see infra* Part VI.B, presents significant constitutional problems. The Supreme Court has long “used particularly forceful language in emphasizing the importance of time limits” on government enforcement actions. *Gabelli v. SEC*, 568 U.S. 442, 452 (2013); *accord, e.g., Adams v. Woods*, 6 U.S. (2 Cranch) 336, 342 (1805) (it would be “utterly repugnant to the genius of our laws” if government enforcement actions could “be brought at any distance of time”); *Rothensies v. Electric Storage Battery Co.*, 329 U.S. 296, 301 (1946) (time limits are “an almost indispensable element of fairness”). Complaint Counsel’s position that *no* time limitations apply offends due process.

155. Courts do not lightly “assume that Congress intended to infringe constitutionally protected liberties.” *Edward J. DeBartolo Corp. v. Florida Gulf Coast Building & Construction Trades Council*, 485 U.S. 568, 575 (1988). This Court, accordingly, should not assume that Congress intended to exempt section 5 from the general rule that where no statute of limitations is expressly stated, an analogous statute of limitations (here, three years) is borrowed.

156. The due-process imperative to apply *some* time limit also undermines Complaint Counsel’s argument that borrowing a statute of limitations is inappropriate in federal equitable

cases, *supra* ¶150. To support that proposition, Complaint Counsel rely on dicta from *DelCostello* that paraphrased an earlier decision explaining that statutes of limitations should not be imported to actions *where laches applies instead*. See *DelCostello*, 462 U.S. at 162 (paraphrasing *Holmberg v. Armbrecht*, 327 U.S. 392, 396 (1946)). If Complaint Counsel are right that laches does not apply, then their argument that a statute of limitations cannot be borrowed in equitable cases is even more unsustainable.

B. Laches Bars Consideration of Outdated Ads

157. Laches applies where a defendant shows “unreasonable, prejudicial delay” by the plaintiff in commencing suit. *Petrella v. Metro-Goldwyn-Mayer, Inc.*, 572 U.S. 663, 667 (2014).

158. The elements of a laches defense are all met here. The complained-of conduct was “known to the FTC for a considerable period of time” before Complaint Counsel initiated this action. PFF ¶14; *see also* PFF ¶¶1, 6. And Intuit “designed its [current] advertising disclosures in reliance on the settlement agreement[] reached with the attorneys general of all fifty states and the District of Columbia” during the pendency of this action. *FTC v. DirecTV, Inc.*, 2015 WL 9268119, at *2 (N.D. Cal. Dec. 21, 2015); *see id.* (noting that similar circumstances “facially support[ed] a finding of laches”). It would be inequitable to penalize Intuit for outdated ads when Complaint Counsel delayed filing suit for years, spanning three administrations. *See id.* at *2-3.

159. The FTC’s status as a federal government agency does not exempt it from a laches defense. *See DirecTV, Inc.*, 2015 WL 9268119, at *3; *FTC v. Hang-Ups Art Enterprises, Inc.*, 1995 WL 914179, at *4 (C.D. Cal. Sept. 27, 1995); *see also United States v. Lindberg Corp.*, 882 F.2d 1158, 1164 (7th Cir. 1989). Indeed, the D.C. Circuit recently rejected an argument that “‘sovereigns’ are exempt from laches.” *New York v. Meta Platforms, Inc.*, 66 F.4th 288, 296 (D.C. Cir. 2023) (citing Supreme Court cases).

VII. THE PROCEEDING IS UNCONSTITUTIONAL

160. Complaint Counsel’s claim fails because this proceeding is constitutionally infirm in four ways: *First*, the FTC’s administrative processes violate due process. *Second*, the separation of powers requires FTC commissioners and administrative law judges to be subject to direct presidential control, and prohibits combining the functions of all three branches of government in a single agency directly accountable to no one. *Third*, the non-delegation doctrine bars Intuit from being subjected to an administrative proceeding in which the Commission has unchecked authority to allocate some cases to agency adjudication and others to federal court. *Fourth*, because a disinterested observer could reasonably conclude that the Commission itself is not neutral in this case, Intuit has been denied its due-process right to a final administrative determination by a neutral arbiter.

A. The FTC’s Internal Administrative Process Violates The Due Process Clause

161. Due process requires “a fair opportunity to rebut the Government’s factual assertions before a neutral decisionmaker.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 533 (2004) (plurality opinion).

162. “[A]n unconstitutional potential for bias”—i.e., a potential for a decision-maker not to be neutral—inevitably exists “when the same person serves as both accuser and adjudicator in a case.” *Williams v. Pennsylvania*, 579 U.S. 1, 8 (2016). In *Williams*, for example, the Supreme Court held that a Pennsylvania Supreme Court justice who had previously served as a prosecutor could not constitutionally adjudicate an appeal involving a defendant whom the justice had, in his service as a prosecutor, authorized the death penalty to be sought against. *Id.* at 4. Similarly, here, the FTC authorized the filing of the complaint against Intuit and, at the same time, will ultimately decide the merits of that same complaint. The potential for bias in such circumstances is substantial.

163. Under the FTC Act, the commissioners authorize the filing of a complaint and then ultimately decide the merits of that complaint. As in *Williams*, this combination of functions violates due process and requires dismissal of this proceeding.

164. Were that not enough, the FTC's win rate before itself is "a strong sign of an unhealthy and biased institutional process" that is incompatible with due process. PFF ¶934; *see also Axon Enterprise, Inc. v. FTC*, 143 S.Ct. 890, 907 n.1 (2023) (Thomas, J., concurring) (noting commissioners' "tendency to overwhelmingly agree with their ... agency's decisions"). As the Ninth Circuit observed two years ago, the "FTC has not lost a single case [in administrative proceedings] in the past quarter century"—a record that "[e]ven the 1972 Miami Dolphins would envy." *Axon Enterprise, Inc. v. FTC*, 986 F.3d 1173, 1187 (9th Cir. 2021). Just last month, the Commission again reversed this Court to rule in favor of itself. *See Order of the Commission, Illumina, Inc. & GRAIL, Inc.*, No. 9401 (F.T.C. Apr. 3, 2023).

165. *Withrow v. Larkin*, 421 U.S. 35 (1975), which held that the combination of a federal agency's investigative and adjudicative functions, "without more," does not violate due process, *id.* at 58, is not to the contrary. Even *Withrow* recognized that "special facts and circumstances present in the case" may demonstrate "that the risk of unfairness is intolerably high." *Id.* The FTC's concentration of governmental power, coupled with the evidence of case-specific prejudgment in this matter, *see infra* ¶¶185-188, renders the risk of unfairness here intolerable.

166. The due-process problem with the FTC's adjudication is amplified by the fact that this case implicates Intuit's right to liberty, *see Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 522 (1996) (Thomas, J., concurring in part) (describing "advertising" as "integral" to "liberty"), and thus involves "private rights," *Axon*, 143 S.Ct. at 907 (Thomas, J., concurring). "[W]hen

private rights are at stake, full Article III adjudication is likely required,” because “empowering entities that are not courts of competent jurisdiction to deprive citizens of core private rights” would violate due process. *Id.* at 907, 910.

B. The FTC’s Structure Violates The Separation Of Powers

167. The FTC’s structure contravenes article II of the Constitution because the commissioners and the FTC’s administrative law judges are each insulated from presidential removal. *See, e.g., Seila Law LLC v. CFPB*, 140 S.Ct. 2183, 2191 (2020); *Free Enterprise Fund v. Public Co. Accounting Oversight Board*, 561 U.S. 477, 484 (2010).

168. Article II vests “[t]he executive Power ... in a President,” U.S. Const. art. II, §1, cl. 1, who must “take Care that the Laws be faithfully executed,” *id.* art. II, §3. A core feature of the president’s authority is the power to supervise and remove “those who wield executive power on his behalf.” *Seila Law*, 140 S.Ct. at 2191.

169. FTC commissioners exercise executive power. *See Morrison v. Olson*, 487 U.S. 654, 689 n.28 (1988). Yet those commissioners are shielded from at-will presidential removal. *See* 15 U.S.C. §41. That restriction on the president’s removal authority violates article II.

170. Although the Supreme Court upheld the removal structure for FTC commissioners in *Humphrey’s Executor v. United States*, 295 U.S. 602 (1935), the Court has repeatedly undermined that case in the subsequent eight-plus decades, including most recently in *Seila Law*. Indeed, *Seila Law* “repudiated almost every aspect of *Humphrey’s Executor*,” 140 S.Ct. at 2212 (Thomas, J., concurring in part and dissenting in part), by refusing to apply the decision to an agency with a slightly different structure to the 1935 FTC, *id.* at 2206. Two justices in *Seila Law* called *Humphrey’s Executor* “a direct threat to our constitutional structure” that should be overruled in a future case. *Id.* at 2211-2212 (Thomas, J., concurring in part and dissenting in part).

171. The FTC’s structure also unconstitutionally shields ALJs from removal.

172. The president may not “be restricted in his ability to remove a principal officer, who is in turn restricted in his ability to remove an inferior officer.” *Free Enterprise Fund*, 561 U.S. at 483-484. Yet FTC ALJs enjoy two layers of protection from presidential removal. Under 5 U.S.C. §7521(a), “[a]n action may be taken against an [ALJ] ... by the agency in which [he] is employed only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board.” And under 5 U.S.C. §1202(d), members of the Merit System Protection Board are themselves removable “by the President only for inefficiency, neglect of duty, or malfeasance in office.”

173. This dual-layer protection violates article II. *See Free Enterprise Fund*, 561 U.S. at 492, 496. Indeed, relying on *Free Enterprise Fund* and *Lucia v. SEC*, 138 S. Ct. 2044, 2053 (2018), the Fifth Circuit recently held that SEC ALJs, who do not differ in any material respect from FTC ALJs, are officers who cannot constitutionally enjoy two layers of removal protection. *Jarkesy v. SEC*, 34 F.4th 446, 464 (5th Cir. 2022), *petition for cert. filed*, No. 22-859 (U.S. Mar. 8, 2023).

174. Proper appointment does not salvage the actions of an officer with unconstitutional removal protection if that protection contributes to any harm inflicted. *See Collins v. Yellen*, 141 S.Ct. 1761, 1789 (2021). Here, the FTC Act’s “unconstitutional removal provisions inflicted harm” on Intuit because more accountability to the president “might have altered [the commissioners’] behavior in a way that would have benefited” Intuit. *Id.* With constitutionally appropriate oversight, the president could ensure that the commissioners decided this case based on the evidence. Indeed, it seems unlikely that commissioners would overturn the decisions of their ALJs as routinely as they do if the threat of removal required them to set

aside their prior determination that a suit was appropriate and assess the evidence offered during the administrative proceeding.

C. Congress Unconstitutionally Delegated Legislative Power To The FTC

175. The power to assign disputes to agency adjudication is “peculiarly within the authority of the legislative department.” *Oceanic Steam Navigation Co v. Stranahan*, 214 U.S. 320, 339 (1909).

176. The non-delegation doctrine provides that “Congress may not constitutionally delegate its legislative power to another branch of Government.” *Touby v. United States*, 500 U.S. 160, 165 (1991).

177. Legislation amounts to “a forbidden delegation of legislative power” where Congress fails to provide “an intelligible principle to which the person or body authorized to [exercise the delegated authority] is directed to conform.” *Mistretta v. United States*, 488 U.S. 361, 372 (1989) (alteration in original).

178. The FTC Act empowers the Commission to decide whether to enforce its provisions through administrative proceedings or instead in federal court. *See* 15 U.S.C. §§45(b), 53(b). And the statute does not provide the Commission an intelligible principle (or any principle) by which to decide whether to bring proceedings in an administrative or judicial forum. *See* 15 U.S.C. §§45(b), 53(b).

179. This lack of an intelligible principle violates the non-delegation doctrine. *See generally Gundy v. United States*, 139 S.Ct. 2116, 2123 (2019) (plurality); *Panama Refining Co. v. Ryan*, 293 U.S. 388, 430 (1935).

180. In fact, the Fifth Circuit recently held that Congress violated the non-delegation doctrine when it gave the SEC authority “to bring securities fraud actions ... within the agency instead of in an Article III court whenever the SEC in its unfettered discretion decides to do so.”

Jarkesy, 34 F.4th at 461. As with the SEC, “Congress has said nothing at all” about how the FTC should exercise its “exclusive authority and absolute discretion to decide whether to bring ... enforcement actions within the agency instead of in an Article III court.” *Id.* at 462. Such a “total absence of guidance is impermissible under the Constitution.” *Id.*

181. Complaint Counsel’s argument (Pretrial Brief at 51) that the choice of forum is merely an exercise of prosecutorial discretion is unavailing. As *Jarkesy* explained, “[t]hat position reflects a misunderstanding of the nature of the delegated power” because “Congress did not ... merely give the [agency] the power to decide whether to bring enforcement actions in the first place”; rather, Congress “effectively gave the [agency] the power to decide which defendants should receive *certain legal processes* (those accompanying Article III proceedings) and which should not.” 34 F.4th at 462. “Such a decision,” the court explained, “is a power that Congress uniquely possesses.” *Id.*

D. Intuit’s Due-Process Rights Have Been Violated By The Reality Or Appearance Of Prejudgment

182. The Due Process Clause prohibits an agency from ““adjudg[ing] the facts as well as the law of a particular case in advance of hearing it.”” *Fast Food Workers Committee v. NLRB*, 31 F.4th 807, 815 (D.C. Cir. 2022).

183. To determine whether due process is violated, courts ask “whether a disinterested observer may conclude that the agency has in some measure” prejudged the case. *Fast Food Workers Committee*, 31 F.4th at 815.

184. Here, the comments and actions of the FTC Chair would lead a disinterested observer to conclude that the “ultimate determination of the merits” improperly “move[d] in predestined grooves.” *Cinderella Career & Finishing Schools, Inc. v. FTC*, 425 F.2d 583, 589-590 (D.C. Cir. 1970).

185. If Chair Khan were a judge, her March 29, 2022 tweet of an FTC press release about Intuit’s “deceptive TurboTax ‘free’ filing campaign” and the need for an “immediate halt to Intuit’s deceptive ads,” PFF ¶932, would violate the admonition that “judge[s] should not make public comment on the merits of a matter pending or impending in any court,” Code of Conduct for U.S. Judges Canon 3(A)(6). *See United States v. Cooley*, 1 F.3d 985, 990 (10th Cir. 1993) (judicial recusal required where a judge told the press that abortion protesters who he had enjoined from blocking a clinic, but who intended to disregard his order, were “breaking the law”). The rules for the FTC Chair are no different. *See Intel Corp.*, 149 F.T.C. 1548, 1551 (2010) (reasoning that the standard governing judicial disqualification applies where “Commissioners act[] as judges”).

186. The same is true of Chair Khan’s public suggestion that Intuit engaged in “law-breaking,” PFF ¶933, in a widely watched public interview that took place before Intuit had an opportunity to defend itself and at a time when FTC rules (and broader due-process principles) required Chair Khan to remain (and appear to remain) neutral. That public statement would have led a reasonable observer to conclude that this case was prejudged.

187. Courts have invalidated FTC actions tainted by statements less problematic than Chair Khan’s. For instance, in *Cinderella Career & Finishing Schools*, the court vacated an FTC order regarding allegedly deceptive newspaper advertisements because the FTC Chair delivered a speech stating that newspapers’ “advertising acceptance standards could stand more tightening.” 425 F.2d at 589-590. And in *American Cyanamid Co. v. FTC*, 363 F.2d 757 (6th Cir. 1966), the court vacated an FTC order because the FTC Chair had previously investigated “the same facts and issues,” *id.* at 768.

188. Here, a disinterested observer would reasonably conclude that Chair Khan prejudged this case, having already decided that Intuit's ads were deceptive. Chair Khan's comments also risk "hav[ing] the effect of entrenching [her] in [the] position which [s]he had publicly stated." *Cinderella*, 425 F.2d at 590. As a result, Intuit has been deprived of its right to a hearing "with every element of fairness" and with the "appearance of complete fairness." *American Cyanamid*, 363 F.2d at 767.

189. This proceeding's constitutional defects require judgment in Intuit's favor and dismissal of Complaint Counsel's claim.

CONCLUSION

190. Judgment is entered in Intuit's favor.

Dated: May 23, 2023

Respectfully submitted,

By: /s/ David Z. Gringer

Howard M. Shapiro
Jonathan E. Paikin
Jennifer Milici
Derek A. Woodman
Wilmer Cutler Pickering
Hale and Dorr LLP
2100 Pennsylvania Ave NW
Washington, DC 20037
Telephone: (202) 663-6000
Facsimile: (202) 663-6363
Howard.Shapiro@wilmerhale.com
Jonathan.Paikin@wilmerhale.com
Jennifer.Milici@wilmerhale.com
Derek.Woodman@wilmerhale.com

David Z. Gringer
Wilmer Cutler Pickering
Hale and Dorr LLP
7 World Trade Center
250 Greenwich St.
New York, NY 10007
Telephone: (212) 230-8800
Facsimile: (212) 230-8888
David.Gringer@wilmerhale.com

Attorneys for Intuit Inc.

Intuit's Witness Index

**In the Matter of Intuit Inc.
Docket No. 9408**

Intuit Witness Index

Name	Identification/ Description	Transcript Cite - Total	Transcript Cite - In Camera	Date	Transcript Volume
Greg Johnson	<u>Currently:</u> President and CEO, McAfee <u>Formerly:</u> General Manager of the Consumer Group, Intuit	546 - 684	626 - 655	4/3/2023	Volume 4
Cathleen Ryan	Senior Vice President of Marketing, Intuit	686 - 761	771 - 802	4/3/2023 - 4/4/2023	Volume 4 Volume 5
Dr. John Hauser	Professor of Marketing, MIT, Sloan School of Management	837 - 1035		4/4/2023	Volume 5
Professor Peter Golder	Professor of Marketing, Dartmouth College, Tuck School of Business	1041 - 1280		4/5/2023	Volume 6
Bruce Deal	Managing Principal, Analysis Group	1291 - 1497	1471 - 1492	4/7/2023	Volume 7
Jack Rubbin	Vice President of Marketing, Partnerships & Advertising Operations, Intuit	1498 - 1602 1609 - 1651	1618 - 1630	4/7/2023 4/10/2023	Volume 7 Volume 8

Intuit's Exhibit Index

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
GX 47	November 12, 2015; Email re: 1099-MISC required upgrade A/B test 1130 kick-off; with attachments	11/12/2015	RX 806	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 54	May 19, 2020; Civil Investigative Demand to Intuit Inc.	5/19/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 122	September 14, 2022; Justin T. Deryke Deposition Transcript	9/14/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 123	September 30, 2022; Jinho Chung Lee Deposition Transcript	9/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 124	October 5, 2022; Sherry L. Bodi Deposition Transcript	10/5/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 125	October 13, 2022; Caitlyn Beck Deposition Transcript	10/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 126	October 19, 2022; LaQuita LaRonda Collins Deposition Transcript (Witness Non-Appearence)	10/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 127	October 20, 2022; Erica Atwater Deaven Deposition Transcript (Witness Non-Appearence)	10/20/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 128	October 25, 2022; Connor T. Benbrook Deposition Transcript	10/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 129	October 26, 2022; Stacy L. Royse Deposition Transcript (Witness Non-Appearence)	10/26/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 130	November 3, 2022; Michael Tew Deposition Transcript	11/3/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 131	September 13, 2022; Rohit Bansal Deposition Transcript	11/8/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 132	November 9, 2022; Shaun Ryan Dougher Deposition Transcript	11/9/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 133	September 13, 2022; Todd Braun Deposition Transcript (Witness Non-Appearence)	11/15/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 134	September 15, 2022; Dennis Hobson Deposition Transcript	11/15/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 135	September 19, 2022; Sara E. Phyfer Deposition Transcript	11/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
GX 136	September 20, 2022; Adam Brian Schulte Deposition Transcript	11/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 137	September 29, 2022; Benjamin T. DuKatz Deposition Transcript	11/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 138	October 6, 2022; Andrew Adamson Deposition Transcript	11/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 139	November 29, 2022; Angela R. Derscha Deposition Transcript	11/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 140	December 1, 2022; Jennifer Medley Deposition Transcript (Witness Non-Appearance)	12/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 141	November 29, 2022; Denise Robinson Deposition Transcript	11/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 141-A	December 2, 2022; Supplemental Declaration of Denise Robinson	12/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 142	November 30, 2022; Joseph Walter Keahiolo Deposition Transcript	11/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 143	December 1, 2022; Annarose Klinger Deposition Transcript	12/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 144	November 8, 2022; Nicholas Soukas Deposition Transcript	11/8/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 145	November 15, 2022; Elizabeth Berger (Individual) Deposition Transcript	11/15/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 146	November 18, 2022; Cathleen Ryan (Individual) Deposition Transcript	11/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 147	November 22, 2022; Danielle Roark Deposition Transcript	11/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 148	November 22, 2022; Mary-Ann Somers Deposition Transcript	11/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 149	November 30, 2022; Jennifer Crosby Deposition Transcript	11/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 150	October 23, 2020; Cathy Goode Investigational Hearing Transcript	10/23/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
GX 151	October 15, 2020; Mandy Ison Investigational Hearing Transcript	10/15/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 152	September 29, 2020; Greg Johnson Investigational Hearing Transcript	9/29/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
GX 153	October 20, 2020; Brian Joseph Lillie Investigational Hearing Transcript	10/20/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
GX 154	October 1, 2020; Monica Muilenberg Investigational Hearing Transcript	10/1/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 155	October 30, 2020; Jack Rubin Investigational Hearing Transcript	10/30/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
GX 156	October 9, 2020; Cathleen Ryan Investigational Hearing Transcript	20/9/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 157	October 7, 2020; Erin Smith Investigational Hearing Transcript	10/7/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
GX 158	November 15, 2022; Elizabeth Berger Deposition (as Intuit 3.33(c) Designee) Transcript	11/15/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 159	November 18, 2022; Cathleen Ryan Deposition (as Intuit 3.33(c) Designee) Transcript	11/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 160	November 29, 2022; Jack Rubin (as Intuit 3.33(c) Designee)	11/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 161	December 8, 2022; Will Maxson Deposition (as Bureau of Consumer Protection 3.33(c) designee) Transcript	12/8/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 291	May 9, 2016 Email re: Monetization Playbook Sharing/Feedback Session; with attachments	5/9/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 294	October 17, 2019 PowerPoint re: TY18 TurboTax FREE Creative Execution Playbook	10/17/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 295	August 22, 2017 PowerPoint re: TY17 Win in Free Offering Strategy	8/22/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 301	March 28, 2022; Declaration of Diana Shiller	3/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 302	March 28, 2022; Declaration of Nathan Novemsky	3/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
GX 303	December 9, 2022 Novemsky Expert Report	12/9/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	388-398, 422-428, 433-437, 455-464, 473-475, 528-529			
GX 304	Curriculum Vitae Nathan Novemsky			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 305	Perception Survey Questionnaire			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 306	Perception Survey Tables			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 311	Second Declaration of Diana F. Shiller			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 313	Second Declaration of Nathan Novemsky			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 314	4.7 Perception Survey Opt-out Sensitivity Tables			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 317	Filing Season Statistics for Week Ending May 21, 2021 _ Internal Revenue Service.	5/21/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 319	Third Declaration of Diana F. Shiller			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 322	2016 Super Bowl ad "Never A Sellout" (adage.com) Article			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 334	"Wieden + Kennedy Keeps the 'Free' Going With New One-Word TurboTax Ads" https://www.adweek.com/agencysspy/wieden-kennedy-keeps-the-free-going-with-new-one-word-turbotax-ads/152797/			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 336	IRS Mid-November Filing Season Statistics by AGI 2019 (19inweek47expanded)		RX 1518	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 340	December 2018 consumer research results (INTUIT-FFA-FTC-000169946) "TurboTax 2018 Ad Testing System1 Ad Testing Results December 2018" ppt	2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	55, 128, 722-725, 816-820, 834-835			
GX 342	Shiller Admin Dec	6/9/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	168, 217, 232-235, 274-276			
GX 349	60-second "Big Kick" ad (INTUIT-FFA-FTC-000169119)		RX 1103	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408
Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
GX 397		1/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
GX 403			GX 410 (native version)	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
GX 438	Cathleen Ryan Declaration re TRO	4/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 439	Cathleen Ryan Declaration re MSD	8/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 448-A	TY18 TurboTax Brand Campaign Creative (black and white)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 474	TY20 Bazaarvoice Reviews Data.xlsx [native XLSX file]			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 508	TY20-283_FREE_MariahTablet_LatinX_1200x627.jpg			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 650	TTL FSBO Strategic Brief			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 651	TY21 TurboTax Brand Campaign Creative Update Oct 26, 2021 (PowerPoint)	10/26/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	746-748, 825-826, 833-834		Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
GX 654	TY 20 TurboTax Free Edition Campaign Assignment Brief	2/11/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	616-621, 656-657, 730-732			
GX 655		2/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
GX 657	TY19 Initial Brand Media Strategy	9/10/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 663	iSpot.tv Screen Shot	5/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
GX 665		Aug. 2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1622-1629		Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
GX 669	QTTX12353HFreeGameShow30sHD2019.mp4		RX 1116	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0001	Presentation entitled "Rideshare Update," dated March 27, 2018	3/27/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0002	Screenshot of TurboTax Military Discount, https://turbotax.intuit.com/personal-taxes/online/military-edition.jsp , August 26, 2022	8/26/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0003	Screenshot of TY21 TurboTax Website Pop-Up Disclosure Screen			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	210-212, 407-408, 594-595			
RX 0004	Screenshot of TY21 TurboTax Website Pop-Up Disclosure Screen	8/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0005	Screenshot of TY21 (post-August 1, 2022) TurboTax Free Edition Homepage	8/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0006	Screenshot of TY21 Why TurboTax Free Edition is Free - See if You Qualify	8/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0007	Screenshot of TY21 (post-August 1, 2022) TurboTax Homepage	8/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0008	Screenshot of TY19 Screening Questions on the TurboTax Products & Pricing Page	10/12/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0009	Screenshot of TY21 (post-August 1, 2022) TurboTax Products & Pricing Page, Showing Free Edition Recommendation	8/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	213-221			
RX 0010	Screenshot of TY21 (Post-August 1) Screening Questions on TurboTax Products & Pricing Page	8/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0011	Screenshot of TY21 (Post-August 1) Screening Questions on TurboTax Products & Pricing Page, Showing Deluxe Recommendation	8/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0012	Screenshot of TY21 (Post-August 1) Screening Questions on TurboTax Products & Pricing Page, Showing Premier Recommendation	8/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0013	Screenshot of TY16 TurboTax Products & Pricing Page	11/12/2019	RX 0013-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0013-A	Screenshot of TY16 TurboTax Products & Pricing Page	11/12/2019	RX 0013	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	603-604			
RX 0014	Screenshot of TY18 TurboTax Payment Screen	12/31/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0015	Screenshot of TY19 Disclosure Screen in Video Advertisement re: Crossword			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	244-245			
RX 0016	Screenshot of TY20 Disclosure Screen in Video Advertisement re: Auctioneer			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0017	Screenshot of TY14 Disclosure Screen in Video Advertisement re: Boston Tea Party			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	246-247, 613-615			
RX 0018	Screenshot of TY15 Disclosure in Video Advertisement re: Never a Sellout			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0019	Screenshot of TY20 TurboTax Homepage	10/12/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	48			
RX 0020	Screenshot of TY19 TurboTax Website Pop-Up Disclosure Screen	10/12/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0021	Screenshot of TY20 TurboTax Website Pop-Up Disclosure Screen	10/12/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0022	Screenshot of TY18 TurboTax Homepage	7/14/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	40			
RX 0023	Screenshot of TY17 TurboTax Homepage	8/28/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0024	Screenshot of TY16 TurboTax Homepage	5/25/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0025	Screenshot of TY17 TurboTax Website Pop-Up Disclosure Screen	11/29/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0026	Screenshot of TY19 pop-up appearing when users clicked on "file for \$0" button	1/12/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0027	Screenshot of "Status - TurboTax Live Advertising: Week Ending 01/27/2018"	1/27/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0028	Email from Mary-Ann Somers re: TV Spend, dated December 29, 2018	12/28/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0029	Transcript of TY18 "Lawyer" Video Advertisement (30-second)	12/6/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0030	Transcript of TY18 "Credits" Video Advertisement (30-second)	12/6/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0031	Transcript of TY18 "Credits" Video Advertisement (15-second)	12/6/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0032	Presentation entitled "TurboTax TY20/TY21 AP Scripts," dated August 2022	08/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0033	Email from Daniel McCarthy re: Absolute 0 Learnings from Shopping Research, dated January 15, 2015	1/15/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0034	Document entitled "TurboTax Brand Insights Focus Groups: Summary Report," dated May 17-18, 2017	05/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0036	Spreadsheet entitled "U.S. Metrics Sr Staff Slide"	8/7/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0037	Spreadsheet entitled "Worksheet 4" re: SKU Unit Mix	4/25/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0038	Presentation entitled "TurboTax Online Competitive NPS TY18 2019 Study," dated June 2019	Jun-19	RX 0038-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0038-A	Presentation entitled "TurboTax Online Competitive NPS TY18 2019 Study," dated June 2019	Jun-23	RX 0038	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0039		09/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0040	Presentation entitled "TY18 Free Dux Contingency_Tests RUR_P&P+Catch All+HP 1st Pe"	1/30/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0041	Email from Laurence Lewis re: PLC Planning with Tayloe - Bluejeans 33-650 823 1470, dated February 9, 2017, with attachment	2/9/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0042	Presentation entitled "TY14 Product Lineup Learnings: The Good, the Bad & the Ugly," dated May 1, 2015	5/1/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0044	Presentation entitled "AZ Modal Learnings," dated September 18, 2017	9/18/2017	RX 0044-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0044-A	Presentation entitled "AZ Modal Learnings," dated September 18, 2017	9/18/2017	RX 0044	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0045		1/11/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0046	Presentation entitled "FY 19 Ad Channel Review," dated April 2, 2019	4/2/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0047	Presentation entitled "PLU/Monetization Overview," dated July 2018	07/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0049		11/19/2018	GX 428	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	646-655		Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment

In the Matter of Intuit Inc.
Docket No. 9408
Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0050		5/16/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0051				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0052		6/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0053				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0054				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0055				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1289-1290, 1481, 1486-1489		Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0056	Presentation entitled "Brand Sentiment Metrics Mid-Season TV18," dated March 2019	03/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0057			RX 0057-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0057-A			RX 0057	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	627-632, 1619-1621		Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0058	Presentation entitled "Investor Day 2021," dated September 2021	09/2021	RX 0058-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0058-A	Presentation entitled "Investor Day 2021," dated September 2021	Sep-21	RX 0058	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	553-565			
RX 0059		6/8/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0060		07/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0061		02/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0062	Presentation entitled "TurboTax Free TV18 Style Guide," dated October 2, 2018	10/2/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0063	Screenshot of "Is TurboTax Free Edition Right for Me?", https://ttic.intuit.com/community/choosing-a-product/help/is-turbotax-free-edition-right-for-me/01/26236 , August 18, 2022	8/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1589-1591			
RX 0064	Screenshot of "You Can Still File Your Taxes for Free!", August 18, 2022	8/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0065	Civil Investigative Demand Response, dated July 31, 2020	7/31/2022	GX 80	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0067		10/25/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0068		10/19/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0069		11/8/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0070	Transcript of Deposition of April Beckett	1/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0071	Transcript of Deposition of Kalynda Rozar	3/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0072	Transcript of Deposition of Paul Harford	2/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0073	FTC v. Intuit Inc., No. 22-01973-CRB, TRO Hearing Transcript (N.D. Cal. April 21, 2022)	4/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0074	Order Denying the FTC's Motion for Preliminary Injunction, dated April 22, 2022	4/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0076	Assurance of Voluntary Compliance, dated May 4, 2022	5/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	827-832			
RX 0077	IRS, Cico and Olson, Lessons Learned from IRS Free Filers: Capturing Young Taxpayers for a Lifetime of Electronic Filing, https://www.irs.gov/pub/irs-soi/08resconefile.pdf	6/12/2008		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0078	U.S. Government Accountability Office Report to Congressional Requesters, IRS Free File Program	04/2022	RX 517	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	727-729			

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0079	2014 ReadyReturn Tool Kit created by the State of California Franchise Tax Board, https://web.archive.org/web/20140429085122/https://www.ftb.ca.gov/aboutFTB/tool_kits/ReadyReturn/2014_Tool_Kit.pdf (archived Apr. 29, 2014)	4/29/2014		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0080	Screenshot of Melanie Pinola, The Best Online Tax Filing Software, https://www.nytimes.com/wirecutter/reviews/best-tax-software/ , dated April 18, 2022	4/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0081	Screenshot of IRS, Questions and Answers about the 2018 Form 1040, dated August 19, 2022	8/19/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	719-720			
RX 0082	Screenshot of TaxAct, "TaxAct Free," https://www.taxact.com/individual-taxes/online/free , last accessed on July 28, 2022	4/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0083	Screenshot of H&R Block, Online Tax Return, https://hrblock.com/tax-center/filing/filing-online/online-tax-return/ , dated August 29, 2022	8/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0084	Internal Revenue Service Data Book, 2021, available at https://www.irs.gov/pub/irs-pdf/p55b.pdf , last accessed August 29, 2022	2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0085	Screenshot of Merriam-Webster, Edition, https://merriam-webster.com/dictionary/edition , dated August 24, 2022	8/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0086	Screenshot of Find Out Why You May Not See Your Ad, https://support.google.com/google-ads/troubleshooter/1711301?hl=en&ts=1712864%2C1715121%2C1715124 , dated August 25, 2022	8/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0087	Screenshot of What is Search Engine Marketing?, https://www.ads.microsoft.com/en-us/get-started/search-engine-marketing-basics , dated August 29, 2022	8/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0088	Screenshot of Influenster, "Tax Preparation Services," https://www.influenster.com/reviews/tax-preparation-services , dated August 29, 2022	8/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0089	Federal Trade Commission, Federal Trade Commission Privacy Impact Assessment for FTC Consumer Surveys (2018), available at https://www.ftc.gov/system/files/attachments/privacy-impact-assessments/ftc_consumer_survey_pia_7-30-18.pdf , last accessed Aug. 29, 2022	7/30/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0090	Sabrina Panys & Tina Orem, "TurboTax Review 2022," NerdWallet, March 3, 2022	3/3/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0091	Screenshot of Caitlin Ward, TurboTax Review In-Depth: Does Free Really Mean Free?, Listen Money Matters, https://www.listenmoneymatters.com/turbo-tax-review/ , dated August 29, 2022	8/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0092	Screenshot of Eric Rosenberg, TurboTax Review: Not the Cheapest Online Tax Software, but Good for Complex Situations," https://www.businessinsider.com/personalfinance/turbotax-review , dated March 24, 2022	3/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0093	Screenshot of Anna Baluch, Chelsea Van Bloom, & Eric Rosenberg, TurboTax Tax Software Review, https://www.usnews.com/360-reviews/technology/tax-software/turbotax , dated February 2, 2022	2/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0094	Spreadsheet entitled Internal Revenue Service's Late-May Filing Season Statistics by AGI for TY19. tbl.1, available at https://www.irs.gov/pub/irs-soi/20inweek21.xls (last accessed Aug. 29, 2022)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0095	Spreadsheet entitled Internal Revenue Service's Mid-November Filing Season Statistics by AGI for TY19, tbl.1, available at https://www.irs.gov/pub/irs-soi/20inweek53.xls (last accessed Aug. 29, 2022)	2020	RX 1519, GX 337	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0096; GX 316	".Com Disclosures: How to Make Effective Disclosures in Digital Advertising," FTC, March 2013, https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-revises-online-advertising-disclosure-guidelines/130312dotcomdisclosures.pdf	03/2013		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1799-1800			
RX 0097	"Online Tax Filing," H&R Block, available at https://www.hrblock.com/online-tax-filing/	11/10/2022	RX 0097-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0097-A	"Online Tax Filing," H&R Block, available at https://www.hrblock.com/online-tax-filing/	11/10/2022	RX 0097	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0098	"TaxSlayer Simply Free," TaxSlayer, available at https://www.taxslayer.com/products/taxslayer-free-tax-filing , accessed on May 31, 2022	5/31/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0099	SmartAsset, Zhu, TurboTax Review 2022, https://smartasset.com/taxes/turbo-tax-review	2/14/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0100	FTC Looks to Modernize Its Guidance on Preventing Digital Deception, https://www.ftc.gov/news-events/news/press-releases/2022/06/ftc-looks-modernize-its-guidance-preventing-digital-deception , dated June 3, 2022	6/3/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0101	Joshua D. Wright, Section 5 Revisited: Time for the FTC to Define the Scope of Its Unfair Methods of Competition Authority. https://www.ftc.gov/system/files/documents/public_statements/626811/150226bh_section_5_symposium.pdf , dated February 26, 2015	2/26/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0102	Screenshot of Lina Khan Twitter Feed, last accessed March 30, 2022	3/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0103	Screenshot of Guy Rolnick, Q&A with FTC Chair Lina Khan: "The Word 'Efficiency' Doesn't Appear Anywhere in the Antitrust Statutes," https://www.promarket.org/2022/06/03/qa-with-ftc-chair-lina-khan-the-word-efficiency-doesnt-appear-anywhere-in-the-antitrust-statutes/ , dated June 3, 2022	6/3/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0104	Screenshot of Josh Sisco, FTC Pursues TurboTax Fraud Case Despite Supreme Court Mauling. https://www.theinformation.com/articles/ftc-pursues-turbotax-fraud-case-despite-supreme-court-mauling?rc=900sqh , dated August 26, 2022	1/20/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0105	Complaint, <i>In the Matter of 1-800 Contacts, Inc.</i> , No. 9372, dated August 8, 2016	8/8/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0106	[REDACTED]	8/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0110	Subpoena of Todd E. Braun, dated August 26, 2022	8/26/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0111	Cover Letter Accompanying Subpoena of Todd E. Braun, dated August 31, 2022	8/31/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0112	Email from Molly Dillaway re: service email of Todd E. Braun, dated September 1, 2022	9/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0113	Email from FedEx Tracking Updates re: delivery of subpoena package to Todd E. Braun, dated September 2, 2022	9/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0114	Email from Eleanor Davis re: deposition of Todd E. Braun, dated September 13, 2022	9/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0115	Todd Braun Sentinel Complaint	2/28/2019	GX 368	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0116	Justin Deryke BBB Complaint	4/16/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0117	Email from TurboTax re: Your Intuit TurboTax Support ID # 434437626 Has Been Resolved, dated January 25, 2019 (11:36 am)	1/25/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0118	Email from TurboTax re: Your Intuit TurboTax Support ID # 434437626 Has Been Resolved, dated January 25, 2019 (11:37 am)	1/25/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0119	Dennis Hobson BBB Complaint	7/8/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0120	Dennis Hobson Sentinel Complaint	7/8/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0121	[REDACTED]			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0122	Screenshot of TY18 TurboTax Products & Pricing Page	3/30/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0123	Sara Phyfer BBB Complaint	4/29/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0127	Email from TurboTax re: Last Chance - Tax Deadline is Here!, dated April 15, 2019 (10:41 am)	4/15/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0128	Email from TurboTax re: 3...2...1...We've Enclosed Your User ID + Final Tax Weekend Reminder -- and We're Still Completely Free, Guaranteed, dated April 14, 2019 (9:09 am)	4/14/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	39			
RX 0129	Email from TurboTax re: Last Chance - Tax Deadline is Here!, dated April 15, 2019 (9:40 am)	4/15/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0130	Email from Better Business Bureau re: BBB Complaint Case# 696202 (Ref#11-202832-696202-3-200), date April 30, 2019	4/30/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0131	Email from Dana McCormick re: Intuit's Office of the President, dated April 30, 2019	4/30/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0132	Email from Sara Phyfer re: Office of the President Concern, dated May 7, 2019	5/7/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0133	Screenshot of TY18 TurboTax Homepage			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0134	Email from Better Business Bureau re: BBB Complaint Case# 696202 (Ref#11-202832-696202-3-200), date April 30, 2019	4/30/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0135	Email from Sara Phyer re: Intuit/Turbo Tax Complaint - April 2019, dated July 14, 2019	7/14/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0136	Adam Schulte Sentinel Complaint	2/2/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0137				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0138	Screenshot of TY20 TurboTax Products and Pricing Page	3/12/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0139	Screenshot of TY20 Display Advertisement on Facebook			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0140	Ben Dukatz Sentinel Complaint	4/10/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0141	Screenshot of TY18 TurboTax Military Discount	4/16/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0142	Screenshot of TY18 Order Confirmation re: Online Deluxe Tax Year, dated March 7, 2019	3/7/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0144	Screenshot of Intuit Blog Post, "TurboTax Offers Free Tax Filing for Military Active Duty and Reserve," dated September 18, 2022	3/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0146				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0147	Sherry Bodi BBB Complaint	3/5/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0149	Email from Tejasvi Srimushnam re: Intuit/Turbo Tax Complaint - May 2019, dated June 24, 2019	6/24/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0150	Email from TurboTax re: Your Order Confirmation, dated April 15, 2017	4/15/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0151	Screenshot of Adamson Transaction Confirmation Screen for IRS Free File Program and TurboTax State, dated January 18, 2020	1/18/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0153				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0154	Screenshot of TY14 TurboTax Review Your Order Page	2/13/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0155	Andrew Adamson BBB Complaint	5/8/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0157	[REDACTED]			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0158	Caitlyn Beck Response to Document Request No. 8 Advertisements	10/5/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0159	Screenshot of TY18 Video Advertisement re: "Game Show"	10/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0160	Screenshot of TY18 Video Advertisement re: "Spelling Bee"	10/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0161	Screenshot of TY20 Video Advertisement re: "Auctioneer"	10/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0162	Screenshot of TY18 Video Advertisement re: "Lawyer"	10/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0163	Screenshot of TY21 Video Advertisement re: "Dog Show"	10/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0165	Subpoena of LaQuita LaRhonda Collins, dated October 6, 2022	10/6/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0166	Cover letter to Subpoena of LaQuita LaRhonda Collins, dated October 7, 2022	10/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0167	Email from Molly Dillaway re: deposition of LaQuita LaRhonda Collins, dated October 7, 2022	10/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0168	Email from FedEx re: delivery of subpoena package to LaQuita LaRhonda Collins, dated October 10, 2022	10/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0169	Email from Eleanor Davis re: deposition of LaQuita LaRhonda Collins, dated October 19, 2022	10/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0170	Email from Eleanor Davis re: deposition of LaQuita LaRhonda Collins, dated October 18, 2022	10/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0172	Email from Eleanor Davis re: deposition of LaQuita LaRhonda Collins, dated October 18, 2022	10/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0174	LaQuita LaRhonda Collins BBB Complaint	2/21/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0175	Subpoena of Erica Atwater, dated October 6, 2022	10/6/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0176	Cover letter to Subpoena of Erica Atwater, dated October 7, 2022	10/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0177	Email from Molly Dillaway re: subpoena of Erica Atwater, dated October 7, 2022	10/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0178	Email from FedEx re: delivery of subpoena package to Erica Atwater, dated October 10, 2022	10/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0180	Email from Joss Berteaud re: deposition of Erica Atwater, dated October 19, 2022	10/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0181	Email from Joss Berteaud re: deposition of Erica Atwater, dated October 19, 2022	10/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0182	Email from Joss Berteaud re: deposition of Erica Atwater, dated October 19, 2022	10/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0184	Email from Joss Berteaud re: deposition of Erica Atwater, dated October 19, 2022	10/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0186	Email from Joss Berteaud re: deposition of Erica Atwater, dated October 19, 2022	10/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0188	Erica Atwater Sentinel Complaint	5/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0190	Screenshot of Justin Elliott & Lucase Waldron, "The TurboTax Trap: Here's How TurboTax Just Tricked You Into Paying to File Your Taxes," ProPublica, dated April 22, 2019	4/22/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0191	Connor Benbrook BBB Complaint	5/20/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0192	Subpoena of Stacy Royse, dated October 6, 2022	10/6/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0193	Cover Letter to Subpoena of Stacy Royse, dated October 7, 2022	10/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0194	Email from Molly Dillaway re: subpoena of Stacy Royse, dated October 7, 2022	10/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0195	Email from FedEx re: delivery of subpoena package to Stacy Royse, dated October 10, 2022	10/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0196	Email from Stacy Royse re: subpoena, dated October 10, 2022	10/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0197	Email from Vinecia Perkins re: deposition of Stacy Royse, dated October 26, 2022	10/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0198	Stacy Royse Sentinel Complaint	5/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0200	TY14 TV Advertisement re: "Boston Tea Party"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	15-20, 489-491, 711-712			
RX 0201	TY18 Video Advertisement re: "Lawyer"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0202	TY21 Video Advertisement re: "Auctioneer"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0203	Screenshot of TY14 TV Advertisement Disclosure re: "Boston Tea Party"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0204	Screenshot of TY18 Video Advertisement Disclosure re: "Lawyer"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	244-245			
RX 0205	Screenshot of TY20 Video Advertisement Disclosure re: "Auctioneer"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0206	Screenshot of TurboTax Desktop Products Page			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0207	[REDACTED]			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0208	Michael Tew Sentinel Complaint	3/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0209	Shaun Dougher Sentinel Complaint	5/6/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0210	Screenshot of TY21 TurboTax Products & Pricing Page	4/5/2022	RX 0210-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	406-407			
RX 0210-A	Screenshot of TY21 TurboTax Products & Pricing Page	4/5/2022	RX 0210	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0222	Screenshot of TY16 TurboTax Products & Pricing Page	1/26/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0223	[REDACTED]			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0225	Email from TurboTax re: Your Extra Benefits are Enclosed. Thanks Again for Filing with TurboTax, dated May 1, 2019	5/1/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0226	Email from TurboTax re: Your Refund Will Be Deposited Soon, dated March 9, 2019	3/9/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0229	Denise Robinson Arbitration Demand, dated March 10, 2020	3/10/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0230	Intuit Settlement Release Agreement Signed by Denise Robinson, dated May 23, 2022	5/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0231	Email from Sean Duddy re: Intuit Customers, dated April 26, 2021; with attachment	4/26/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment (Attachment A)	February 28, 2023 Order On Complaint Counsel's Motion for In Camera Treatment
RX 0232	[REDACTED]			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0233	Letter from Frances Kern to Denise Robinson re: In the Matter of Intuit Inc., FTC Docket No. 9408, dated April 1, 2022	4/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0236	Email from TurboTax re: (Your Refund Is Waiting) We've Enclosed Your User ID, dated January 29, 2021	1/29/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0238	Respondent Intuit Inc.'s Request for Production of Documentary Material, served August 26, 2022	8/26/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0239	[REDACTED]			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0240	Email from R. Plett re: Declaration, dated November 6, 2020; with attachment	11/6/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0241	Email from Rebecca Plett re: Response, dated November 10, 2020	11/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0244	Subpoena of Annarose L. Klinger, dated August 26, 2022	8/26/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0245	Cover Letter Accompanying Subpoena of Annarose L. Klinger, dated August 31, 2022	8/31/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0246	Email from FedEx re: delivery of subpoena package to Annarose Klinger, dated September 2, 2022	9/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0248	Updated Subpoena of Annarose L. Klinger, dated November 23, 2022	11/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0249	Email from FedEx re: delivery of subpoena package to Annarose Klinger, dated November 25, 2022	11/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0250	Email from Andres Salinas re: updated subpoena of Annarose L. Klinger, dated November 28, 2022	11/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0251	Subpoena of Jennifer Medley, dated November 15, 2022	11/15/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0253	Email from FedEx re: delivery of subpoena package to Jennifer Medley, dated November 16, 2022	11/16/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0254	Email from Charles Bridge re: subpoena, dated November 16, 2022 & Attachment	11/16/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0255	Email from Charles Bridge re: deposition of Jennifer Medley, dated December 1, 2022	12/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0256	Spreadsheet entitled "CONFIDENTIAL - CC Revised Sentinel Consumer Contact List," dated September 14, 2022	9/14/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	February 28, 2023 Order on Complaint Counsel's Motion for In Camera Treatment
RX 0260	In the Matter of Intuit Inc., Docket No. 9408, Administrative Complaint (F.T.C. March 28, 2022) (Non-Public Version)	3/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1018-1027, 1802-1804		Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0261	Final Judgment and Permanent Injunction, People v. Intuit Inc., JCCP No. 5067, dated June 25, 2022	6/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0262	Email from Ian Barlow re: FTC Investigation of Intuit - FRE 408 Settlement Communication, dated November 10, 2021, with attachment	11/10/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0263	Complaint Counsel Responses to Intuit's First Set of Interrogatories, served September 19, 2022	9/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0264	Complaint Counsel Supplemental Responses to Intuit's First Set of Interrogatories, served November 10, 2022	11/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	February 28, 2023 Order on Complaint Counsel's Motion for In Camera Treatment
RX 0265	Complaint Counsel Responses to Intuit's Third Set of Interrogatories, served November 14, 2022	11/14/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0266	Handwritten Notes of Diana Shiller	No Date		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	February 28, 2023 Order on Complaint Counsel's Motion for In Camera Treatment

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0267	Email from Diana Shiller re: Intuit--consumers to call, dated February 22, 2021	2/22/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0268	Email from Diana Shiller re: FTC: Your Experience with TurboTax, dated May 27, 2021	5/27/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0269	Spreadsheet entitled "2022-03-17_TurboTax 2016-March 17, 2022_COPY"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	February 28, 2023 Order on Complaint Counsel's Motion for In Camera Treatment
RX 0270	Email from Diana Shiller re: TurboTax: consumer decs progress, dated March 10, 2021	3/10/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0271	Email from Diana Shiller re: Intuit: send me your notes when you get a minute, dated May 19, 2020	5/19/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0272	Email from Diana Shiller re: Intuit--Consumer Calls, dated May 15, 2022	5/15/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0273	Email from Roberto Anguizola re: Intuit Lawsuit, dated March 30, 2022	3/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0274	Email from R. Anguizola re: CONFIDENTIAL SUBJECT TO PROTECTIVE ORDER - In re Intuit Inc., Docket No. 9408 - undercover identities, dated December 23, 2022	12/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0275	Screenshot of TY21 PPC Ad on Google re: "file an extension for taxes"	4/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0277	CONFIDENTIAL Complaint Counsel Reply to Intuit's Supplemental Response to Statement of Material Facts, served on September 29, 2022	9/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	February 28, 2023 Order on Complaint Counsel's Motion for In Camera Treatment
RX 0278	Spreadsheet - Diana Shiller Call Log - F01-TUT-00069090			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	February 28, 2023 Order on Complaint Counsel's Motion for In Camera Treatment
RX 0279	Spreadsheet - Diana Shiller Call Log - F01-TUT-00068643			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	February 28, 2023 Order on Complaint Counsel's Motion for In Camera Treatment
RX 0280	Spreadsheet - Diana Shiller Call Log - F01-TUT-00069124			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	February 28, 2023 Order on Complaint Counsel's Motion for In Camera Treatment
RX 0281	Rohit Bansal Sentinel Complaint	4/29/2019	GX 367	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0282	Email from Intuit's Office of the President re: Intuit's Office of the President, dated April 29, 2019	4/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0283	Email from Chase re File Your Taxes for \$0 with TurboTax Free Edition, dated April 11, 2018	4/11/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0285	U.S. Department of Treasury. IRS Announce New Efforts to Expand E-Filing. https://web.archive.org/web/20210402113940/https://www.treasury.gov/press-center/press-releases/Pages/pp0964.aspx , dated Apr. 2, 2021	1/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0286	Presentation entitled "CTG U.S. TY'14 Go to Market Project Mindbender Recommendation"	8/14/2014		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0287	Email from Daniel McCarthy re: Comparison of TT Product Offerings for LMI Taxpayers, dated October 22, 2014	10/22/2014		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0288	Email from Maria Scott re: New Version FW: Absolute Zero - Optimization Rec's for First Peak, dated January 15, 2015	1/15/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0289	Email from Rob Jacques re: Static Absolute Zero Module, dated November 6, 2015	11/6/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0290	Presentation entitled "CTG U.S. TY'15 Monetization/PLU Performance Review through 12/6/15," dated December 6, 2015.	12/7/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0291	Email from Jessica Barker re: EZE Leadership Portfolio Execution Meeting - NOTES & ACTIONS PLEASE READ, dated June 28, 2016	6/28/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0292	Document entitled "Philly Inquirer: IRS: Amid 'hectic' Presidential transition, 'a steady hand' moves taxes online," dated January 6, 2017	1/6/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0293	Screenshot of Internal Revenue Service webpage entitled "Free File Software Offers," dated April 9, 2017	4/9/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0294	Presentation entitled "TY17 Required Upgrades Refresh 6.26.17," dated June 26, 2017	6/26/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0295	Presentation entitled "Persistent Creative Brief: P&P Team," dated June 2017	6/26/2017	RX 0295-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0295-A	Presentation entitled "Persistent Creative Brief: P&P Team," dated June 2017	6/26/2017	RX 0295	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0296	Email from Cathy Goode re: FW: Go to Market Plan Review - PLU: FFA Offering, dated July 28, 2017	7/28/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0297	Presentation entitled "Consumer Group," dated January 2018	1/23/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0298		8/21/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0299	Presentation entitled "TurboTax Free TY18 Style Guide"	10/3/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0300	Presentation entitled "TY18 TurboTax FREE: Creative Execution Playbook"	10/17/2018	RX 0300-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	607-611, 826-827			
RX 0300-A	Presentation entitled "TY18 TurboTax FREE: Creative Execution Playbook"	10/17/2018	RX 0300	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0301	Eighth Memorandum of Understanding on Service Standards and Disputes: Between the Internal Revenue Service and Free File, Incorporated, dated October 31, 2018	10/31/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0301-A	2019 Addendum to the Eighth Memorandum of Understanding on Service Standards and Disputes: Between the Internal Revenue Service and Free File, Incorporated			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0302	Presentation entitled "TY18 TurboTax FREE: Creative Execution Playbook"	11/6/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0303	Document entitled "Spelling Bee :15"	12/6/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0304	Spreadsheet entitled "Data Transfer - YOY Data - UserTesting"	12/20/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1545-1547, 1636-1639			
RX 0305	Email from Kelly Elmore re RAD + YoY Transfer Follow Up, dated January 21, 2019, with attachment	1/21/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0306	Presentation entitled "Free Headline User Testing," dated December 2018	1/21/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0307	Email from Cathy Goode re PLU Contingency Plan for Student Loan Interest, dated January 24, 2019	1/23/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0308	Email from Anthony Plonka re FQ2'19 Earnings Script Check-In, dated February 5, 2019	2/5/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0309	Presentation entitled "Advertising Team"	3/15/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0310		3/20/2019	RX 0310-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0310-A		3/20/2019	RX 0310	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0311	Screenshot of Internal Revenue Service webpage entitled "Free File Software Offers," dated April 1, 2019	4/1/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0312		4/9/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0313	Presentation entitled "TY 17 TTFE: Learnings & Insights"	4/17/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0314	Presentation entitled "Consumer Group," dated April 23, 2019	4/23/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0315	Screenshot of TY18 TurboTax Online/Mobile Offer Details and Disclosures	5/29/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0316	Screenshot of TY18 Is TurboTax Free Edition Really Free?	5/29/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0317	Presentation entitled "TY18 Free EOS Execution," dated April 2, 2019	6/26/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0318	Screenshot of TY18 TurboTax Program Upgrade Prompt to Report Sold Investments	8/21/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	682-683			
RX 0319	Screenshot of TY18 TurboTax Program Upgrade Prompt to Report 1099-MISC Income	8/22/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0320	Screenshot of TY18 TurboTax Program Upgrade Prompt to Report Business Income	8/22/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0321	Document entitled, "Independent Assessment of the Free File Program - Appendix A: The Economics of IRS Free File," dated September 13, 2019	9/13/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0322		9/18/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0323	Screenshot of TY18 TurboTax Homepage	10/29/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0324	Document entitled "INTU: Proprietary Tax Survey Shows TurboTax Share Gains, Some FFA Leakage & Sustained Live Interest," Guggenheim Research Report, dated January 28, 2020	1/28/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0325	[REDACTED]	2/25/2020	GX 656	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0326	Screenshot of TY18 TurboTax Program Upgrade Prompt to Report Capital Gains Income	5/5/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0327	Internal Revenue Service Data Book, 2019, available at https://www.irs.gov/pub/irs-prior/p55b--2020.pdf (last accessed Apr. 4, 2022)	6/1/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0328	Document entitled "TY18 Military Free Units"	7/30/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0329	Screenshot of USAA Tax Center TurboTax Webpage, dated July 30, 2020	7/30/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0330	IRS, IRS Free File Marks Record Increase, Available Through Oct. 15, IR-2020-230 (Oct. 6, 2020), available at https://www.irs.gov/newsroom/irs-freefile-marks-record-increase-available-through-oct-15	10/6/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0331	Document entitled "1040 and 1040-SR Instructions," dated April 2021	4/14/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0332	Email from Warren Postman re: Federal Trade Commission, dated November 17, 2020	11/17/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0333	Intuit blog post entitled "Accelerating Technology Innovation to Better Help Consumers Solve Their Most Pressing Financial Problems," available at https://www.intuit.com/blog/news/social/accelerating-technology-innovation-to-better-help-consumers-solve-their-most-pressing-financial-problems/ (accessed April 1, 2022)	7/15/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0334	[REDACTED]	10/26/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0335	Intuit Support FAQ entitled "Is TurboTax Free Edition right for me?" available at https://ttic.intuit.com/community/choosing-product/help/is-turbotax-free-edition-right-for-me/00/26236 (last accessed April 2022)	12/22/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0336	National Taxpayer Advocate's 2021 Annual Report to Congress, available at https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2022/01/ARC21_Full-Report.pdf (last accessed Apr. 4, 2022)	12/31/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0337	Email from David Gringer re: FW: Meeting with Chair Khan on Intuit, dated March 23, 2022	3/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0338	Email from David Gringer re: Intuit, dated March 24, 2022	3/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0339	Email from Jon Leibowitz re: Fwd: Intuit --Privileged & Confidential, dated March 28, 2022	3/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0340	Email from Molly Dillaway re: deposition of Dane Shriver, dated September 13, 2022	9/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0341	Email from Ray Woods re: In the Matter of Intuit Inc., Docket 9408 Subpoena, dated October 14, 2022	10/14/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0342	Letter from Ajit Hemmady re: withdrawal of consumer complaint, dated October 17, 2022	10/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0343	Email from David Gringer re: FW: your subpoena, dated October 21, 2022	10/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0344	Declaration of Faisal Parvez, dated October 21, 2022	10/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0345	Email from Robert Anguizola re: Diane Harlow - Subpoena Question, dated October 21, 2022	10/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0346	Email from Phoebe Silos re: subpoena?!, dated October 24, 2022	10/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0347	Email from Phoebe Silos re: Docket No. 9408, dated October 24, 2022	10/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0348	Email from Seth Blodgett re: In the Matter of Intuit Inc., Docket 9408 Subpoenas Within, dated October 25, 2022	10/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0352	Email from Phoebe Silos re: Denise Harr FTC Complaint # 149090979 Docket # 9408, dated October 27, 2022	10/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0353	Email from Phoebe Silos re: In the Matter of Intuit Inc., Docket 9408 Subpoena, dated October 27, 2022	10/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0354	Email from Phoebe Silos re Intuit, FTC 9408, dated October 28, 2022	10/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0356	Complaint Counsel Responses and Objections to Intuit's Second Set of Interrogatories, served October 17, 2022	10/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0357	Complaint Counsel Supplemental Responses to Intuit's First and Second Set of Interrogatories, served December 22, 2022.	12/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	February 28, 2023 Order on Complaint Counsel's Motion for In Camera Treatment
RX 0358	Complaint Counsel Responses to Intuit's First Set of Requests for Admission, served August 29, 2022	8/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0359	Screenshots of HR&R Block homepage and "File Online" disclosure no. 22, https://www.hrblock.com/ , last visited December 22, 2022	12/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0360	Document entitled "Instrument_Updated 5-24-21.docx," attached to MITRE, "Understanding Taxpayer Motivation for Filing Method Selection to Improve Customer Service"	1/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0361	Spreadsheet entitled "Workbook.xlsx," attached to MITRE, "Understanding Taxpayer Motivation for Filing Method Selection to Improve Customer Service"	1/16/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0362	Document entitled "Final Report: Key Findings and Implications for the IRS Free File Program," dated January 2022	1/26/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0363	Email from Phoebe Silos re: In the Matter of Intuit Inc., Docket 9408-1 Subpoena Withdrawn, dated October 25, 2022; with attachments	10/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0364	National Taxpayer Advocate's 2018 Annual Report to Congress, available at https://www.taxpayeradvocate.irs.gov/wp-content/uploads/2020/07/ARC18_ExecSummary.pdf (last accessed Apr. 4, 2022)	2/12/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0365	[REDACTED]	2/8/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0366	[REDACTED]	4/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0367	Screenshot of TY21 (pre-April 1 2022) TurboTax Homepage			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	593-595			
RX 0368	[REDACTED]	5/13/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0369	Loren Goldstein Transcript in <i>People v. Intuit Inc.</i> , JCCP No. 5067 (Cal. Super.)	3/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0370	Jack Rubin Transcript in <i>People v. Intuit Inc.</i> , JCCP No. 5067 (Cal. Super.)	2/2/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0371		6/29/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0372	Declaration of Molly Dillaway re: Consumer Complaint Submitted by Christine Ahmed, dated November 30, 2022	11/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0373	Screenshot of TY21 (post-April 1) TurboTax Homepage			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0374	Screenshot of alternative version of TY21 TurboTax Homepage			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0375	Screenshot of baseline version of TY21 TurboTax Products and Pricing Page			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0376	Screenshots of disclosure screens in TY21 Video advertisements re: "Dance Workout," "Dog Show" & "Auctioneer"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	235-236			
RX 0377		5/16/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0378	Email from David Shepherd re: FTC Confidential Inquiry, dated March 2, 2021	2/2/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0379	Presentation entitled "TY20 Campaign Copy Testing," dated September 2020	9/1/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0380	December 23, 2022; Consent Order, <i>In the Matter of Mastercard Incorporated</i>	12/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0381	Screenshot of TY17 TurboTax Products & Pricing Page	9/14/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0382	Email from Diana Shiller re: Message from BRYAN ESTRANERO (919172441721), dated May 16, 2022	5/16/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0383		2021-2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0384		2/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0384-A				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0385		5/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0385-A				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0386		7/14/1905		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0387	Screenshot of TY14 TurboTax Products & Pricing Page	4/19/2015	RX 0387-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0387-A	Screenshot of TY14 TurboTax Products & Pricing Page	4/19/2015	RX 0387	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0388	Screenshot of TY15 TurboTax Products & Pricing Page	3/23/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0389	Screenshot of TY16 TurboTax Website Pop-Up Disclosure Screen	1/12/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0390	Screenshot of TY18 TurboTax Website Pop-Up Disclosure Screen	3/10/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0391	David Gringer Declaration re: TRO	4/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0392	David Gringer Declaration re: MSD	8/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0393	Document entitled, "Monetization Playbook," dated May 19, 2016	5/19/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0394	Email from Diana Shiller re: TurboTax Flow, dated April 7, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0395	Screenshot of IRS, IRS Free File: Do Your Taxes for Free, https://www.irs.gov/filing/free-file-do-your-federal-taxes-for-free , last visited January 3, 2023	1/3/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0396	Email from Diana Shiller re: Received Phone1, dated February 24, 2021	2/24/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0397	Diana Shiller Declaration, <i>FTC v. Zurixx, LLC</i> , Case No. 2:19-CV-00713-DAK, dated September 25, 2019	9/25/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0398	Complaint, <i>FTC v. Zurixx, LLC</i> , Case No. 2:19-CV-00713-DAK, dated May 12, 2020	5/12/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0399	Intuit Assurances of Voluntary Compliance with the Attorney Generals of the 50 states and Washington, D.C.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0400	Peter Golder Declaration re: TRO	4/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0401	Peter Golder Declaration re: MSD	8/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0402	John R. Hauser Declaration re: MSD	8/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0403	John R. Hauser Declaration re: TRO	4/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0404	"U.S. Consumer 2016 Net Promoter Benchmarks," Satmetrix, 2016, available at https://www.netpromoter.com/satmetrix-infographic-2016-consumer-np-benchmarks/	2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0405	"Get Verizon Fios," Verizon, available at https://www.verizon.com/home/bundles/fios			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0406	"Mobile Fact Sheet," Pew Research Center, April 7, 2021, available at https://www.pewresearch.org/internet/fact-sheet/mobile/	4/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0407	"Watch MLB on DIRECTV STREAM," DirecTV, available at https://www.directv.com/stream/sports/mlb/ , last accessed on July 12, 2022	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0408	"FTC Sends Nearly \$30 Million in Refunds to People Tricked into Enrolling by School Operator's Lead Generators," Federal Trade Commission, June 9, 2021, available at https://www.ftc.gov/news-events/news/press-releases/2021/06/ftc-sends-nearly-30-million-refunds-people-tricked-enrolling-school-operators-lead-generators	6/9/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0409	"Live Full Service," Intuit, available at https://turbotax.intuit.com/personal-taxes/online/live/full-service/ , last accessed on April 24, 2022	4/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0410	"Play millions of songs and podcasts, for free," Spotify, available at https://www.spotify.com/us/free/	8/26/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0411	"Free Tax Filing," TaxAct, available at https://www.taxact.com/individual-taxes/online/free/ , last accessed on July 19, 2022.	7/19/2022	RX 0411-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0411-A	"Free Tax Filing," TaxAct, available at https://www.taxact.com/individual-taxes/online/free/ , last accessed on July 19, 2022.	7/19/2022	RX 0411	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0412	"Electronic Filings via Online Tax Software Companies," ProPublica, 2019, available at https://assets.documentcloud.org/documents/678896/1/ProPublica-Analysis-of-IRS-Electronic-Filing-Data.pdf	2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0413	Better Business Bureau, available at https://www.bbb.org/ , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0414	"Tax Preparation Services," Jackson Hewitt, available at https://www.jacksonhewitt.com/ , last accessed on July 12, 2022.	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0415	"How to use a Top 2 Box score in your survey analysis," SurveyMonkey, available at https://www.surveymonkey.com/mp/top-2-box-scores/	8/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0416	"MoneyGram International Reports Second Quarter 2021 Results, MoneyGram, July 29, 2021, available at https://ir.moneygram.com/news-releases/news-release-details/moneygram-international-reports-second-quarter-2021--results	7/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0417	"Claims Process Opens for Consumers Who Were Victimized by Fraudulent MoneyGram Transfers," Federal Trade Commission, June 1, 2021, available at https://www.ftc.gov/news-events/news/press-releases/2021/06/claims-process-opens-consumers-who-were-victimized-fraudulent-moneygram-transfers	6/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0418	"Free Tax Filing Online," TaxSlayer, available at https://www.taxslayer.com/products/taxslayerfree-tax-filing/ , last accessed on July 12, 2022.	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0419	White, G., "How the Tax-Prep Industry Takes Advantage of Low-Income Filers," The Atlantic, April 14, 2016, available at https://www.theatlantic.com/business/archive/2016/04/eict-tax-prep/478305/	4/14/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0420	Zalani, C., "Consumer Decision-Making Process Mastery," The Ecom Academy, 2018, available at https://ecomacademy.com/consumer-decision-making-process/	2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0421	"TaxAct," Influenster, available at https://www.influenster.com/reviews/taxact	8/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0422	"Online Tax Filing Services," TaxAct, available at https://www.taxact.com/taxes-online , last accessed on April 4, 2022	4/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0423	"Buy one, get one free: The marketing strategy to boost sales for e-commerce," Mage Solution, available at https://magesolution.com/buy-one-get-one-free-the-sales-strategy/ .			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0424	"Verizon: Plans, Services & Solutions," Verizon, available at https://www.verizon.com/ , last accessed on July 12, 2022.	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0425	"U.S. Consumers 2021 Net Promoter Benchmarks," Satmetrix, 2021, available at https://www.satmetrix.com/wp-content/uploads/2021/05/2021_benchmarks.pdf	2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0426	"TurboTax Live," Intuit, available at https://turbotax.intuit.com/personaltaxes/online/live/how-it-works.htm , last accessed on August 24, 2022	8/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0427	"Tax Counseling for the Elderly," Benefits.gov, available at https://www.benefits.gov/benefit/722	8/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0428	"Compare our online tax software," TaxSlayer, available at https://www.taxslayer.com/tax-tools/compare-tax-software	8/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0429	"Insurance, Banking, Retirement & Investment Services," USAA, available at https://www.usaa.com/ , last accessed on July 13, 2022.	7/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0430	"StateFarm Insurance Reviews 2022," Influenster, available at https://www.influenster.com/reviews/statefarm-insurance , last accessed on August 27, 2022	8/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0431	"U.S. Consumer 2017 Net Promotor Benchmarks," Satmetrix, 2017, https://info.nice.com/rs/338-EJP-431/images/satmetrix-infographic-2017-b2c-nps-benchmarks-glance-061217.pdf	6/12/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0432	Bradbury, D., "Tech Tips: Tax software for your clients," Investment Executive, April 5, 2019, available at https://www.investmentexecutive.com/newspaper/building-your-business-newspaper/tech-tips-tax-software-for-your-clients/	4/5/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0433	"AT&T TV is now DIRECTV STREAM," AT&T, available at https://www.att.com/tv/	11/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0434	Rowan, L., "Square Will Buy Credit Karma's Free Tax Prep Service. What Does That Mean for Consumers?" Forbes, November 25, 2020, available at https://www.forbes.com/advisor/credit-score/square-will-buy-credit-karmas-free-tax-prep-service-what-does-that-mean-for-consumers/	11/25/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0435	Screenshot of TY21 TurboTax Website Pop-up Disclosure Screen	3/16/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0436	"SEC Form 10-K for the fiscal year ended December 31, 2021," Blucora, Inc., available at https://www.sec.gov/ix?doc=/Archives/edgar/data/1068875/000106887522000042/bcor-20211231.htm	12/31/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0437	"SEC Form 10-K for the fiscal year ended December 31, 2021," T-Mobile US, Inc., available at https://www.sec.gov/ix?doc=/Archives/edgar/data/1283699/000128369922000018/tmus-20211231.htm .	12/31/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0438	"Missed the IRS Deadline?", TaxAct, available at https://www.taxact.com/ , last accessed on August 23, 2022	8/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0439	Screenshot of TY21 TurboTax Products & Pricing Page	7/20/2022	RX 0439-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0439-A	Screenshot of TY21 TurboTax Products & Pricing Page	7/20/2022	RX 0439	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	565-568, 570-572, 596-601, 662-665, 678-679			
RX 0440	Norman, K., "The Top 10 Largest Auto Insurance Companies," NerdWallet, June 1, 2022, available at https://www.nerdwallet.com/article/insurance/largest-t-auto-insurance-companies .	6/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0441	"GEICO At A Glance," Geico, July 2022, available at https://www.geico.com/about/corporate/at-a-glance/	07/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0442	Rainie, L., "Cable and satellite TV use has dropped dramatically in the U.S. since 2015," Pew Research Center, March 17, 2021, available at https://www.pewresearch.org/fact-tank/2021/03/17/cable-and-satellite-tv-use-has-dropped-dramatically-in-the-u-s-since-2015/	3/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0443	"Charter Spectrum Official," Charter Spectrum, available at https://official.spectrum.com/lfo-7n , last accessed on July 12, 2022.	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0444	"SEC Form 10-K for the fiscal year ended December 31, 2021," AT&T Inc., available at https://www.sec.gov/ix?doc=/Archives/edgar/data/732717/000073271722000015/att-20211231.htm	12/31/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0445	"Customer Reviews for GEICO Car Insurance," Geico, available at https://www.geico.com/reviews/car-motorcycle-atv-rv-boat-insurance/	8/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0446	"Chime - Banking with no Monthly Fees," Chime, available at https://www.chime.com/ , last accessed on July 11, 2022.	7/11/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0447	"Corporate Overview," USAA, available at https://www.usaa.com/inet/wc/about_usaa_corporate_overview_main?akredirect=true	2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0448	"SEC Form 10-K for the fiscal year ended December 31, 2021," Verizon Communications Inc., available at https://www.sec.gov/ix?doc=/Archives/edgar/data/732712/000073271222000008/vz-20211231.htm	12/31/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0449	"TurboTax Deluxe," Intuit, available at https://turbotax.intuit.com/personaltaxes/online/deluxe.jsp#tax-forms , last accessed on August 25, 2022	8/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0450	"Brand Page Geico," Comparably, available at https://www.comparably.com/brands/geico	8/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0451	"Tax Resolution Services: IRS Tax Issue Relief," Jackson Hewitt, available at https://www.jacksonhewitt.com/tax-resolution/ , last accessed on July 12, 2022	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0452	Department of Justice, "Justice Department Requires Divestiture of Credit Karma Tax for Intuit to Proceed with Acquisition of Credit Karma."	11/25/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0453	"AT&T Official Site," AT&T, available at att.com , last accessed on July 25, 2022	7/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0454	"Customer Reviews," TaxHawk, available at https://www.taxhawk.com/reviews.jsp , last accessed on August 25, 2022	8/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0455	Curry, D., "Chime Revenue and Usage Statistics (2022)," Business of Apps, May 4, 2022, available at https://www.businessofapps.com/data/chime-statistics/	5/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0456	"Ready to get your biggest refund?," TaxSlayer, available at https://www.taxslayer.com/ , last accessed on August 23, 2022.	8/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0457	"File Taxes Online," TaxAct, available at https://www.taxact.com/ , last accessed on July 19, 2022.	7/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0458	"Advertising Claim," Marketing Accountability Standards Board Common Language Dictionary, available at https://marketing-dictionary.org/#/advertising-claim/	8/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0459	"GICO Reviews 2022," Influenster, available at https://www.influenster.com/reviews/geico , last accessed on August 27, 2022	9/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0460	"Brand Page TurboTax," Comparably, available at https://www.comparably.com/brands/turbotax	8/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0461	"Brand Page Chime", Comparably, available at https://www.comparably.com/brands/chime	8/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0462	"The 50 Largest Auto Insurance Companies," Forbes, February 4, 2022, available at https://www.forbes.com/advisor/car-insurance/largest-auto-insurance-companies/	2/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0463	Intuit, "Intuit Completes Acquisition of Credit Karma," available at https://investors.intuit.com/news/newsdetails/2020/intuit-completes-acquisition-of-credit-karma/default.aspx	12/3/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0464	"Tax Preparation Services Company," H&R Block, available at www.hrblock.com , last accessed on July 22, 2022	7/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0465	"TaxAct Guarantees," TaxAct, available at https://www.taxact.com/company/guarantees , last accessed on July 19, 2022.	7/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0466	"Brand Page DirecTV," Comparably, available at https://www.comparably.com/brands/directv	8/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0467	"Wireless subscriptions market share by carrier in the U.S.," Statista, October 22, 2021, available at https://www.statista.com/statistics/199359/market-share-of-wireless-carriers-in-the-us-by-subscriptions/	10/22/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0468	"The Disney Bundle: On Us," Verizon, available at https://www.verizon.com/solutions-and-services/disneyplus/ , last accessed on July 12, 2022.	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0469	"U.S. Consumer 2020 Net Promotor Benchmarks," Satmetrix, 2020, available at https://cincycs.com/wp-content/uploads/2020/10/2020_benchmarks.pdf .	2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0470	"About Charter," Charter Spectrum, available at https://corporate.charter.com/about-charter			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0471	"SEC Form 10-K for the fiscal year ended April 30, 2021," H&R Block, Inc., available at https://www.sec.gov/ix?doc=/Archives/edgar/data/12659/000183886211000028/hrb-20210430.htm	6/15/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0472	"About Us," Progressive, available at https://www.progressive.com/about/			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0473	Kessler, C., "A Banking App Has Been Suddenly Closing Accounts, Sometimes Not Returning Customers' Money," ProPublica, July 6, 2021, available at https://www.propublica.org/article/chime	7/6/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0474	"SEC Form 10-K for the fiscal year ended December 31, 2021," Perdoceo Education Corporation, available at https://www.sec.gov/ix?doc=/Archives/edgar/data/1046568/000156459022006719/prdo-10k_20211231.htm	2/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0475	"Comcast Xfinity Reviews 2022," Influenster, available at https://www.influenster.com/reviews/comcast-xfinity , last accessed on August 27, 2022	8/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0476	"Complaints," Better Business Bureau, available at https://www.bbb.org/process-of-complaints-and-reviews/complaints	7/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0477	"Commission Enforcement Policy Statement in Regard to Clear and Conspicuous Disclosure in Television Advertising," FTC, October 21, 1970, available at https://www.ftc.gov/system/files/documents/public_statements/288851/701021tvad-pr.pdf	10/21/1970		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0478	"NerdWallet IPO: What you need to know about a 2021 public offering," public.com, available at https://public.com/learn/nerdwallet-ipo-what-you-need-to-know	7/20/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0479	"Offers," Clinique, available at https://www.clinique.com/offers .			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0480	Poushter, J., "Car, bike or motorcycle? Depends on where you live," Pew Research Center, available at https://www.pewresearch.org/fact-tank/2015/04/16/car-bike-or-motorcycle-depends-on-where-you-live/	4/16/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0481	"T-Mobile Reviews 2022," Influenster, available at https://www.influenster.com/reviews/t-mobile , last accessed on August 27, 2022.	8/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0482	"Choose a Plan," Peacock, available at https://www.peacocktv.com/plan-picker			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0483	Smith, A., and Anderson, M., "2. Online reviews," Pew Research Center, December 19, 2016, available at https://www.pewresearch.org/internet/2016/12/19/online-reviews/	12/19/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0484	"BOGO," Payless Shoes, available at https://www.payless.com/bogo			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0485	"File Federal Taxes Free!," TaxHawk, available at https://www.taxhawk.com/ , last accessed on August 23, 2022	9/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0486	Wallace, C., "The 5 Stages of the Consumer Decision Making Process," Zoovu, 2016, available at https://zoovu.com/blog/how-to-leverage-the-5-stages-of-the-customer-decision-making-process/	7/8/1905		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0487	Kardashian, K., "Golder Wins Distinguished Scholar Award," Tuck School of Business, November 2, 2012, available at https://www.tuck.dartmouth.edu/news/articles/golder-wins-distinguished-scholar-award	11/2/2012		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0488	"About FreeTaxUSA," FreeTaxUSA, available at https://www.freetaxusa.com/about.jsp?hnn=3EEFE20943C213FEC8AAB04918F20C4			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0489	"FTC Sues FleetCor and Its CEO for Fleecing Small Businesses With Mystery Fuel Card Fees," Federal Trade Commission, August 11, 2021, available at https://www.ftc.gov/news-events/news/press-releases/2021/08/ftc-sues-fleetcor-its-ceo-fleecing-small-businesses-mystery-fuel-card-fees	8/11/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0490	Geico, available at https://www.geico.com/ , last accessed on July 13, 2022	7/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0491	"U.S. Consumers 2019 Net Promoter Benchmarks," Satmetrix, 2019, https://migsupport.zendesk.com/hc/en-us/article_attachments/360029651591/NICE-Satmetrix-infographic-2019-b2c-nps-benchmarks-042619.pdf	4/26/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0492	Daly, Lyle, "The Average Tax Refund: A Visual Guide to Your Money Back," available at https://www.fool.com/the-ascend/research/average-tax-refund/	1/31/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0493	Thrasher, M., "Advisor Referral Business Helps Lift SmartAsset to \$1Billion Valuation," June 24, 2021, available at https://www.riaintel.com/article/b1sf2vm6cbw9q8/a-dvisor-referral-business-helps-lift-smartasset-to-\$1-billion-valuation	6/24/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0494	"SEC Form 10-K for the fiscal year ended December 31, 2021," Comcast Corporation, available at https://www.sec.gov/ix?doc=/Archives/edgar/data/1166691/000116669122000009/cmcsa-20211231.htm .	2/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0495	"What our customers are saying," Jackson Hewitt, available at https://www.jacksonhewitt.com/file-taxoptions-products/file-taxes-online/reviews/ , last accessed on August 25, 2022	8/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0496	"Allstate Insurance Company," Allstate, available at https://www.allstate.com/ , last accessed on July 13, 2022.	7/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0497	Macfarlane, G., "The Path Forward for America's Outdated Tax System," Jackson Hewitt, May 17, 2021, available at https://www.jacksonhewitt.com/about-jackson-hewitt/news-and-events/opinion-the-path-forward-for-americas-outdated-tax-system/ .	5/17/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0498	"H&R Block Tax Software Review 2022," Nerd Wallet, March 28, 2022, https://www.nerdwallet.com/article/taxes/hr-block-review	3/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0499	"TurboTax," Influenster, available at https://www.influenster.com/reviews/turbo-tax .	8/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0500	"TurboTax Product Reviews," Intuit, available at https://turbotax.intuit.com/reviews/	8/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0501	"Dish Satellite TV - Official Site," Dish Network, available at https://www.dish.com/ , last accessed on July 13, 2022	7/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0502	"Peacock: What's Free, What's Paid and What Else to Know," CNET, August 19, 2022, available at https://www.cnet.com/tech/services-and-software/peacock-whats-free-whats-paid-and-what-else-to-know/	8/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0503	"H&R Block Reviews For Tax Preparation Offices, Software And Online Filing," H&R Block, available at https://www.hrblock.com/reviews/ , last accessed on August 25, 2022	8/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0504	Chen, E., "What is the Net Promoter Score (NPS)?" MIT Orbit, available at https://orbit-kb.mit.edu/hc/en-us/articles/206440723-What-is-the-Net-Promoter-Score-NPS-	10/28/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0505	Pinola, M., "The Best Tax Filing Software," Wirecutter, February 15, 2022, available at https://www.nytimes.com/wirecutter/reviews/best-tax-software/	2/15/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0506	"Last chance to file for FREE with expert help: Simple tax returns only," Intuit, available at https://turbotax.intuit.com/ , last accessed on March 31, 2022.	3/31/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408
Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0507	"Allstate Insurance Reviews 2022," Influenster, available at https://www.influenster.com/reviews/allstate-insurance , last accessed on August 27, 2022	8/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0508	"Pay TV providers ranked by the number of subscribers in the United States as of December 2021," Statista, May 18, 2022, available at https://www.statista.com/statistics/251793/pay-tv-providers-with-the-largest-number-of-subscribers-in-the-us/	5/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0509	"TaxSlayer Customer Reviews," TaxSlayer, available at https://www.taxslayer.com/reviews , last accessed on August 25, 2022	8/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0510	Aycock, J., "New York Times' Wirecutter moving to subscription service," Seeking Alpha, August 31, 2021, available at https://seekingalpha.com/news/3735810-new-york-times-wirecutter-moving-to-subscription-service	8/31/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0511	IRS, "Free File Fillable Forms," available at https://www.irs.gov/e-file-providers/free-file-fillable-forms	10/6/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0512	"Volunteer Income Tax Assistance (VITA)," Benefits.gov, available at https://www.benefits.gov/benefit/1543	3/16/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0513	"Charter Communications Reviews 2022," Influenster, available at https://www.influenster.com/reviews/charter-communications , last accessed on August 27, 2022	8/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0514	"U.S. Consumer 2018 Net Promoter Benchmarks", Satmetrix, 2018, https://info.nice.com/rs/338-EIP-431/images/NICE-Satmetrix-infographic-2018-b2c-nps-benchmarks-050418.pdf	5/4/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0515	"Verizon Wireless Reviews 2022," Influenster, available at https://www.influenster.com/reviews/verizon-wireless , accessed on August 27, 2022	8/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0516	Moore, W., "States Where Car Insurance is Not Mandatory (2022)," Motor1, December 15, 2021, available at https://www.motor1.com/reviews/403859/states-where-car-insurance-is-not-mandatory/	12/15/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0517	United States Government Accountability Office Report to Congressional Requesters entitled "IRS Free File Program: IRS Should Develop Additional Options for Taxpayers to File for Free," 2022, available at https://www.gao.gov/assets/gao-22-105236.pdf	4/28/2022	RX 078	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0518	IRS, "Internal Revenue Service 2021 Data Book," May 2022, p. 2, available at https://www.irs.gov/pub/irs-pdf/p555b.pdf	05/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0519	"Send Online Money Transfers Service," MoneyGram, available at https://www.moneygram.com/mgo/us/en/ , last accessed on July 11, 2022	7/11/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0520	"AT&T Reviews 2022," Influenster, available at https://www.influenster.com/reviews/att , last accessed on August 27, 2022	8/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0521	"Ready to get your biggest refund?," TaxSlayer, available at https://www.taxslayer.com/ , last accessed on August 23, 2022	8/23/2022	RX 1067	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0522	"2021 by the numbers," State Farm, February 25, 2022, available at https://newsroom.statefarm.com/2021-by-the-numbers-infographic	2/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0523	"H&R Block," Influenster, available at https://www.influenster.com/reviews/hr-block	8/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0524	"An Insurance Company You Can Rely On," Progressive, available at https://www.progressive.com/ , last accessed on July 27, 2022	7/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0525	"T-Mobile & Sprint merged to create America's 5G Leader in coverage," T-Mobile, available at https://www.t-mobile.com/ , last accessed on July 12, 2022	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0526	"Notice of 2022 Annual Meeting and Proxy Statement," Allstate, available at https://www.allstate.com/resources/allstate/attachments/annual-report/allstate-year-end-report-combo-2021.pdf	4/11/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0527	"Streaming Services & Satellite TV," DirecTV, available at https://www.directv.com/ , last accessed on July 12, 2022	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0528	"Guarantees," H&R Block, available at https://www.hrblock.com/guarantees/ , last accessed on July 22, 2022	7/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0529	"TaxSlayer Offers New Resources to Help Taxpayers File in 2021," TaxSlayer, February 8, 2021, available at https://www.taxslayer.com/media-room/prdetails?articleID=122508	2/8/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0530	Screenshot of TY21 TurboTax Products & Pricing Page	7/20/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0531	July 31, 2021 Intuit SEC 10K and Exhibits	9/8/2021	GX 288	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0532	"Net Promoter System," Bain & Company, available at https://www.bain.com/consulting-services/customer-strategy-and-marketing/customer-loyalty/	6/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0533	"Federal Trade Commission Finalizes Order Against Dun & Bradstreet for Deceiving Businesses and Failing to Update Errors on Business Credit Reports," Federal Trade Commission, April 7, 2022, available at https://www.ftc.gov/news-events/news/press-releases/2022/04/federal-trade-commission-finalizes-order-against-dun-bradstreet-deceiving-businesses-failing-update	4/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0534	The MITRE Corporation, "Independent Assessment of the Free File Program," IRS, October 3, 2019, available at https://www.irs.gov/pub/newsroom/exec-summary-free-file-program-assessment-100319.pdf	10/3/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0535	"What We Do: The New Standard for TV Ad Measurement," iSpot.tv, available at https://www.ispot.tv/about , last accessed on July 26, 2022.	7/26/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0536	Treasury Inspector General for Tax Administration, "Tax Cuts and Jobs Act: Assessment of Implementation Efforts," April 18, 2019, available at https://www.treasury.gov/figta/auditreports/2019reports/201944027fr.pdf	4/18/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0537	"TaxSlayer," Influenster, available at https://www.influenster.com/reviews/taxslayer	8/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0538	"File Online. Free Online," H&R Block, available at https://www.hrblock.com/online-tax-filing/free-online-tax-filing/	11/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0539	"State Farm Auto Insurance & More for 100 Years," State Farm, available at https://www.statefarm.com/ , last accessed on July 13, 2022.	7/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0540	"Brand Page Moneygram International," Comparably, available at https://www.comparably.com/brands/moneygram-international	8/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0541	"Internet, TV, Phone Smart Phone Smart Home," Xfinity, available at https://www.xfinity.com/overview , last accessed on July 12, 2022.	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0542	Golder, Peter N., Mitra, Debanjan, and Moorman, Christine, "What is Quality? An Integrated Framework of Processes and States," <i>Journal of Marketing</i> , Vol. 76, No. 4, 2012, pp. 1-23	07/2012		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0543	Craig, A., et al., "Suspicious Minds: Exploring Neural Processes During Exposure to Deceptive Advertising," <i>Journal of Marketing Research</i> , Vol. 49, No. 3, June 2012, pp. 361-372	6/1/2012		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0544	Román, S., "Relational Consequences of Perceived Deception in Online Shopping: The Moderating Roles of Type of Product, Consumer's Attitude Toward the Internet and Consumer's Demographics," <i>Journal of Business Ethics</i> , Vol. 95, No.3, September 2012, pp. 373-391	09/2012		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0545	Kalapurakal, R., et al., "Perceived Price Fairness and Dual Entitlement," <i>Advances in Consumer Research</i> , Vol. 18, 1991, pp. 788-793	1991		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0546	Assael, H., "Consumer Behavior: A Strategic Approach," Houghton Mifflin Company, Boston, MA, 2004	2004		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0547	OECD, "Improving Online Disclosures with Behavioral Insights," OECD Digital Economy Papers, April 2018	04/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0548	Keller, K. and Swaminathan, V., 2020. "Strategic Brand Management - Building, Measuring and Managing Brand Equity." Pearson Education, Hoboken, New Jersey.	2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0549	Gourville, J. and Norton, M., "Consumer Behavior and the Buying Process," Harvard Business Publishing 2004, pp. 19-20	6/30/2014		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0550	Bell, S., Auh, S., and Smalley, K., "Customer Relationship Dynamics: Service Quality and Customer Loyalty in the Context of Varying Levels of Customer Expertise and Switching Costs," <i>Journal of the Academy of Marketing Science</i> , Vol. 33 No. 2, Spring 2005, pp. 169-183	03/2005		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0551	Keller, K., <i>Strategic Brand Management</i> , 4th Edition, Pearson Education, 2013, pp. 134-135	8/10/2012		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0552	"Assessing the Key Debates Leaves Us Bullish – Reiterate OW," Morgan Stanley, February 2, 2021	2/2/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0553	Kahneman, D., et al., "Fairness as a Constraint on Profit Seeking: Entitlements in the Market," <i>The American Economic Review</i> , Vol. 76, No. 4, 1986, pp. 728-741	09/1986		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0554	Perreault, W., et. al., Essentials of Marketing, McGraw-Hill Education, New York, New York, 2019	1/30/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0555	George, B. and Mianoj, E., "Cognitive Dissonance and Purchase Involvement in the Consumer Behavior Context," The IJUP Journal of Marketing Management, Vol. VIII, Nos. 3 & 4, 2009	11/22/2009		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0556	Kerin, R. and Hartley, S., Marketing 15th Edition, McGraw-Hill Education, New York, New York, 2020	3/2/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0557	Ariely, D., "Controlling the Information Flow: Effects on Consumers' Decision Making and Preferences," Journal of Consumer Research, Vol. 27(2), 2000, pp. 233-248	9/1/2000		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0558	Arkes, H. and Blumer, C., "The Psychology of Sunk Cost," Organizational Behavior and Human Decision Processes, 35, 1985, pp. 124-140	2/1/1985		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0559	Yang, Z., and Peterson, R., "Customer Perceived Value, Satisfaction, and Loyalty: The Role of Switching Costs," Psychology & Marketing, Vol. 21, No. 10, 2004	8/24/2004		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0560	Kotler, P., and Keller, K., Marketing Management, 15th Edition, Pearson Education, 2015	5/28/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0561	Golder, P., "Historical Method in Marketing Research with New Evidence on Long-Term Market Share Stability," Journal of Marketing Research, 2000, Vol. 37 Issue 2, pp. 156-172	5/1/2000		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0562	Knox, G., and van Oest, R., "Customer Complaints and Recovery Effectiveness: A Customer Base Approach," Journal of Marketing Vol. 78, September 2014, pp. 42-57	9/1/2014		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0563	Philip T. Kotler & Kevin L. Keller, Marketing Management (14th Edition), 2012	2012		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0564	Bettman, J., Luce, M., and Payne, J., "Constructive Consumer Choice Processes," Journal of Consumer Research, Vol. 25, 1998, pp. 187-217	12/1/1998		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0565	Held, J. and Garmelmaan, C., "Deception in Consumer Behavior Research: A Literature Review on Objective and Perceived Deception," Cairn.Info, Vol. 3, No. 21, 2018, pp. 119-145	09/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0566	Golder, Peter N. and Mitra, Debanjan, "How Does Objective Quality Affect Perceived Quality? Short-Term Effects, Long-Term Effects, and Asymmetries," Marketing Science, May-June 2006, Vol. 25, No. 3, pp. 230-247	5/1/2006		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0567	Xie, G., Madrigal, R. and Boush, D.M., "Disentangling the Effects of Perceived Deception and Anticipated Harm on Consumer Responses to Deceptive Advertising," <i>Journal of Business Ethics</i> , Vol. 29, April 2014, pp. 281-293	4/1/2014		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0568	Bagozzi, R., Batra, R., and Ahuvia, A., "Brand love: development and validation of a practical scale," <i>Springer Science and Business Media Marketing Letters</i> , 2017, Vol. 28, No. 1, pp. 1-14.	2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0569	Batra, R. et al., "Brand Love," <i>Journal of Marketing</i> , Vol. 76, No. 2, March 2012, pp. 1-16	3/1/2012		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0570	Stewart, D. and Martin, I., "Advertising Disclosures: Clear and Conspicuous or Understood and Used?" <i>Journal of Public Policy & Marketing</i> , Vol. 23, No. 2, 2004, pp. 183-192	9/1/2004		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0571		8/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0572		8/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0573		8/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0574		8/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0575		8/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0576		8/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0577	Document entitled "FY17 Go-To-Market White Paper," dated October 2016	10/14/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0578	Document entitled "FY18 Consumer Group FY18 Go-To-Market White Paper," dated October 2017	10/9/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0579				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0580	Presentation entitled "E2E Experience Review: Our Competitors," dated March 27, 2019	3/27/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0581	Document entitled "Tax Year 2015 Go-To-Market Plan White Paper"	9/28/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0582	Presentation entitled "CG Marketing Function Review," dated April 11, 2019	4/11/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0583	Presentation entitled "TurboTax Competitive NPS Study TY16," dated June 2017	06/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0584	TY21 Video advertisement re: "Auctioneer"	2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0585	Presentation entitled "TY15 NPS Tracking Survey Analysis of Results," dated June 2016	6/10/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0586	Presentation entitled "What is a world-class NPS score?," dated July 23, 2019	7/23/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0587	Presentation entitled "CG Attrition & Pricing Project: Milestone #1: check in," dated February 27, 2013	2/27/2013		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0588	Presentation entitled "Sentiment TY16 Mid-Season Tracking Results, with YOY comparisons As input into planning," dated March 7, 2017	3/7/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0589	Presentation entitled "TY14 NPS Tracking Study," dated July 2, 2015	7/2/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0590	TY21 Video Advertisement re: "Spit Take"	2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	748-750			
RX 0591	Presentation entitled "The Power of Free," dated October 16, 2007	10/16/2007		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0592		Aug-21		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0593	Presentation entitled "TurboTax Competitive NPS Study TY17," dated June 2018	Jun-18		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0594				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	790-793, 798-801		Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0595	Presentation entitled "Brand Sentiment Metrics Mid-Season TY18," dated March 2019	3/16/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0596		Feb-22		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0597	Presentation entitled "Free Consumer Insights," dated April 10, 2019	4/10/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0598	TV20 Video advertisement re: "Dog Show"	2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0599	In the Matter of: intuit inc., a corporation, "Complaint," March 28, 2022, Docket No. 9408	3/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0600	In the Matter of: intuit inc., a corporation, "Complaint Counsel's Motion for Summary Decision," August 22, 2022, Docket No. 9408	8/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0601	In the Matter of: intuit inc., a corporation, "[Proposed] Decision and Order," August 22, 2022, Docket No. 9408	8/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0602	T-Mobile TV Ad, "Please Listen: Switch and Get \$1000," May 27, 2022, available at https://www.ispot.tv/ad/bMCU/t-mobile-please-listen-switch-and-get-1000-featuring-ben-barnes , last accessed on July 13, 2022	7/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0603	AT&T TV Ad, "Plays," August 18, 2021, available at https://www.youtube.com/watch?v=sWEP4ZU37A , last accessed on July 13, 2022	7/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0604	TaxAct, "Online Products," accessed on March 18, 2022, available at https://www.taxact.com/taxes-online	7/29/2022	RX 1239	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0605	USAA TV Ad, "Too exclusive," July 29, 2021, available at https://www.ispot.tv/ad/O83u/usaa-too-exclusive , last accessed on July 9, 2022	7/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0606-A	Progressive TV Ad, "Love and Other Bundles," May 18, 2022, available at https://www.youtube.com/watch?v=SwCUCptHrCg , last accessed on June 24, 2022	5/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0606-B	Progressive TV Ad, "Love and Other Bundles," May 18, 2022, available at https://www.youtube.com/watch?v=SwCUCptHrCg , last accessed on June 24, 2022	5/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0607	State Farm TV Ad, "Yours Now :30," May 10, 2022, available at https://www.youtube.com/watch?v=Wd2WH_6Zsoo , last accessed on June 24, 2022	5/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0608	Charter Spectrum TV Ad, "We Are Local: Madison," February 18, 2022, available at https://www.youtube.com/watch?v=GquwRDvCFWU , last accessed on July 12, 2022	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0609	Allstate TV Ad, "Tight Squeeze," May 10, 2022, available at https://www.youtube.com/watch?v=FmZor_EZM8 , last accessed on June 26, 2022	5/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0610	H&R Block TV Ad, "Help on Your Terms," February 14, 2021, available at https://www.youtube.com/watch?v=IT0BBbUKzAA , last accessed on July 13, 2022	2/14/2021	RX 1047	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0611	AT&T TV Ad, "Always Right: Up to \$800 Off Smartphones," January 21, 2022, available at https://www.ispot.tv/ad/lc47/at-and-t-wireless-always-right-up-to-800-off-smartphones , last accessed on July 13, 2022	7/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0612	Jackson Hewitt TV Ad, "Break Free," August 4, 2020, available at https://www.ispot.tv/ad/n_JU/jackson-hewitt-tax-debt-resolution-break-free , last accessed on July 13, 2022	7/13/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0613	GEICO TV Ad, "Life in a Victorian Home," March 28, 2022, available at https://www.youtube.com/watch?v=IRE9GBihEXU , last accessed on June 24, 2022	6/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0614	Direct TV TV Ad, "Feel the Energy of the Big Leagues \$23.33," April 17, 2022, available at https://www.ispot.tv/ad/bT7N/directv-feel-the-energy-of-the-big-leagues-2333 , last accessed on July 12, 2022.	4/17/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0615	Charter Spectrum TV Ad, "Monsters: Dinner," February 3, 2022, available at https://www.youtube.com/watch?v=6-nsCJ54TkQ , last accessed on July 12, 2022	2/3/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0616	H&R Block TV ad, "Free File Online," February 14, 2022, available at https://www.youtube.com/watch?v=EnzdfD0bcr4	2/14/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0617	Direct TV TV Ad, "GOATbusters," April 21, 2022, available at https://www.youtube.com/watch?v=uUou6r0y3ul , last accessed on July 6, 2022	4/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0618	Allstate TV Ad, "Working From Home," April 4, 2022, available at https://www.youtube.com/watch?v=9ZLVXGVkrDY , last accessed on June 27, 2022	4/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0619	AT&T TV Ad, "Lily + Matthew: Interview Featuring Matthew Stafford," April 4, 2022, available at https://www.ispot.tv/ad/b1k1/at-and-t-wireless-illy-matthew-interview-featuring-matthew-stafford , last accessed on July 13, 2022	4/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0620	USAA TV Ad, "Member Number - Gronk," September 9, 2021, available at https://www.youtube.com/watch?v=sssnV1_89qo&list=PLV9SIBc9Ct4tWaeCq5GHf9J7DitEnUK&index=2 , last accessed on June 26, 2022	9/9/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0621	Comcast/Xfinity TV Ad, "Our Way of Showing Appreciation," March 14, 2022, available at https://www.ispot.tv/ad/boUL/ ; xfinity-rewards-our-way-of-showing-appreciation, last accessed on July 12, 2022	3/14/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0622	Dish Network TV Ad, "DISH makes TV easy with Prime Video - DISH," October 18, 2021, available at https://www.youtube.com/watch?v=L-9jGuxrMM , last accessed on July 12, 2022	10/18/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0623	Comcast/Xfinity TV Ad, "Get it All," May 15, 2022, available at https://www.ispot.tv/ad/bl69/ ; xfinity-3-for-1-bundle-get-it-all, last accessed on July 12, 2022	5/15/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0624	Comcast/Xfinity TV Ad, "Gateway Upgrade," June 2, 2022, available at https://www.ispot.tv/ad/bN11/ ; xfinity-internet-gateway-upgrade-featuring-ed-helms, last accessed on July 12, 2022	6/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0625	GEICO TV Ad, "Lamp Problems," April 8, 2022, available at https://www.youtube.com/watch?v=QEs3U6qf1E , last accessed on June 27, 2022	4/8/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0626	State Farm TV Ad, "Fake Streamer: 30," May 10, 2022, available at https://www.youtube.com/watch?v=EK6xUMEG6lc , last accessed on June 24, 2022	5/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0627-A	Progressive TV Ad, "Old Flame," May 23, 2022, available at https://www.youtube.com/watch?v=wizwm1ORGZU , last accessed on June 27, 2022	5/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0627-B	Progressive TV Ad, "Old Flame," May 23, 2022, available at https://www.youtube.com/watch?v=wizwm1ORGZU , last accessed on June 27, 2022	5/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0628	TaxSlayer TV Ad, "Anthem-Simply Free," February 8, 2022, available at https://www.youtube.com/watch?v=SCbZnjAteeQ , last accessed on July 20, 2022	2/8/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0629	Verizon TV Ad, "Show the Love: Customers for Years and Switchers," May 12, 2022, available at https://www.ispot.tv/ad/byIk/ ; verizon-show-the-love-customers-for-years-and-switchers, accessed on July 13, 2022	5/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0630	Allstate TV Ad, "Metaverse," June 15, 2022, available at https://www.youtube.com/watch?v=WnKtYCSVSK , last accessed on June 26, 2022	6/15/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0631	Verizon TV Ad, "Holiday Better: What's Better," November 25, 2021, available at https://www.ispot.tv/ad/qN3d/verizon-holiday-better-whats-better-featuring-kate-mckinnon , last accessed on July 13, 2022	11/25/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0632	TaxSlayer TV Ad, "File Your Taxes for Free with the Biggest Refund Possible," January 2, 2020, available at https://www.youtube.com/watch?v=zYgk8Ttqlu4 , last accessed on July 13, 2022	1/2/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0633	H&R Block TV Ad, "Max Refund," February 14, 2021, available at https://www.youtube.com/watch?v=FnkYy3nGNkk , last accessed on July 13, 2022	2/14/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0634	TaxSlayer TV ad, "TaxSlayer 2022 Commercial 'Cash Cow' (Official TV Ad: 30)," January 4, 2022, available at https://www.youtube.com/watch?v=nSaryc0WZ80	1/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0635	TaxAct TV Ad, "The Fixer: 30," February 10, 2022, available at https://youtu.be/z5iW8zTS1c , last accessed on July 13, 2022	2/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0636	T-Mobile TV Ad, "Value: Mom's Birthday," May 5, 2022, available at https://www.ispot.tv/ad/bpj3/t-mobile-value-moms-birthday-families-get-up-to-1000-song-by-billy-idol , last accessed on July 12, 2022	5/5/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0637	Chime TV Ad, "Banking made happier with the Chime Debit Card," May 16, 2022, available at https://www.youtube.com/watch?v=teB8idwUw-c , last accessed on July 11, 2022	5/16/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0638	"It's easy to switch from TurboTax to H&R Block," H&R Block TV Ad, March 4, 2022, available at https://www.youtube.com/watch?v=vxwzp8cRdGE	3/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0639	Direct TV Ad, "Get Your TV Together: Wonder feat. Serena Williams :30," April 15, 2022, available at https://www.ispot.tv/ad/bfs8/directv-stream-get-your-tv-together-wonder-featuring-serena-williams , last accessed on July 25, 2022	4/15/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0640	MoneyGram TV Ad, "MoneyGram The Right Tools 30s USA," February 16, 2021, available at https://www.youtube.com/watch?v=J5r1VU8HbaQ , last accessed on July 11, 2022	2/16/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0641-A	Progressive TV Ad, "Table for Two," June 6, 2022, available at https://www.youtube.com/watch?v=G504ZjRA9Pk , last accessed on June 27, 2022	6/6/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0641-B	Progressive TV Ad, "Table for Two," June 6, 2022, available at https://www.youtube.com/watch?v=G504ZjRA9Pk , last accessed on June 27, 2022	6/6/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0642	TaxAct TV Ad, "Cloudy with a Chance of TaxAct - Version A," January 3, 2022, available at https://youtu.be/inVK308sXlk , last accessed on July 13, 2022.	1/3/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0643	Chime TV Ad, "Welcome to Chime," May 16, 2022, available at https://www.youtube.com/watch?v=7xtcQDEJe1c , last accessed on July 11, 2022	5/16/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0644	T-Mobile TV Ad, "iPhone 13: Hide and Seek: New Line and Apple TV+," June 6, 2022, available at https://www.ispot.tv/ad/bN4X/t-mobile-iphone-13-hide-and-peek-new-line-and-apple-tv-song-by-tina-turner , last accessed on July 13, 2022	6/6/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0645	MoneyGram TV Ad, "Send money online to India with MoneyGram," February 9, 2022, available at https://www.youtube.com/watch?v=qDVp7r8A3U , last accessed on July 11, 2022	2/9/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0646	Chime TV Ad, "Build Credit and More with Credit Builder," available at https://www.youtube.com/watch?v=556jDwwvSiM , last accessed on July 11, 2022	7/11/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0647	Dish Network TV Ad, "Get 99% signal reliability with DISH," January 21, 2022, available at https://www.youtube.com/watch?v=SoH8FxoqxWo , last accessed on July 12, 2022	1/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0648	H&R Block TV Ad, "File Virtually," March 21, 2021, available at https://www.youtube.com/watch?v=7GdqbflVLg , last accessed on July 13, 2022	3/21/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0649	MoneyGram TV Ad, "See What Users Say About Our Online Transfers," November 18, 2021, available at https://www.youtube.com/watch?v=_Z7DkovTPh8 , last accessed on July 11, 2022	11/18/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0650	State Farm TV Ad, "Ronnie's Options :30," June 9, 2022, available at https://www.youtube.com/watch?v=8Q48t3mw3fk , last accessed on June 24, 2022	6/9/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0651	Verizon TV Ad, "More Star Wars: Disney+", March 28, 2022, available at https://www.ispot.tv/ad/bogx/verizon-5g-unlimited-is-going-ultra-star-wars-included , last accessed on July 13, 2022	3/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0652	Dish Network TV Ad, "Voice Search Across Live TV and Streaming Apps with DISH", January 21, 2022, available at https://www.youtube.com/watch?v=TP_FHUGyislo , last accessed on July 12, 2022	1/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0653	USAA TV Ad, "Gronk and Frank," September 9, 2021, available at https://www.youtube.com/watch?v=Dpqk10L4NdI&list=PLY9SiBc9Ct4tWaeCq5GH917DiEEnUK , last accessed on June 26, 2022.	6/26/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0654	Charter Spectrum TV Ad, "Monsters: Gamers," March 30, 2022, available at https://www.youtube.com/watch?v=VMFAMWPPWJ , last accessed on July 12, 2022	3/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0655	GEICO TV Ad, "Open Floor Plan Problems," February 7, 2022, available at https://www.youtube.com/watch?v=EBPuXpdmIO0 , last accessed on June 24, 2022	2/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0656	"Progressive Corporation, Complaints," Better Business Bureau, available at https://www.bbb.org/us/oh/mayfield-vig/profile/insurance-companies/progressive-corporation-0312-15000696/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0657	"Dish Network LLC, Complaints," Better Business Bureau, available at https://www.bbb.org/us/co/englewood/profile/cable-tv/dish-network-llc-1296-6370/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0658	"Geico, Complaints," Better Business Bureau, available at https://www.bbb.org/us/md/chevy Chase/profile/insurance-companies/geico-0241-8768/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0659	"Charter Spectrum, Complaints," Better Business Bureau, available at https://www.bbb.org/us/ct/stamford/profile/cable-tv/charter-spectrum-0111-110075917/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0660	"Fleetcor Technologies, Complaints," Better Business Bureau, available at https://www.bbb.org/us/ga/norcross/profile/credit-cards-and-plans/fleetcor-technologies-llc-0443-7005062/complaint , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0661	"Perdoceo Education Corp., Complaints," Better Business Bureau, available at https://www.bbb.org/us/il/schaumburg/profile/college-and-university/perdoceo-educationcorporation-0654-9003047/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0662	"TaxAct, Complaints," Better Business Bureau, available at https://www.bbb.org/us/ia/cedar-rapids/profile/computer-software-developers/taxact-0664-22001061/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0663	"Jackson Hewitt, Complaints," Better Business Bureau, available at https://www.bbb.org/us/nj/jersey-city/profile/tax-return-preparation/jackson-hewitt-tax-services-of-america-inc-0221-22001064/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0664	"H&R Block Inc., Complaints," Better Business Bureau, available at https://www.bbb.org/us/mo/kansas-city/profile/tax-return-preparation/h-r-block-inc-us-headquarters-0674-46030004/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0665	"USAA, Complaints," Better Business Bureau, available at https://www.bbb.org/us/tx/sanantonio/profile/insurance-companies/usaa-0825-23452/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0666	"Allstate Insurance, Complaints," Better Business Bureau, available at https://www.bbb.org/us/il/northbrook/profile/insurance-companies/allstate-insurance-0654-12014144/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0667	"TaxSlayer, Complaints," Better Business Bureau, available at https://www.bbb.org/us/ga/evans/profile/tax-software/taxslayercom-0743-9390/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0668	"State Farm Insurance Co., Complaints," Better Business Bureau, available at https://www.bbb.org/us/il/bloomington/profile/insurance-companies/state-farm-insurancecompany-0724-6000391/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0669	"Verizon Wireless, Complaints," Better Business Bureau, available at https://www.bbb.org/us/nj/basking-ridge/profile/cell-phone-supplies/verizon-wireless-0221-1001468/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0670	"TaxHawk, Complaints," Better Business Bureau, available at https://www.bbb.org/us/ut/provo/profile/tax-return-preparation/taxhawk-inc-1166-22009863/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0671	"Dun & Bradstreet, Complaints," Better Business Bureau, available at https://www.bbb.org/us/fl/jacksonville/profile/credit-reporting-agencies/dun-bradstreet-0332-3137/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0672	"Chime Financial Inc., Complaints," Better Business Bureau, available at https://www.bbb.org/us/ca/san-francisco/profile/financial-technology/chime-financial-inc-1116-530173/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0673	"Intuit Inc., Complaints," Better Business Bureau, available at https://www.bbb.org/us/ca/mountain-view/profile/computer-hardware/intuit-inc-1216-202832/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0674	"T-Mobile USA, Complaints," Better Business Bureau, available at https://www.bbb.org/us/wa/bellevue/profile/cell-phone-supplies/t-mobile-usa-inc-1296-27026359/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0675	"MoneyGram, Complaints," Better Business Bureau, available at https://www.bbb.org/us/tx/dallas/profile/money-orders/moneygram-0875-90246426/complaints , accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0676	"DirecTV Inc., Complaints," Better Business Bureau, available at https://www.bbb.org/us/ca/eisegundo/profile/cable-tv/directv-inc-1216-81000357/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0677	"AT&T, Complaints," Better Business Bureau, available at https://www.bbb.org/us/tx/dallas/profile/long-distance-phone-service/att-0875-7935/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0678	"Comcast Corporation, Complaints," Better Business Bureau, available at https://www.bbb.org/us/pa/philadelphia/profile/cable-tv/comcast-corporation-0241-80003221/complaints , last accessed on July 1, 2022	7/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0679	Data Supporting Footnote 140, Decl. of Prof. Peter N. Golder (Apr. 4, 2022)	4/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0680	Data Supporting Figs. 3 and 7, Decl. of Prof. Peter N. Golder (Apr. 4, 2022)	4/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0681	Data Supporting Fig. 2, Decl. of Prof. Peter N. Golder (Apr. 4, 2022)	4/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0682	Data Supporting Footnote 28, Decl. of Prof. Peter N. Golder (Apr. 4, 2022)	4/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0683	Román, S., "Relational Consequences of Perceived Deception in Online Shopping: The Moderating Roles of Type of Product, Consumer's Attitude Toward the Internet and Consumer's Demographics," Journal of Business Ethics, Vol. 95, No.3, September 2012, pp. 373-391	Sep-12		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0684	Stewart, D. and Martin, I., "Advertising Disclosures: Clear and Conspicuous or Understood and Used?" Journal of Public Policy & Marketing, Vol. 23, No. 2, 2004, pp.183-192	9/1/2004		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0685	TY20 Intuit Video advertisement re: "Auctioneer," available at https://www.ispot.tv/ad/t40r/turbotax-free-edition-auctioneer	3/8/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0686	"Tax Preparation Services," Influenster, last accessed on April 1, 2022, available at https://www.influenster.com/reviews/tax-preparation-services	4/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0687	"Online tax filing that fits you," H&R Block, available at https://www.hrblock.com/online-tax-filing/ , last accessed on August 23, 2022	8/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0688	"TurboTax Deluxe," Intuit, available at https://turbotax.intuit.com/personal-taxes/online/deluxe.jsp#tax-forms , last accessed on April 2, 2022	4/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0689	TaxAct, "Online Tax Filing Products," accessed on March 18, 2022, available at https://www.taxact.com/taxes-online/bundle	3/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0690	"Intuit, Complaints," Better Business Bureau, available at https://www.bbb.org/	5/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0691	TaxAct TV ad, "Michele Lepe TaxAct Commercial 2021 Stranded Don't Get Stuck on Taxes," January 21, 2021, available at https://www.youtube.com/watch?v=JUCHrF4IUA	1/21/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0692	Intuit, "Personal Taxes Online," accessed April 1, 2022, available at https://turbotax.intuit.com/personal-taxes/online	4/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0693	Intuit, "How TurboTax Live Works," accessed on April 2, 2022, available at https://turbotax.intuit.com/personal-taxes/online/live/how-it-works.htm	4/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0694	IRS, "Internal Revenue Service 2020 Data Book," June 2021, available at https://www.irs.gov/pub/irspdf/p55b.pdf	Jun-21		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0695	Bernazzani, S., "Net Promoter Score Benchmarks to Help You Understand Customer Loyalty," HubSpot, October 30, 2019, available at https://blog.hubspot.com/service/net-promoter-score-benchmarks	10/30/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0696	H&R Block TV ad, "Free Online File," February 14, 2022, available at https://www.youtube.com/watch?v=EnzdfD0bcr4	2/14/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0697	TaxSlayer TV ad, "TaxSlayer 2022 Commercial 'Cash Cow' (Official TV Ad: 30)," January 4, 2022, available at https://www.youtube.com/watch?v=nSaryc0WZB0	1/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0698		11/4/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0699	TY21 Intuit Video ad re: "Dance Workout"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0700	Presentation entitled "E2E Experience Review: Our Competitors," dated March 27, 2019	3/27/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0701	TY21 Intuit Video ad re: "Dog Show"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0702	Presentation entitled, "TY18 CG Portfolio Business Review"		RX 0702-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0702-A	Presentation entitled, "TY18 CG Portfolio Business Review"		RX 0702	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	585-591			
RX 0703	Document entitled, "FY15 Go-To-Market White Paper," dated November 10, 2014	11/10/2014		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0704		5/16/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0705	Data Supporting Decl. of John R. Hauser (Apr. 4, 2022)	4/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0706		Aug-21		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0707	Patterson, J., et. al., "Final Report: Key Findings and Implications for the IRS Free File Program," The MITRE Corporation, January 2022	Jan-22		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0708	Jacoby, J., 2012. "Are Closed-Ended Questions Leading Surveys? Law, Science and Design, 261-285. American Bar Association	2012		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0709	Diamond, S.S., 2011. "Reference Guide on Survey Research." In Reference Manual on Scientific Evidence, 359-423. The National Academies Press	2011		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0711	Olson, D., "Awareness As an Indicator of New Product Performance," Advances in Consumer Research, Vol. 2, 1975, pp. 495-506	5/28/1905		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0712	Hauser, J. "A marketing science perspective on recognition-based heuristics [and the fast-and-frugal paradigm]." Judgment and Decision Making, Vol. 6, No. 5, July 2011, pp. 396-408	Jul-11		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0713	Sawyer, A.G., 1975. "Demand Artifacts in Laboratory Experiments in Consumer Research." Journal of Consumer Research, 1(4), 20-30	Mar-75		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0714	Federal Judicial Center, 2004. "Manual for Complex Litigation"	2004		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0715	"Tax Time Guide: Try Money-Saving IRS Free File," IRS, March 1, 2018, available at https://www.irs.gov/newsroom/tax-time-guide-try-money-saving-irs-free-file	3/1/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0716	Screenshot of TY18 TurboTax Products & Pricing webpage, dated March 25, 2019	3/25/2019	RX 0716-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0716-A	Screenshot of TY18 TurboTax Products & Pricing webpage, dated March 25, 2019	3/25/2019	RX 0716	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0717	Memorandum Re: Taxpayer Attitudes Concerning Annual Return Preparation," Computer & Communications' Industry Association, April 5, 2019, available at https://www.ccianet.org/wp-content/uploads/2019/04/PublicOpinionTaxPoll.pdf	4/5/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0718	"Taxation Statistics 2001-02," Australian Taxation Office, available at https://data.gov.au/data/dataset/67265383-0ecc-4523-8ffd-02790297a65a/resource/0a765a72-d548-40e4-97bc-339168abb011/download/2001-02-taxstats.pdf	Jul-04		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0719	Screenshot of TY18 TurboTax Free Edition Webpage, dated March 23, 2019	3/23/2019	RX 0719-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0719-A	Screenshot of TY18 TurboTax Free Edition Webpage, dated March 23, 2019	3/23/2019	RX 0719	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0720	"Panel Book," Dymata, available at https://www.dynata.com/panel-book-form/?cid=7D84CE0F-D852-EC11-8C62-000D3A9DE12E&utm_source=google&utm_medium=cpc&utm_campaign=panel_book&utm_content=ad_panel_book&gclid=EAIaIQobChMIk6qcInv9gVF_rfCh1FFg37EAAVASABEgIaCFD_BwE	10/30/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0721	Intuit, "Personal Taxes Online," accessed October 17, 2020, available at https://turbotax.intuit.com/personal-taxes/online	10/17/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0722	Screenshot of TY19 TurboTax Free Edition Webpage, dated October 17, 2020	10/17/2020	RX 0722-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0722-A	Screenshot of TY19 TurboTax Free Edition Webpage, dated October 17, 2020	10/17/2020	RX 0722	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0723	[REDACTED]	1/16/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete in Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0724	Presentation entitled "FY18 Creative Classification," dated May 28, 2019	5/28/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0725	Spreadsheet entitled "TY17 Required Upsells"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0726	Spreadsheet entitled "TY16 Required Upsells"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0727	Document excerpting Guggenheim Survey, dated February 18, 2020	2/18/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0728	Letter from D. Reed Freeman to T. Srimushnam et al., re: FTC Matter No: 1923119, dated July 31, 2019	7/31/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0729	Screenshot of TurboTax Upgrade Screen Recommending an Upgrade to Deluxe	10/15/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0730	Presentation entitled "X-Ray Billboard," dated November 21, 2018	11/21/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0731	Screenshot of TurboTax Program Upgrade Screen to Report Income	10/15/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0732	Data Supporting Decl. of Rebecca Kirk Fair (Aug. 30, 2022)	8/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0733	Data Supporting Decl. of John Hauser (Aug. 30, 2022)	8/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0734	Schwarz, N., 1999. "Self-Reports. How the Questions Shape the Answers." American Psychologist, 54(2), 93-105	Feb-99		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0735	Hauser, D. and Schwarz, N., 2015. "It's a Trap! Instructional Manipulation Checks Prompt Systematic Thinking on "Tricky Tasks." SAGE Open	2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0736	Lew, G., 2017. "The importance of customer lifetime value in determining their profitability." The Business and Management Review, 8(4), 24-30	Apr-17		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0737	Diamond, S., 2012. "Control Foundations: Rationales and Approaches." In Trademark and Deceptive Advertising Surveys: Law, Science, and Design, 201-239. American Bar Association	2012		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0738	Toubia, O., Hauser, J.R. and Simester, D.I., 2004. "Polyhedral Methods for Adaptive Choice-Based Conjoint Analysis." Journal of Marketing Research, 41(1), 116-131	Feb-04		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0739	Toubia, O., Hauser, J.R. and Garcia, R., 2007. "Probabilistic Polyhedral Methods for Adaptive Choice-Based Conjoint Analysis: Theory and Application." Marketing Science, 26(5), 596-610	Sep-06		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0740	Keller, K., and Swaminathan, V. Strategic Brand Management, 5th Edition, Pearson Education, 2020	2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0741	Frederick, S. et al. 2009. "Opportunity Cost Neglect." Journal of Consumer Research, 36(4), 553-561	4/22/2009		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0742	Tourangeau, R., Rips, L.J. and Rasinski, K., 2010. "The Psychology of Survey Response." Cambridge University Press.	2000		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0743	Wang, J. et al, 2010. "Trade-offs and Depletion in Choice." Journal of Marketing Research, 47(5), 910-919.	Oct-10		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0744	Sawyer, A.G., 1975. "Demand Artifacts in Laboratory Experiments in Consumer Research." Journal of Consumer Research, 1(4), 20-30	Mar-75		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0745	Lavrakas, P., 2008. "Self-Selection Bias." Sage ResearchMethods	2008		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0746	Toubia, O., Simester, D.J., Hauser, J.R. and Dahan, E., 2003. "Fast Polyhedral Adaptive Conjoint Estimation." Marketing Science, 22(3), 273-303	2003		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0747	Novemsky, N. et al, 2007. "Preference Fluency in Choice." Journal of Marketing Research, 44(3), 347-356	Aug-07		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0748	Paas, L.J. and Morren, M., 2018. "Please do not answer if you are reading this: respondent inattention in online panels." Marketing Letters, 29, 13-21	2/1/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0749	Shadish, W.R., Cook, T.D. and Campbell, D.T., 2002. "Experimental and Quasi-Experimental Designs for Generalized Causal Inference." Wadsworth Cengage Learning	2002		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0750	Yee, M., Dahan, E., Hauser, J.R. and Orlin, J., 2007. "Greedoid-Based Noncompensatory Inference." Marketing Science, 26(4), 532-549.	2007		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0751	Ding, M. et al., 2011. "Unstructured Direct Elicitation of Decision Rules." Journal of Marketing Research, 48(1), 116-127	Feb-11		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0752	Baskin, E. et al., 2016. "Proximity of Snacks to Beverages Increases Food Consumption in the Workplace: A Field Study." Appetite, 103, 244-248.	4/23/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0753	Chakravarti, A. and Janiszewski, C., 2003. "The Influence of Macro-Level Motives on Consideration Set Composition in Novel Purchase Situations." Journal of Consumer Research, 30(2), 244-258	Jun-03		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0754	Payne, Stanley L., 1951, "The Art of Asking Questions." Princeton University Press	1951		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0755	Morren, M. and Paas, L., 2020. "Short and Long Instructional Manipulation Checks: What Do They Measure?" International Journal of Public Opinion Research, 32(4)	2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0756	Oppenheimer, D., Meyvis, T. and Davidenko, N., 2009. "Instructional Manipulation Checks: Detecting Satisficing to Increase Statistical Power." Journal of Experimental Social Psychology, 45(4), 867-872	4/5/2009		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0757	Struminskaya, B., Weyandt, K. and Bosnjak, M., 2015. "The Effects of Questionnaire Completion Using Mobile Devices on Data Quality. Evidence from a Probability-based General Population Panel." GESIS - Leibniz Institute for the Social Sciences	2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0758	Payne, J., 1976. "Task Complexity and Contingent Processing in Decision Making: An Information Search and Protocol Analysis." Organizational Behavior and Human Performance, 16(2), 366-387	1976		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0759	Briks, D., et. al., 2011. "Shifting Boundaries of Research." Sixth ASC International Conference, University of Bristol, UK	Sep-11		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0760	Pochepstova, A. and Novemsky, N., 2010. "When Do Incidental Mood Effects Last? Lay Beliefs versus Actual Effects." Journal of Consumer Research, 36(6), 992-1001	Apr-10		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0761	Dahan, E. and Hauser, J.R., 2002. "The Virtual Customer," Journal of Product Innovation Management, 19(5), 332-353	2002		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0762	Krosnick, J.A. and Presser, S., 2009. "Question and Questionnaire Design." In Handbook of Survey Research. Elsevier	2009		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0763	Wilson, A. and Smith, L., 2016. "Source Amnesia (working paper)," available at https://economics.harvard.edu/files/economics/files/wilson_spring_2016.pdf	2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0764	Declaration of Rebecca Kirk Fair, In the Matter of: Intuit Inc., a corporation, No. 9408, United States of America Before the Federal Trade Commission, August 30, 2022	8/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0765		9/2/2019	RX 0765-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0765-A		9/2/2019	RX 0765	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1618-1619, 1621-1622		Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0766	"Panel Book," Dynata, available at https://www.dynata.com/panel-book-form/?cid=7D84CE0F-D852-EC11-8C62-000D3A9DE12E&cid=7D84CE0F-D852-EC11-8C62-000D3A9DE12E&utm_source=google&utm_medium=cpc&utm_campaign=panel_book&utm_content=ad_panel_book&gclid=EAlaIqobChMIk6qcInV9IVF_r1Ch1FFg37EAAAYASABEgIaCfD_BwE	2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0767	"The Paul D. Converse Awards," American Marketing Association, available at https://www.ama.org/listings/2019/10/28/converse-award/	10/28/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0768	Rosenberg, E., "TurboTax review: Not the cheapest online tax software, but good for complex situations," Business Insider, March 24, 2022, available at https://www.businessinsider.com/personalfinance/turbotax-review	3/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0769	"H&R Block Free Online vs. TurboTax Free Edition: Get More FREE with Block," H&R Block, available at https://www.hrblock.com/tax-center/around-block/offers/hrblock-free-vs-turbotax-free/	4/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0770	"The 2021 Tax Deadline Extension: Everything You Need to Know," TurboTax, January 21, 2022, available at https://turbotax.intuit.com/tax-tips/general/the-2020-tax-deadline-extension-everything-you-need-to-know/L8Ph4VncI	1/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0771	Patel, K., "Tax Preparation Services in the US," IBISWorld, August 2019, available at https://www.gsa.gov/cdnstatic/54121D%20Tax%20Preparation%20Services%20in%20the%20US%20Industry%20Report.pdf	Aug-19		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0772	Farrell, D., Greig, F. and Hamoudi, A., "Filing Taxes Early, Getting Healthcare Late," JPMorgan Chase & Co., April 2018, available at https://www.jpmsganchase.com/institute/research/healthcare/insight-filing-taxes-early#finding-1	Apr-18		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0773	Orem, T., "TurboTax Review 2021," Nerdwallet, March 15, 2021, available at https://web.archive.org/web/20210403145347/https://www.nerdwallet.com/article/taxes/turbotax-review/	3/15/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0774	"Buck Weaver Award," INFORMS, available at https://www.informs.org/Recognizing-Excellence/Community-Prizes/Marketing-Science-Society/Buck-Weaver-Award/Buck-Weaver-Award-Application-Process	4/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0775	Ward, C., "TurboTax Review In-Depth: Does Free Really Mean Free?" Listen Money Matters, available at https://www.listenmoneymatters.com/turbo-tax-review/			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0776	Febert, A., "About Listen Money Matters," Listen Money Matters, available at https://www.listenmoneymatters.com/about/	4/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0777	Sandler, R., "FTC Probes Intuit Over Suspicions It Diverted TurboTax Users From Free Filing," Forbes, September 8, 2020, available at https://www.forbes.com/sites/rachelsandler/2020/09/08/ftc-probes-intuit-over-suspicions-it-diverted-turbotax-users-from-free-filing/?sh=2f7d48bec265a	9/8/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0778	"TurboTax Deluxe Reviews," Intuit TurboTax, available at https://turbotax.intuit.com/reviews/online/deluxe/?Sort=Rating;desc,SubmissionTime;desc,Helpfulness;desc	4/3/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0779	Orem, T., "TurboTax Review 2019." Nerdwallet, January 25, 2019, available at https://web.archive.org/web/2019072074738/https://www.nerdwallet.com/blog/taxes/turbotax-review/	1/25/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0780	Reimann, C., "Conducting an Online Survey? How to Make Sure You Don't Get Bad Data," KS&R, available at http://www.ksrinc.com/thought-leadership/pdf/KSR_Online_Data_Integrity.pdf	2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0781	Presentation entitled "Investor Day 2020," dated September 23, 2020	9/23/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0782	"Three ways to get your taxes done right," Intuit TurboTax, available at https://turbotax.intuit.com/personal-taxes/online/	4/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0783	Baluch, A., Van Bloom, C. and Rosenberg, E., "TurboTax Tax Software Review," U.S. News & World Report, February 2, 2022, available at https://www.usnews.com/360-reviews/technology/taxsoftware/turbotax	2/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0784	"QuickFacts United States," United States Census Bureau, available at https://www.census.gov/quickfacts/fact/table/US#			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0785	Lampe, D., "Two from Sloan win marketing awards," MIT News, April 3, 1996, available at https://news.mit.edu/1996/converse-0403	4/3/1996		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0786	"Charles Coolidge Parlin Marketing Research Award," American Marketing Association, available at https://www.ama.org/charles-coolidge-parlin-marketing-research-award/	4/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0787	Orem, T., "TurboTax Review 2020," Nerdwallet, April 7, 2020, available at https://web.archive.org/web/20200610162627/https://www.nerdwallet.com/blog/taxes/turbotax-review/	4/7/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0788	Elliot, J., "The FTC Is Investigating Intuit Over TurboTax Practices," ProPublica, September 8, 2020, available at https://www.propublica.org/article/the-ftc-is-investigating-intuit-over-turbotax-practices	9/8/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0789	"Tax Day for individuals extended to May 17: Treasury, IRS extend filing and payment deadline," IRS, March 17, 2021, available at https://www.irs.gov/newsroom/tax-day-for-individuals-extended-to-may-17-treasury-irs-extend-filing-and-payment-deadline	3/17/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0790	Orem, T., "TurboTax Review 2018," Nerdwallet, January 26, 2018, available at https://web.archive.org/web/20180925035640/https://www.nerdwallet.com/blog/taxes/turbotax-review/	1/26/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0791	"Who We Are," Schlesinger Group, available at https://www.schlesingergroup.com/en/company/who-we-are/	4/3/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0792	Presentation entitled "TurboTax.com Learnings from 1:1 Interviews in the Lab," dated October 22, 2015	10/22/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0793	Presentation entitled "TurboTax Competitive NPS Study TY17," dated February 6, 2019	2/6/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0794	Presentation entitled "FREE Consumer Insights," dated May 5, 2019	5/5/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0795		5/14/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0796	Presentation entitled "TurboTax Online Competitive NPS TY18 2019 Study," dated July 19, 2019	7/19/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0797	Lee, B., "2022 Step by Step EASY TurboTax Tutorial: How To File Your Own Taxes This Year!," available at https://www.youtube.com/watch?v=WwyDmU7iaSQ	1/26/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0798	"File Online Free," H&R Block, February 14, 2022, available at https://www.youtube.com/watch?v=EnzdfD0bc4	2/14/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0799	Complaint for a Temporary Restraining Order and Preliminary Injunctive Relief Pursuant to Section 13(b) of the Federal Trade Commission Act, 15 U.S.C. § 53(b)," Federal Trade Commission v. Intuit Inc., No. 3:22-cv-1973-CRB, United States District Court Northern District of California San Jose Division	3/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0800	"Brand Page Sprint," <i>Comparably</i> , available at https://www.comparably.com/brands/sprint	7/20/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0801	Batra, R., and Keller, K.L., "Integrating Marketing Communications: New Findings, New Lessons, and New Ideas," <i>Journal of Marketing</i> , Vol. 80, No. 6, November 2016, pp. 122-145, at pp. 125-126.	Nov-16		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0802	"Spotify is testing a less restrictive ad-supported tier costing \$.99 a month," <i>The Verge</i> , available at https://www.theverge.com/2021/8/3/22607203/spotify-plus-ad-supported-tier-unlimited-skips-on-demandlistening	8/3/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0803	Presentation entitled "Consumer Group," dated December 3, 2018	12/3/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0804		5/8/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0805	Document entitled "FY14 GTM Plan Final," dated August 6, 2014	8/6/2014		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0806	Email from E. Smith re: 1099-MISC required upgrade A/B test 1130 kick-off, dated November 12, 2015	11/12/2015	GX 47	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0807	Presentation entitled "TY18 CG Portfolio Business Review," dated August 12, 2019	8/12/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0808	Document entitled "FY18 Go-To-Market White Paper"	Oct-17		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0809		3/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0810		7/8/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0811		5/6/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0812		5/20/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0813	Screenshot of TurboTax Upgrade Screen Recommending an Upgrade to Deluxe		RX 0813-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	679			
RX 0813-A	Screenshot of TurboTax Upgrade Screen Recommending an Upgrade to Deluxe	4/3/2023	RX 0813	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	679-682			
RX 0814	Document entitled "TurboTax Business Model Reinvention and 3-Year Growth Strategy," dated August 31, 2021	8/31/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	591-593, 633-646		Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0815			GX 435	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0816	Spreadsheet of TY21 Bazaarvoice Customer Reviews Data		GX 475	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1415, 1419-1422, 1466-1467			
RX 0817				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0818				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0819				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX Summary 06	Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0820				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX Summary 09; RX Summary 11; RX Summary 12; RX Summary 13	Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0821				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX Summary 04; RX Summary 05; RX Summary 06; RX Summary 09; RX Summary 10; RX Summary 11; RX Summary 12; RX Summary 13	Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0822				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX Summary 09; RX Summary 11; RX Summary 12; RX Summary 13	Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0823				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX Summary 06; RX Summary 09; RX Summary 10; RX Summary 11; RX Summary 12; RX Summary 13	Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0824	Disclosure Efficacy Survey Data			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0825				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 0827	Becker, Jan U., Martin Spann, and Christian Barrot, "Impact of Proactive Post-sales Service and Cross-Selling Activities on Customer Churn and Service Calls," Journal of Service Research, Vol. 23, No. 1, 2020, pp. 53-69	2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0828	Brickley, James A., Clifford W. Smith Jr., and Jerold L. Zimmerman, "Business Ethics and Organizational Architecture," Journal of Banking & Finance, Vol. 26, 2002, pp. 1821-1835	2002		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0829	Carlton, Dennis W., and Jeffrey M. Perloff, Modern Industrial Organization 4th Ed., Harlow, England, Pearson Education Limited, 2015	2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0830	Chiles, Bennett, "Shrouded Prices and Firm Reputation: Evidence from the U.S. Hotel Industry," Management Science, 2020, pp. 1-20	2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0831	Dufllo, Esther, William Gale, Jeffrey Liebman, et al., "Saving Incentives for Low- and Middle-Income Families: Evidence from a Field Experiment With H&R Block," The Quarterly Journal of Economics, Vol. 121, No. 4, November 2006, pp. 1311-1346	Nov-06		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0832	Frecknall-Hughes, Jane, and Erich Kirchner, "Towards a General Theory of Tax Practice," Social & Legal Studies, Vol. 24, No. 2, 2015, pp. 289-312	2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0833	Goldin, Jacob, "Tax Benefit Complexity and Take-Up: Lessons from the Earned Income Tax Credit," Tax Law Review, Vol. 72, 2018, pp. 59-110	2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0834	Gunter, Samara R., "Your Biggest Refund, Guaranteed? Internet Access, Tax Filing Method, and Reported Tax Liability," International Tax and Public Finance, Vol. 26, No. 3, June 2019, pp. 536-570	Jun-19		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0835	Horner, Johannes, "Reputation and Competition," The American Economic Review, Vol. 92, No. 3, June 2002, pp. 644-663	Jun-02		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0836	Klein, Benjamin, and Keith B. Lefrier, "The Role of Market Forces in Assuring Contractual Performance," Journal of Political Economy, Vol. 89, No. 4, August 1981, pp. 615-641	Aug-81		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0837	Klemperer, Paul, "The Competitiveness of Markets With Switching Costs," Rand Journal of Economics, Vol. 18, No. 1, 1987, pp. 138-150	1987		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0838	Koller, Tim, Marc Goedhart, and David Wessels, Valuation: Measuring and Managing the Value of Companies Seventh Ed., Hoboken, New Jersey, Wiley, 2020	2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0839	Kopczuk, Wojciech, and Cristian Pop-Eleches, "Electronic Filing, Tax Preparers and Participation in the Earned Income Tax Credit," Journal of Public Economics, Vol. 91, 2007, pp. 1351-1367	2007		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0840	Maliath, George J., and Larry Samuelson, "Reputations in Repeated Games," Handbook of Game Theory with Economic Applications, Vol. 4, August 11, 2013, pp. 165-238	8/11/2013		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0841	Osborne, Martin J., and Ariel Rubinstein, A Course in Game Theory, Cambridge, Massachusetts, The MIT Press, 1994	1994		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0842	Stiglitz, Joseph E., "Imperfect Information in the Product Market," Handbook of Industrial Organization, Vol. 1, edited by Schmalensee, Richard and Robert D. Willig, North Holland, 1989	1989		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0843	Yang, Zhilin, and Robin T. Peterson, "Customer Perceived Value, Satisfaction, and Loyalty: The Role of Switching Costs," Psychology & Marketing, Vol. 21, No. 10, October 2004, pp. 799-822	Oct-04		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0844	Acevedo, Sophia, "Cash App Taxes review: Free, simple tax prep for a variety of situations," Business Insider, January 11, 2022, https://www.businessinsider.com/personal-finance/cash-app-taxes-review , last accessed November 3, 2022	1/11/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0845	Benson, Alana, and Tina Orem, "TaxSlayer Review 2022," NerdWallet, March 7, 2022, https://www.nerdwallet.com/article/taxes/taxslayer-review , last accessed November 3, 2022	3/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0846	Benson, Alana, et al., "Best Tax Software for 2022," NerdWallet, March 28, 2022, https://www.nerdwallet.com/article/taxes/best-tax-software , last accessed December 14, 2022.	3/28/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0847	Block, "Square, Inc. Changes Name to Block," December 1, 2021, https://squareup.com/us/en/press/square-changes-name-to-block , last accessed October 11, 2022	12/1/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0848	Block, H&R, "H&R Block Online Premium Federal Forms," https://www.hrblock.com/pdf/HRB-Online-Fed-Forms/premium.pdf	12/1/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0849	Block, H&R, "H&R Block Online Self-Employed Federal Forms," https://web.archive.org/web/20211203002531/https://www.hrblock.com/pdf/HRB-Online-Fed-Forms/self-employed.pdf , last accessed January 6, 2023	12/3/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0850	Block, Inc., "Form 10-K for the fiscal year ended December 31, 2021," February 24, 2022, https://d18rn0p25nwr6d.cloudfront.net/CIK-0001512673/13386837-50ba-466f-b8ff-81824f066c1e.pdf , last accessed October 20, 2022	2/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0851	Block, Inc., "Form 10-Q for the quarterly period ended June 30, 2022," August 4, 2022	8/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0852	Block, Inc., "Form 8-K," February 24, 2022, https://d18rn0p25nwr6d.cloudfront.net/CIK-0001512673/0f73afbc-595a-418b-a74c-c7230c9a460.pdf , last accessed November 8, 2022	2/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0853	Butler, Peter, "Cash App Taxes Review 2022: Online Tax Software With No Fees Ever," CNET, April 16, 2022, https://www.cnet.com/personal-finance/taxes/cash-app-taxes-review-2022-online-tax-software-with-no-fees-ever/ , last accessed July 25, 2022	4/16/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0854	Cash App Taxes, "Audit Defense when you file with Cash App Taxes," February 2, 2022, https://taxeshelp.cash.app/s/article/Audit-Defense-when-you-file-with-Cash-App-Taxes , last accessed November 3, 2022	2/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0855	Cash App Taxes, "Cash App Taxes - 100% Free Tax Filing for Federal & State," https://cash.app/taxes , last accessed July 29, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0856	Cash App Taxes, "Credit Karma Tax is now Cash App Taxes," November 17, 2021, https://taxeshelp.cash.app/s/article/Cash-App-Taxes , last accessed November 3, 2022	11/17/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0857	Cash App Taxes, "Forms and Situations Cash App Taxes Does Not Support," February 18, 2022, https://taxeshelp.cash.app/s/article/Forms-and-situations-Cash-App-Taxes-does-not-support , last accessed August 10, 2022	2/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0858	Cash App Taxes, "How do I file an amended federal return? Form 1040X," March 24, 2022, https://taxeshelp.cash.app/s/article/How-to-file-an-amended-federal-return-Form-1040X , last accessed November 3, 2022	3/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0859	Cash App Taxes, "How to import last year's tax return into Cash App Taxes," https://taxeshelp.cash.app/s/article/How-to-import-last-year-s-tax-return-into-Cash-App-Taxes/ , last accessed September 26, 2022	9/26/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0860	Cash App Taxes, "Need some help?," https://taxeshelp.cash.app/s/ , last accessed January 5, 2023	1/5/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0861	Cash App, "\$1 Million Tax-Audit Defense Membership Program Agreement," https://taxprotectionplus.com/sites/default/files_xvdb/TPP.CashApp.Taxes_Membership.Agreement.TY2021.pdf			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0862	Cash App, "5 things you should know about filing state income taxes," March 22, 2022, https://taxeshelp.cash.app/s/article/5-things-you-should-know-about-filing-state-income-taxes , last accessed November 4, 2022	3/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0863	Cash App, "About our Accurate Calculations Guarantee," https://taxeshelp.cash.app/s/article/About-our-Accurate-Calculations-Guarantee , last accessed November 3, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0864	Cash App, "About our Maximum Refund Guarantee," January 5, 2022, https://taxeshelp.cash.app/s/article/About-our-Maximum-Refund-Guarantee , last accessed November 3, 2022	1/5/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0865	Cash App, "Cash App Terms of Service," November 14, 2022, https://cash.app/legal/us/en-us/tos , last accessed November 21, 2022	11/14/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0866	Cash App, "Get your taxes done in minutes from your computer," https://api.taxes.cash.app/auth , last accessed October 11, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0867	Cash App, "Getting started with Cash App Taxes," October 18, 2021, https://taxeshelp.cash.app/s/article/Getting-started-with-Cash-App-Taxes , last accessed October 18, 2022	10/18/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0868	Cash App, "What are your security practices?," October 18, 2021, https://taxeshelp.cash.app/s/article/What-are-your-security-practices , last accessed November 3, 2022	10/18/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0869	Cash App, "What forms and situations does Cash App Taxes support?," June 30, 2022, https://taxeshelp.cash.app/s/article/What-forms-and-situations-does-Cash-App-Taxes-support , last accessed October 26, 2022	6/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0870	Cash App, "What is Cash for Business?," https://cash.app/help/us/en-us/6502-what-is-cash-for-business , last accessed November 21, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0871	Chang, Ellen, "Hackers Are Targeting Taxpayers. Here's How to Protect Your Data," TheStreet, April 5, 2022, https://www.thestreet.com/technology/cybersecurity/hackers-are-targeting-taxpayers-heres-how-to-protect-your-data , last accessed July 7, 2022	4/5/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0872	Cook, Dan, Tax Preparation Software Developers, IBISWorld, September 2020	Sep-20		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0873	Corporation, The MITRE, "Corporate Overview," https://www.mitre.org/about/corporate-overview , last accessed July 25, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0874	Corporation, The MITRE, "Independent Assessment of the Free File Program. Appendix A: The Economics of IRS Free File," September 13, 2019, https://www.irs.gov/pub/newsroom/02-appendix-a-economics-of-irs-free-file.pdf	9/13/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0875	Credit Karma, "Credit Karma Tax Takes on the Industry, Expands Its Always-Free Premium Tax Product," https://www.creditkarma.com/about/releases/credit-karma-tax-takes-on-the-industry-expands-its-always-free-premium-tax-product , last accessed September 23, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0876	Cruz-Martinez, Gabriella, et al., "10 Best Tax Software of 2022," Money, March 25, 2022, https://money.com/best-tax-prep-software/ , last accessed July 26, 2022	3/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0877	DAC Group, "TaxSlayer - Digital Marketing Case Study," https://www.dacgroup.com/work/taxslayer/ , last accessed July 22, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0878	Department of Justice Office of Public Affairs, "Justice Department Continues Efforts to Stop Fraudulent Tax Preparers," April 6, 2022, https://justice.gov/opa/pr/justice-department-continues-efforts-stop-fraudulent-tax-preparers	4/6/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0879	Eyre, Kohler and, "Engagement Letter for Personal Tax Return Preparation," 2019, https://kohlereyrecpas.com/wp-content/uploads/2020/01/2019PersonalEngagement.pdf , last accessed September 28, 2022	2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0880	Farrington, Robert, "TaxSlayer Review 2022," The College Investor, June 29, 2022, https://thecollegeinvestor.com/20925/taxslayer-review/ , last accessed October 27, 2022	6/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0881	Fowler, Geoffrey A., "When Tax Prep Is Free, You May Be Paying With Your Privacy," The Washington Post, March 7, 2019, https://www.washingtonpost.com/technology/2019/03/07/when-tax-prep-is-free-you-may-be-paying-with-your-privacy/ , last accessed September 23, 2022	3/7/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0882	FreeTaxUSA, "Can I file just a state return?," https://www.freetaxusa.com/help/display_faq.jsp?fileing-state-return-only&faq_id=1725 , last accessed November 22, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0883	FreeTaxUSA, "State Availability and E-file Support," https://www.freetaxusa.com/states/ , last accessed October 13, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0884	FreeTaxUSA, "Where do I enter cryptocurrency held for investment?," https://www.freetaxusa.com/help/display_faq.jsp?faq_id=8535 , last accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0885	Google Play, "TaxSlayer: File your taxes," https://play.google.com/store/apps/details?id=com.taxslayerRFC&hl=en_US&gl=US , last accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0886	H&R Block, "Does H&R Block Online Support Nonresident or Part-Year Resident State Taxes?," https://www.hrblock.com/tax-center/support/online/online-tax-filing/prepare-to-file-taxes-online/non-resident-part-year-taxes/ , last accessed November 4, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0887	H&R Block, "File an Amended Return Online with H&R Block," https://www.hrblock.com/tax-center/support/online/online-tax-filing/after-filing-online-return/amend-tax-return/ , last accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0888	H&R Block, "File online," https://www.hrblock.com/online-tax-filing/free-online-tax-filing/ , last accessed October 12, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0889	H&R Block, "File online. Basic Online Assist," https://www.hrblock.com/online-tax-filing/basic-online-assist-tax-filing/# , last accessed November 4, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0890	H&R Block, "File online. Premium Online Assist," https://web.archive.org/web/20220524121833/https://www.hrblock.com/online-tax-filing/premium-online-assist-tax-filing/ , last accessed January 5, 2023	5/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0891	H&R Block, "File the way you want with our tax software," https://www.hrblock.com/tax-software/ , last accessed October 11, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0892	H&R Block, "H&R Block accuracy of tax return calculations," https://www.hrblock.com/online-tax-filing/guarantees/accuracy-of-calculations/ , last accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0894	H&R Block, "H&R Block Online Deluxe Federal Forms," https://www.hrblock.com/pdf/HRB-Online-Fed-Forms/deluxe.pdf			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0895	H&R Block, "H&R Block Online Free Federal Forms," https://www.hrblock.com/pdf/HRB-Online-Fed-Forms/free.pdf			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0896	H&R Block, "H&R Block Tax Identity Shield® helps protect tax identities," December 14, 2018, https://investors.hrblock.com/news-releases/news-release-details/hr-block-tax-identity-shield-helps-protect-tax-identities , last accessed October 27, 2022	12/14/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0897	H&R Block, "How Do I Import Last Year's Return Into My H&R Block Tax Software?," https://www.hrblock.com/tax-center/support/software/software-tax-filing/while-filing-software-return/importing-last-years-return/ , last accessed July 22, 2022	7/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0898	H&R Block, "Investor Meetings," July 20, 2018, https://investors.hrblock.com/static-files/5a9ff1ec-7f19-4ffe-bddc-137a4f99d4ae , last accessed July 22, 2022	7/20/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0899	H&R Block, "It's Easy to Switch from TurboTax to H&R Block," March 4, 2022, https://www.youtube.com/watch?v=vxuzp8cRdGE , last accessed September 23, 2022	3/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0900	H&R Block, "Put Block in your pocket with our tax filing apps," https://www.hrblock.com/mobile-apps/ , last accessed October 12, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0901	H&R Block, "Refund Advance," https://www.hrblock.com/offers/refund-advance/ , last accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408
Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0902	H&R Block, "Tax Identity Shield® Terms & Conditions," https://www.hrblock.com/tax-offices/product-services/pdf/tax-identity-shield-terms.pdf			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0903	H&R Block, "When filing online, expert help is here," https://www.hrblock.com/online-assist/ , last accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0904	H&R Block, "Your security is our priority," https://www.hrblock.com/data-security/ , last accessed October 13, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0905	H&R Block, Inc., "Form 10-K for the fiscal year ended April 30, 2021," June 15, 2021, https://investors.hrblock.com/static-files/2ef10c77-8b79-4cfa-bd06-0cb9c86cdb96	6/15/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0906	Hawthorne & Company, "Billing Information," January 6, 2021, https://hawthorne-cpa.com/wp-content/uploads/2021/02/2020-Billing-Information.pdf , last accessed December 22, 2022	1/6/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0907	Healey, Will, "TaxHawk Review: Find Out if This Tax Software Files Above Its Peers," Yahoo!, March 18, 2021, https://www.yahoo.com/now/taxhawk-review-tax-software-files-160009993.html?guce_referrer=aHR0cHM6Ly93d3cuZm92Z2x1LnNvbS8&guce_referrer_sig=AQAAACsALEWRNlK_Xt8Eozey4rYCO75DoUrF3BJHD28-hUvd5qt9Q_ePvriZwah0V6X3jikk-eFHAfVdKwXgUuRlCXNiu0o16bD9sN7mROK56fKunduzmw89fkFPzBvMSXW8nOCUUEjR58uHAbi2_nzuQYXaMmKiYgUpGnEnw&guccounter=2 , last accessed January 5, 2023	3/18/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0908	Helling, Brett, "Uber TurboTax: Partnership, Discount, & More," Ridester, February 22, 2022, https://www.ridester.com/uber-turbotax/ , last accessed July 27, 2022	2/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0909	Hood, Daniel, "Intuit Launches Assisted Tax Prep," Accounting Today, December 2, 2022, https://www.accountingtoday.com/news/intuit-launches-assisted-tax-prep , last accessed July 28, 2022	12/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0910	Internal Revenue Service, "2022 tax filing season begins Jan. 24; IRS outlines refund timing and what to expect in advance of April 18 tax deadline," January 10, 2022, https://www.irs.gov/newsroom/2022-tax-filing-season-begins-jan-24-irs-outlines-refund-timing-and-what-to-expect-in-advance-of-april-18-tax-deadline , last accessed September 29, 2022	1/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0911	Internal Revenue Service, "Authorized IRS E-file Provider Locator Service for Tax Professionals," November 17, 2021, https://www.irs.gov/e-file-providers/authorized-irs-e-file-provider-locator-service-for-tax-professionals , last accessed July 22, 2022.	11/17/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0912	Internal Revenue Service, "Credits and Deductions," https://www.irs.gov/credits-and-deductions , last accessed November 16, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0913	Internal Revenue Service, "IRS Free File Online Options," https://apps.irs.gov/app/freefile , last accessed September 23, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0914	Internal Revenue Service, "IRS Free File Online: Browse All Offers," https://apps.irs.gov/app/freefile/browse-all-offers/ , last accessed September 23, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0915	Internal Revenue Service, "IRS Releases the 'Dirty Dozen' Tax Scams for 2014: Identity Theft, Phone Scams Lead List," February 19, 2014, https://www.irs.gov/newsroom/irs-releases-the-dirty-dozen-tax-scams-for-2014-identity-theft-phone-scams-lead-list , last accessed July 7, 2022.	2/19/2014		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0916	Internal Revenue Service, "PTIN Requirements for Tax Return Preparers," https://www.irs.gov/tax-professionals/ptin-requirements-for-tax-return-preparers , last accessed July 22, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0917	Internal Revenue Service, "Publication 501 (2021), Dependents, Standard Deduction, and Filing Information," https://www.irs.gov/publications/p501 , last accessed November 16, 2022.	2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0918	Internal Revenue Service, "Tax Year 2021 1040 Instructions," https://www.irs.gov/pub/irs-pdf/i1040gi.pdf , last accessed July 8, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0919	Internal Revenue Service, "Topic No. 551 Standard Deduction," https://www.irs.gov/taxtopics/tc551 , last accessed November 28, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0920	Intuit Inc., "Form 10-K for the fiscal year ended July 31, 2020," August 31, 2020, https://d18rn0p25mwrfd.cloudfront.net/CIK-0000896878/476c5038-90d1-40f4-b916-ed16fb6c3311.pdf	8/31/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0921	Intuit Inc., "Form 10-K for the fiscal year ended July 31, 2021," September 8, 2021, https://s23-q4cdn.com/935127502/files/doc_financials/2021/ar/72fb2688-540b-4d4a-abe6-e3c5c3a0683.pdf	9/8/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0922	Intuit Inc. "Form 10-K for the fiscal year ended July 31, 2022," September 2, 2022, https://d18rn0p25nwr6d.cloudfront.net/CIK-0000896878/e04ed275-64f6-4662-a383-a1e01829677b.pdf	9/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0923	Presentation entitled "Investor Day 2021"	Sep-21		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0924-A	Presentation entitled "Investor Day 2022," dated September 28, 2022	9/28/2022	RX 0924-B, RX 0924-C	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0924-B	Presentation entitled "Investor Day 2022," dated September 28, 2022	9/28/2022	RX 0924-A, RX 0924-C	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1299-1300			
RX 0924-C	Presentation entitled "Investor Day 2022," dated September 28, 2022	9/28/2022	RX 0924-A, RX 0924-B	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0925	Intuit, "Common Questions for Doing Your Online Taxes With TurboTax - How Does TurboTax Work?," https://turbotax.intuit.com/best-tax-software/common-questions/ , last accessed June 20, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0926	Intuit, "Common Questions for Doing Your Online Taxes With TurboTax - What's the Difference Between TurboTax Online and TurboTax CD/Download?," https://turbotax.intuit.com/best-tax-software/common-questions/ , last accessed July 26, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0927	Intuit, "File Your Simple Tax Return for \$0 Any Way – Even When Handing it off to a TurboTax Live Tax Expert.," July 27, 2022, https://blog.turbotax.intuit.com/turbotax-news/file-your-simple-tax-return-for-0-any-way-even-when-handing-it-off-to-a-turbotax-live-tax-expert-50635/ , last accessed November 4, 2022	7/27/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0928	Intuit, "Filing Tax Form 1099-INT: Interest Income," January 21, 2022, https://turbotax.intuit.com/tax-tips/investments-and-taxes/filing-tax-form-1099-interest-income/100ym87fq , last accessed September 29, 2022	1/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0929	Intuit, "Get expert advice as you do your taxes with a final review.," https://turbotax.intuit.com/personal-taxes/online/live/ , last accessed October 21, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0930	Intuit, "Getting your maximum refund starts here, choose your product.," https://turbotax.intuit.com/personal-taxes/compare/online/ , last accessed October 11, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408
Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0931	Intuit, "How do I file a part-year state return?" https://ttic.intuit.com/turbotax-support/en-us/help-article/printers-printing/file-part-year-state-return/L8218dCH5_US_en_US , last accessed November 4, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0932	Intuit, "How do I get access to My Docs?," July 12, 2022, https://ttic.intuit.com/turbotax-support/en-us/help-article/small-business-processes/get-access-docs/L8YRou0ad_US_en_US , last accessed December 7, 2022	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0933	Intuit, "How Do I Import My 1099s?," April 15, 2022, https://ttic.intuit.com/turbotax-support/en-us/help-article/import-export-data-files/import-1099s/L2hPcdUmb_US_en_US , last accessed September 29, 2022	4/15/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0934	Intuit, "How Do I Import My Cryptocurrency Transactions Into TurboTax?," https://ttic.intuit.com/turbotax-support/en-us/help-article/cryptocurrency/import-cryptocurrency-transactions-turbotax/L8OPxOa7_US_en_US , last accessed June 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0935	Intuit, "How Do I Save My Return as a PDF in the TurboTax Software for Windows?," January 18, 2022, https://ttic.intuit.com/turbotax-support/en-us/help-article/import-export-data-files/save-return-pdf-turbotax-software-windows/L4kA94zho_US_en_US , last accessed July 22, 2022	1/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0936	Intuit, "How do I transfer last year's return into TurboTax Online?," March 8, 2022, https://ttic.intuit.com/turbotax-support/en-us/help-article/import-export-data-files/transfer-last-year-return-turbotax-online/L279eUvY2_US_en_US , last accessed October 21, 2022	3/8/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0937	Intuit, "How to Correct Federal Tax Returns," https://turbotax.intuit.com/tax-tips/amend-return/how-to-correct-federal-tax-returns/L67t0F7il , last accessed December 12, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0938	Intuit, "Intuit Mint," https://mint.intuit.com/ , last accessed November 22, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0939	Intuit, "Intuit QuickBooks," https://quickbooks.intuit.com/ , last accessed November 22, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0940	Intuit, "Intuit Terms of Service for TurboTax Online Tax Preparation Services," July 2022, https://turbotax.intuit.com/corp/license/online , last accessed November 22, 2022	Jul-22		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0941	Intuit, "IRS Free File Program Delivered By TurboTax is No Longer Available," https://freefile.intuit.com/ , last accessed September 23, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0942	Screenshot of TY21 TurboTax Products & Pricing webpage, dated December 7, 2022	12/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0943	Screenshot of TY21 TurboTax Products & Pricing webpage, dated August 1, 2022	8/1/2022	RX 0943-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0943-A	Screenshot of TY21 TurboTax Products & Pricing webpage, dated August 1, 2022	8/1/2022	RX 0943	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0944	Screenshot of TY22 TurboTax Products & Pricing webpage, dated January 3, 2023	1/3/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0945	Screenshot of TY21 TurboTax Deluxe webpage with Commonly Filed Tax Forms and Schedules, dated July 8, 2022	7/8/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0946	Screenshot of TY21 TurboTax Deluxe webpage, dated October 25, 2022	10/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0947	Screenshot of TY21 TurboTax Free Edition webpage, with Commonly Filed Tax Forms and Schedules, dated July 25, 2022	7/25/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0948	Screenshot of TY21 TurboTax Military Edition webpage, dated July 22, 2022	7/22/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0949	Screenshot of TY21 TurboTax Mobile App webpage, dated July 26, 2022	7/26/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0950	Screenshot of TY22 TurboTax Self-Employed webpage, dated January 3, 2023	1/3/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0951	Intuit, "What Are Tax Schedules?," March 8, 2022, https://turbotax.intuit.com/tax-tips/irs-tax-forms/what-are-tax-schedules/L5KJtHE7 , last accessed July 25, 2022	3/8/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0952	Intuit, "What is IRS Form 1099-DIV: Dividends and Distributions?," January 21, 2022, https://turbotax.intuit.com/tax-tips/investments-and-taxes/what-is-irs-form-1099-div-dividends-and-distributions/L8tW0rCjV , last accessed September 29, 2022	1/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0953	Intuit, "What is MAX?," January 4, 2022, https://ttic.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/max/L0Bc4Ve2L_US_en_US , last accessed July 8, 2022	1/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0954	Intuit, "What is My Docs?," January 19, 2022, https://ttic.intuit.com/turbotax-support/en-us/help-article/small-business-processes/docstm/L0VICWX5G_US_en_US , last accessed October 21, 2022	1/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0955	Intuit, "What is Premium Services?," January 4, 2022, https://ttic.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/premium-services/L3Eq2LUXII_US_en_US , last accessed November 9, 2022	1/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0957	Intuit, "What's included in PLUS Help & Support?," January 4, 2022, https://ttic.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/included-plus-help-support/L9YbRiw0c_US_en_US?uid=63pwp5h , last accessed October 13, 2022	1/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0958	Intuit, "Why TurboTax Free Edition is Free," https://turbotax.intuit.com/best-tax-software/why-its-free/ , last accessed August 10, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0959	Intuit, "Why use TurboTax Free Edition?," https://web.archive.org/web/20221211181628/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp , last accessed January 5, 2023		RX 0959-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0959-A	Intuit, "Why use TurboTax Free Edition?," https://web.archive.org/web/20221211181628/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp , last accessed January 5, 2023		RX 0959	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0960	Intuit, "Why use TurboTax Live Basic?," https://web.archive.org/web/20221009154729/https://turbotax.intuit.com/personal-taxes/online/live/basic.jsp , last accessed January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0961	Intuit, "Why use TurboTax Live Deluxe?," https://web.archive.org/web/20221015024518/https://turbotax.intuit.com/personal-taxes/online/live/deluxe.jsp , last accessed January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0962	Intuit, "Why use TurboTax Live Premier?," https://web.archive.org/web/20221010055634/https://turbotax.intuit.com/personal-taxes/online/live/premier.jsp , last accessed January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0963	Intuit, "Why use TurboTax Live Self-Employed?," https://web.archive.org/web/20221118205338/https://turbotax.intuit.com/personal-taxes/online/live/self-employed.jsp , last accessed January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0964	Johnson, Courtney, and Joe Van Brussel, "Best Tax Software for 2022: Late or Not, TurboTax, H&R Block and More Can Help You File," CNET, May 4, 2022, https://www.cnet.com/personal-finance/taxes/best-tax-software/ , last accessed September 29, 2022	5/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0965	Lee, Ronda, "Taxes 2022: Here's Where to File Your Taxes for Free," Yahoo, March 24, 2022, https://news.yahoo.com/file-your-taxes-for-free-185451806.html , last accessed September 23, 2022	3/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0966	Lieb, Cody & Company, "Fees," January 1, 2022, https://www.liebody.com/fees , last accessed September 28, 2022	1/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0967	LinkedIn, "Cathy Goode," https://www.linkedin.com/in/cathy-goode-7a27296 , last accessed January 4, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0968	Lyft, "Taxes: How to File and Save as a Lyft Driver," October 19, 2021, https://web.archive.org/web/202211019065029/lyft.com/driver/taxes , last accessed March 14, 2022	10/19/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0969	Martucci, Brian, "Cash App Taxes Review - Prepare and File Your Taxes Online 100% Free," MoneyCrashers, August 9, 2022, https://www.moneycrashers.com/cash-app-taxes-review/ , last accessed November 3, 2022	8/9/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0970	Martucci, Brian, "FreeTaxUSA Review 2022 - Free Tax Filing and Online Return Preparation," MoneyCrashers, February 14, 2022, https://www.moneycrashers.com/freetaxusa-review/ , last accessed September 26, 2022	2/14/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0971	Orem, Tina, "IRS Free File & How to Get Free Tax Preparation or Free Tax Help in 2022," Nerdwallet, March 1, 2022, https://www.nerdwallet.com/article/taxes/irs-free-file-tax-preparation-help , last accessed September 23, 2022	3/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0972	Orem, Tina, "Tax Filing 2022: What to Know About How to File Taxes This Year," Nerdwallet, March 3, 2022, https://www.nerdwallet.com/article/taxes/tax-filing , last accessed July 26, 2022	3/3/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0973	Panys, Sabrina, and Tina Orem, "TurboTax Review 2022," Nerdwallet, March 3, 2022, https://www.nerdwallet.com/article/taxes/turbotax-review , last accessed July 22, 2022	3/3/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0974	Patel, Kush, Tax Preparation Services in the US, IBISWorld, August 2019, https://www.ibisworld.com/statistics/54121D%20Tax%20Preparation%20Services%20in%20the%20US%20Industry%20Report.pdf	Aug-19		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0975	Patterson, Jodi, et al., Understanding Taxpayer Motivation for Filing Method Selection to Improve Customer Service, MITRE, January 2022	Jan-22		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0976	Pinola, Melanie, "The Best Online Tax Filing Software," Wirecutter, April 18, 2022, https://www.nytimes.com/wirecutter/reviews/best-tax-software/ , last accessed July 29, 2022	4/18/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0977	Rounds, Hannah, "Cash App Taxes Review 2022 (Formerly Credit Karma Tax)," The College Investor, June 29, 2022, https://thecollegeinvestor.com/39045/cash-app-taxes-review/ , last accessed October 20, 2022	6/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0978	Rounds, Hannah, "H&R Block 2022 Online Tax Prep Review," The College Investor, June 29, 2022, https://thecollegeinvestor.com/20777/hr-block-online-review/ , last accessed September 28, 2022	6/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0979	Rounds, Hannah, "TaxHawk 2022 Review," The College Investor, January 10, 2022, https://thecollegeinvestor.com/20857/taxhawk-review/ , last accessed November 4, 2022	1/10/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0980	Rounds, Hannah, "The Best Tax Software 2022: What's The Best Tax Program For Me?," The College Investor, June 29, 2022, https://thecollegeinvestor.com/21156/the-best-tax-software/ , last accessed December 14, 2022	7/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0981	ScamRisk, "FreeTaxUSA Review," https://www.scamrisk.com/freetaxusa/ , last accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0982	Square, "Cash App Announces Definitive Agreement to Acquire Credit Karma Tax," November 25, 2020, https://squareup.com/us/en/press/credit-karma-tax , last accessed October 20, 2022	11/25/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0983	Steward Ingram & Cooper PLLC, "TurboTax Vs. A CPA – Why You Should Consider Hiring an Accountant," October 14, 2020, https://stewardingram.com/turbotax-vs-cpa/ , last accessed July 25, 2022	10/14/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0984	TaxAct, "Expert tax advice on all returns for \$01," https://www.taxact.com/?version=091522&idref=non , last accessed October 20, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0985	TaxAct, "Form 1041 - Amending," https://www.taxact.com/support/24691/2021/form-1041-amending?hideLayout=False , last accessed January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0986	TaxAct, "Import Last Year's Return," https://www.taxact.com/support/425/2021/import-last-years-return/ , last accessed September 26, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0987	TaxAct, "Preparing Your State Return," https://www.taxact.com/support/521/2021/preparin-g-your-state-return?hideLayout=False , last accessed November 4, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0988	TaxAct, "ProtectionPlus Audit Defense," https://www.taxact.com/support/24912/2021/protection-plus-audit-defense , last accessed November 3, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0989	TaxAct, "State Part-Year/Non-Resident Form Availability," https://www.taxact.com/support/436/2016/state-part-year-non-resident-form-availability , last accessed October 28, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0990	TaxAct, "State Program Release Dates," https://www.taxact.com/support/516/2021/state-program-release-dates?hideLayout=False , last accessed October 13, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0991	TaxAct, "TaxAct Deluxe," https://www.taxact.com/individual-taxes/online/deluxe , last accessed October 26, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0992	TaxAct, "TaxAct Express™ for iPhone®," https://www.taxact.com/mobile-taxes , last accessed November 3, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0993	TaxAct, "TaxAct Free," https://www.taxact.com/individual-taxes/online/free , last accessed October 26, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0994	TaxAct, "TaxAct Premier," https://www.taxact.com/individual-taxes/online/premier , last accessed October 26, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0995	TaxAct, "TaxAct Self-Employed," https://www.taxact.com/individual-taxes/online/self-employed , last accessed October 26, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0996	TaxAct, "TaxAct® Guarantees," https://www.taxact.com/company/guarantees , last accessed November 4, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 0997	TaxAct, "We're here to help," https://www.taxact.com/support/request , last accessed November 4, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0998	TaxAct, "xpertAssist," https://www.taxact.com/tax-xpert-assist , last accessed October 28, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 0999	TaxHawk, "Deluxe & Pro Support," https://www.taxhawk.com/deluxe.jsp , last accessed November 4, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1000	Schkade, D.A. and Kahneman, D., 1998, "Does Living in California Make People Happy? A Focusing Illusion in Judgments of Life Satisfaction," <i>Psychological Science</i> , 9(5), 340-346	1998		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1001	Jacoby, J., 2002, "Experimental Design and the Section of Controls in Trademark and Deceptive Advertising Surveys." <i>Trademark Reporter</i> , 92(1), 890-956	2002		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1002	Ullman, J.B. and Bentler, P.M., 2012, "Structural Equation Modeling." In <i>Handbook of Psychology Second Edition</i> , 661-690	2012		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1003	Beebe, B. et al., 2021, "The Role of Consumer Uncertainty in Trademark Law: An Experimental and Theoretical Investigation," <i>Law and Economics Research Paper Series</i> , No. 21-13	2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1004	Xu, M. et al., 2020, "Source information is inherently linked to working memory representation for auditory but not for visual stimuli," <i>Cognition</i> , 197(104160)	2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1005	Chen, H., Carlson, R.A. and Wyble, B., 2018, "Is source information automatically available in working memory?" <i>Psychological Science</i> , 29(4), 645-655	2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1006	TY17 Video advertisement re: "Fish" (15 seconds)		GX 325	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	35			
RX 1007	TY17 Video advertisement re: "Fish" (30 seconds)		GX 324	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	989-990			
RX 1008	Eisend, M., 2006, "Two-Sided Advertising: A Meta-Analysis." <i>International Journal of Research in Marketing</i> , 23(2), 187-198	2006		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1009	Spreadsheet entitled, "Switchers Purchase Decision Survey Tables_Final_061518.xlsx," dated June 15, 2018	6/15/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1010	Document entitled, "Tax Prep Switchers Decision Survey," dated May 21, 2018	5/21/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1011	Steele, Jason, "Tax Software vs. an Accountant: Which is Right for You?", Investopedia, available at https://www.investopedia.com/financial-edge/0212/tax-software-vs.-an-accountant-which-is-right-for-you.aspx			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1012	Marcia K. Johnson, Shahin Hashtroudi, and D. Stephen Lindsay (1993), "Source Monitoring," Psychological Bulletin, 114(1):3-28	1993		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1013	Karen J. Mitchell and Marcia K. Johnson (2009), "Source monitoring 15 years later: What have we learned from fMRI about the neural mechanisms of source memory?" Psychological Bulletin 135(4):638-677	2009		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1016	Declaration of Rebecca Kirk Fair, <i>In the Matter of Intuit Inc.</i> , Docket No. 9408, January 13, 2023	1/13/2023	RX 1016-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1016-A	Declaration of Rebecca Kirk Fair, <i>In the Matter of Intuit Inc.</i> , Docket No. 9408, January 13, 2023	1/13/2023	RX 1016	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1017	Declaration of John R. Hauser, S.C.D., <i>In the Matter of Intuit Inc.</i> , Docket No. 9408, January 13, 2023	1/13/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	844-845, 887-890, 904-905, 960-968, 991-995, 999-1017, 1232-1236, 1417-1418, 1761	RX Summary 02	Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1018	Declaration of Peter Golder, <i>In the Matter of Intuit Inc.</i> , Docket No. 9408, January 13, 2023	1/13/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1217-1221, 1230-1232, 1245-1251, 1254-1257	RX Summary 03	Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1019	Email from D. Gringer re: Intuit Rule 2.31, motion Confidential Rule 408, dated August 23, 2022	8/23/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1020	Email from A. Tabor re: Commission Order in the Matter of Intuit Inc. -- D09408, dated August 19, 2022	8/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1021	Email from D. Gringer re: Intuit Rule 2.31, motion Confidential Rule 408, dated August 19, 2022	8/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1022	Document entitled, "2022-8-19 FTC-Intuit Signed Proposed Stipulated Order for Permanent Injunction Pursuant to Rule 2.31," dated August 19, 2022	8/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1023	Document entitled, "Comparison Between Prior FTC Proposal and State AG Settlement"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1024	Screenshot of TurboTax Free Edition webpage, https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp , dated August 12, 2022	8/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1025	Screenshot of TurboTax Why TurboTax® Free Edition is Free page, https://turbotax.intuit.com/best-tax-software/why-its-free , dated August 12, 2022	8/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1026	Screenshot of TurboTax Homepage, https://turbotax.intuit.com , dated August 12, 2022	8/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1027	Expert Report of Bruce F. Deal, in the Matter of: Intuit Inc., a corporation, No. 9408, United States of America Before The Federal Trade Commission, January 13, 2023	1/13/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1295, 1370-1374, 1383-1386, 1393-1394, 1418, 1428-1431, 1667-1668, 1693-1695, 1720-1724		Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1030	[REDACTED]		GX 434	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	297, 318	GX Summary 002	Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1032	Email from TurboTax re: "Tax Deadline Is Approaching. Only 4 Days Left to File Your Taxes," dated April 14, 2022	4/14/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1033	"About text ads," Google, https://support.google.com/google-ads/answer/1704389?hl=en			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1034	"Allstate Insurance Reviews 2022," Influenster, https://www.influenster.com/reviews/allstate-insurance , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1035	"AT&T Insurance Reviews 2022," Influenster, https://www.influenster.com/reviews/att , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1036	"Charter Communications Reviews 2022," Influenster, https://www.influenster.com/reviews/charter-communications , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1037	"Comcast Xfinity Reviews 2022," Influenster, https://www.influenster.com/reviews/comcast-xfinity , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1038	"Customer Reviews for GEICO Car Insurance," Geico, https://www.geico.com/reviews/car-motorcycle-atv-rv-boat-insurance/car-insurance/ , last accessed December 21, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1039	"Customer Reviews," TaxHawk, https://www.taxhawk.com/reviews.jsp , last accessed December 21, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1040	"File Free Online," H&R Block TV Ad, January 4, 2022, https://www.youtube.com/watch?v=i9_P0acISXk	1/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1041	"File On Your Own," Google Search, https://www.google.com/search?q=turbotax , last accessed January 4, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408
Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1042	"File online for zero, zip, zilch," H&R Block, available at https://www.hrblock.com/ , last accessed on December 5, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1043	"GEICO Reviews 2022," Influenster, https://www.influenster.com/reviews/geico , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1044	"Get Rid Of The Guesswork," Google Search, https://www.google.com/search?q=turbotax , last accessed January 4, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1045	"H&R Block Reviews For Tax Preparation Offices, Software And Online Filing," H&R Block, https://www.hrblock.com/reviews/ , last accessed December 21, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1046	"H&R Block," Influenster, https://www.influenster.com/reviews/hr-block , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1047	H&R Block Help On Your Terms Advertisement, https://www.youtube.com/watch?v=8y6K2xlo_uQ&t=15		RX 610	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1048	"It's Tax Season The Holiday Season Pay Less :15," H&R Block TV Ad, https://www.youtube.com/watch?v=1Nj5xs4IRk , last accessed January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1049	"Kids Stay & Eat Free," Holiday Inn Hotels & Resorts, https://www.ihg.com/holidayinn/content/us/en/offer/s/kids-free , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1050	Progressive Insurance Reviews," Progressive, https://www.progressive.com/insurance-reviews/ , last accessed December 21, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1051	"StateFarm Insurance Reviews 2022," Influenster, https://www.influenster.com/reviews/statefarm-insurance , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1052	"TaxAct," Influenster, https://www.influenster.com/reviews/taxact , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1053	"TaxSlayer Customer Reviews," TaxSlayer, https://www.taxslayer.com/reviews , last accessed December 21, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1054	"TaxSlayer," Influenster, https://www.influenster.com/reviews/taxslayer , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1055	"T-Mobile Reviews 2022," Influenster, https://www.influenster.com/reviews/t-mobile , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1057	TurboTax Live 2022 Super Bowl Commercial "Matchmaker," available at https://www.youtube.com/watch?v=JFFmRg1CmE			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1058	"TurboTax Product Reviews," Intuit, https://turbotax.intuit.com/reviews/?Sort=Rating;desc , SubmissionTime:desc,Helpfulness:desc, last accessed December 21, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1059	"TurboTax," Influenster, https://www.influenster.com/reviews/turbo-tax , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1060	"Verizon Wireless Reviews 2022," Influenster, https://www.influenster.com/reviews/verizon-wireless , last accessed January 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1061	"Why use TurboTax Free Edition?," Intuit, https://web.archive.org/web/20220401142411/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp	4/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1062	"Why use TurboTax Free Edition?," Intuit, https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp , last accessed on December 28, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1063	Cash App, "What Happened to Credit Karma Tax?," February 1, 2022, https://taxeshelp.cash.app/s/article/What-changes-at-Credit-Karma-Tax-now-that-we-are-a-Cash-App-product#	2/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1064	Email from TurboTax re: "Get a sneak peek at your refund!," dated December 29, 2022	12/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1065	Wanjala, Alvin, "How Many Users Does Spotify Have?," MUO, August 3, 2022, https://www.makeuseof.com/how-many-users-spotify-has/	8/3/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1066	Weitman, Barbara, "What Will I Pay for Tax Preparation Fees?," Investopedia, July 21, 2022, https://www.investopedia.com/articles/taxes/021717/what-will-i-pay-tax-preparation-fees.asp , last accessed January 3, 2023	7/21/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1067	TaxSlayer, "Ready to get your biggest refund?," https://www.taxslayer.com/ , last accessed October 20, 2022		RX 521	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1068	"Better Business Bureau," https://www.bbb.org/ , accessed January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1069	"Allstate Insurance Complaints," Better Business Bureau, available at https://www.bbb.org/us/il/northbrook/profile/insurance-companies/allstate-insurance-0654-12014144/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1070	"AT&T, Complaints," Better Business Bureau, available at https://www.bbb.org/us/tx/dallas/profile/long-distance-phone-service/att-0875-7935/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1071	"Cash App Taxes, Inc., Complaints," Better Business Bureau, available at https://www.bbb.org/us/ca/san-francisco/profile/tax-return-preparation/cash-app-taxes-inc-1116-879545/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1072	"Charter Spectrum, Complaints," Better Business Bureau, available at https://www.bbb.org/us/ct/stamford/profile/cable-tv/charter-spectrum-0111-110075917/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1073	"Chime Financial Inc., Complaints," Better Business Bureau, available at https://www.bbb.org/us/ca/san-francisco/profile/financial-technology/chime-financial-inc-1116-530173/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1074	"Comcast Corporation, Complaints," Better Business Bureau, available at https://www.bbb.org/us/pa/philadelphia/profile/cabl-e-tv/comcast-corporation-0241-80003221/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1075	"DirecTV Inc., Complaints," Better Business Bureau, available at https://www.bbb.org/us/ca/el-segundo/profile/cable-tv/directv-inc-1216-81000357/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1076	"Dish Network LLC, Complaints," Better Business Bureau, available at https://www.bbb.org/us/co/englewood/profile/cable-tv/dish-network-llc-1296-6370/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1077	"Fleetcor Technologies, Complaints," Better Business Bureau, available at https://www.bbb.org/us/ga/norcross/profile/credit-cards-and-plans/fleetcor-technologies-llc-0443-7005062/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1078	"Geico, Complaints," Better Business Bureau, available at https://www.bbb.org/us/md/chevy-chase/profile/insurance-companies/geico-0241-8768/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1079	"H&R Block Inc., Complaints," Better Business Bureau, available at https://www.bbb.org/us/mo/kansas-city/profile/tax-return-preparation/h-r-block-inc-us-headquarters-0674-46030004/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1080	"Intuit Inc., Complaints," Better Business Bureau, available at https://www.bbb.org/us/ca/mountain-view/profile/computer-hardware/intuit-inc-1216-202832/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1081	"Jackson Hewitt, Complaints," Better Business Bureau, available at https://www.bbb.org/us/nj/jersey-city/profile/tax-return-preparation/jackson-hewitt-tax-services-of-america-inc-0221-22001064/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1082	"MoneyGram, Complaints," Better Business Bureau, available at https://www.bbb.org/us/tx/dallas/profile/money-orders/moneygram-0875-90246426/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1083	"Perdoceo Education Corp., Complaints," Better Business Bureau, available at https://www.bbb.org/us/il/schaumburg/profile/college-and-university/perdoceo-education-corporation-0654-9003047/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1084	"Progressive Corporation, Complaints," Better Business Bureau, available at https://www.bbb.org/us/oh/mayfield-vig/profile/insurance-companies/progressive-corporation-0312-15000696/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1085	"State Farm Insurance Co., Complaints," Better Business Bureau, available at https://www.bbb.org/us/il/bloomington/profile/insurance-companies/state-farm-insurance-company-0724-6000391/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1086	"TaxAct, Complaints," Better Business Bureau, available at https://www.bbb.org/us/ia/cedar-rapids/profile/computer-software-developers/taxact-0664-22001061/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1087	"TaxHawk, Complaints," Better Business Bureau, available at https://www.bbb.org/us/ut/provo/profile/tax-return-preparation/taxhawk-inc-1166-22009863/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1088	"TaxSlayer, Complaints," Better Business Bureau, available at https://www.bbb.org/us/ga/evans/profile/tax-software/taxslayercom-0743-9390/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1089	"T-Mobile USA, Complaints," Better Business Bureau, available at https://www.bbb.org/us/wa/bellevue/profile/cell-phone-supplies/t-mobile-usa-inc-1296-27026359/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1090	"USAA, Complaints," Better Business Bureau, available at https://www.bbb.org/us/tx/san-antonio/profile/insurance-companies/usaa-0825-23452/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1091	"Verizon Wireless, Complaints," Better Business Bureau, available at https://www.bbb.org/us/nj/basking-ridge/profile/cell-phone-supplies/verizon-wireless-0221-1001468/complaints , last accessed on January 3, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1092	DishTV, "Get HBO Max - Access Unique HBO Max Channels, Streaming Content," available at https://www.dish.com/programming/packages/add-ons/premium-channels/hbo-max/ , last accessed on December 6, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1093	DirecTV TV Ad, "Get Your TV Together: Fan :30," October 7, 2022, available at https://www.youtube.com/watch?v=N4f1GwF0LDE , last accessed on December 6, 2022	10/7/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1094	Dish TV Ad, "HBO Max," August 11, 2021, available at https://www.youtube.com/watch?v=Kwitzmgpu-s , last accessed on December 7, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1095	Intuit Inc., SEC Form 10-K (for the fiscal year ended July 31, 2022), https://www.sec.gov/ix?doc=/Archives/edgar/data/896878/000089687822000028/intu-20220731.htm	9/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1096	TV17 Video advertisement re: "Anthem" (45 seconds)		GX 347	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1097	TY17 Video advertisement re: "Baby" (15 seconds)		GX 346	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1098	TY17 Video advertisement re: "Cruise" (30 seconds)		GX 345	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1099	TY17 Video advertisement re: "Fish" (15 seconds)		GX 325	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1100	TY17 Video advertisement re: "Fish" (30 seconds)		GX 324	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1101	TY17 Video advertisement re: "Guzman" (15 seconds)		GX 344	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1102	TY18 Video advertisement re: "Big Kick," QTTX12233H (30 seconds)		GX 670	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1103	TY18 Video advertisement re: "Big Kick," QTTX12976H (60 seconds)		GX 349	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1104	TY18 Video advertisement re: "Court Reporter," QTTX12295H (15 seconds)		GX 348	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1105	TY18 Video advertisement re: "Game Show" (30 seconds)		GX 59	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1106	TY18 Video advertisement re: "Lawyer," QTTX12273H (30 seconds)		GX 300	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	15-21			
RX 1107	TY18 Video advertisement re: "Lawyer," QTTX12996H (60 seconds)		GX 328	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1108	TY18 Video advertisement re: "Movie Credits," QTTX12435H (15 seconds)		GX 331	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1109	TY18 Video advertisement re: "Movie Credits," QTTX13063H (30 seconds)		GX 299	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1110	TY18 Video advertisement re: "Spelling Bee," QTTX12335H (15 seconds)		GX 671	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	721-722			
RX 1111	TY18 Video advertisement re: "Spelling Bee," QTTX13083H (30 seconds)		GX 350	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1112	TY19 Video advertisement re: "Court Reporter," QTTX1604H (15 seconds)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	726-727			

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1113	TY18 Video advertisement re: "Crossword," QTTX1613H, 15 seconds		GX 326	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1114	TY19 Video advertisement re: "Crossword," QTTX1788H (30 seconds)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1115	TY19 Video advertisement re: "Game Show," QTTX1610H (15 seconds)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1116	TY18 Video advertisement re: "Game Show," QTTX12353H (30 seconds)		GX 669	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1117	TY18 Video advertisement re: "Movie Credits" (30 seconds)		GX 330	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1118	TY18 Video advertisement re: "Spelling Bee" (30 seconds)		GX 351	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	38-39, 1560-1562			
RX 1119	TY21 Video advertisement re: "Auctioneer," QTTX0021000H (15 seconds)		GX 621	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	15-21, 753-757			
RX 1120	TY20 Video advertisement re: "Dog Show," QTTX1899H (15 seconds)		GX 615	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	47			
RX 1121	TY21 Video advertisement re: "Spit Take," QTTX0256000H (15 seconds)		GX 622	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	400-401			
RX 1122	TY20 Video advertisement re: "Dance Workout" (15 seconds)		GX 608	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1123	TY20 Video advertisement re: "Young Love" (15 seconds)		GX 629	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	734-735, 835-836			
RX 1124	TY20 Video advertisement re: "Echo"		GX 609	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1125	TY20 Video advertisement re: "Freelader" (15 seconds)		GX 603	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	743-744			
RX 1126	TY20 Video advertisement re: "Freelader" (30 seconds)		GX 614	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1127	"5G Home Internet & 5G Wifi Verizon," Verizon, available at https://www.verizon.com/5g/home/?availability&CM_P=soc_h_p_mc_fbk_5gh_2022_10_fwa_soc-346541217_180410561&dclid=CK7e1_3BsfscFYxMDOdOjGhUQ , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1128	"Ad Library," Meta, https://www.facebook.com/ads/library/?active_status=all&ad_type=political_and_issue_ads&country=US&media_type=all , accessed December 5, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1129	"Add Two Unlimited Lines at No Additional Cost - Spectrum, Charter Spectrum," available at https://www.spectrum.com/ip/mobile/ban-mob-00047v=DISNS&p1=877-961-8529&cmp=banm_facebook_12_352127416_180556507&dclid=CN7b0ruktvsCFQmndAodNFYEDA , last accessed on November 16, 2022		RX 1168	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1130	"Apple iPhone 14 - Colors, Specs, Pricing & Reviews AT&T," AT&T, available at https://www.att.com/buy/phones/apple-iphone-14.html?offerid=22100052%2F%3Fsource%3DDEC1NOH0000014I00S , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1131	"AT&T's Best Unlimited Wireless Deals For Existing Internet Customers," AT&T, available at https://signin.att.com/ , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1132	"AT&T's Best Unlimited Wireless Deals For Existing Internet Customers," AT&T, available at https://www.att.com/offers/internet-wireless-offer/?source=ESNG250000000005&tfn=mobility&wtExtndSource=CS&cm360=6143923_26982509_3007174_351765111&dclid=CLmEo8uAs_sCFYwvnwodIIEEFQ , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1133	"Bring Your Own Device (BYOD) How To & Deals Verizon," Verizon, available at https://www.verizon.com/bring-your-own-device/?CMP=soc_m_p_140_ins_acq_22_10_acq_soc-346451751_181036482&dclid=CKf0ok69sfsCFQIDDDQodzLAI1w , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1134	"Bringing T-Mobile Coverage to Small Towns and Rural Areas," T-Mobile, available at https://www.t-mobile.com/coverage/small-towns-rural-areas?cmpid=MGPO_PDS_P_22FAM20PAT_17ZOCU38GUQRB7KJ88254 , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1135	"Buy the New iPhone 14 Max Pro Max Price, Colors Verizon," Verizon, available at https://www.verizon.com/smartphones/apple-iphone-14-pro-max/7CMP=soc_m_c_140_fbk_acq_22_10_acq_soc_342824663_181036422&dclid=COb8o17-sPscFcdlclgodCkwlVA , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1136	"Compare DISH vs DirecTV - Value, Technology and Service," Dish Network, available at https://www.dish.com/lp/dish-vs-directv/?HCID=socialpr&sp=1&RP=rr_431969&MCID=GDISP&utm_medium=social&utm_source=sc&utm_campaign=ta_dishgm_indirect_20220505_conversions_na&utm_term=_indirect_conversions_sc_mid-funnel_a008_us_a082_all_c0030_dtvgenericcomparitive_q4_bc0005_video_lp010_na_na , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1137	"Cumulative number of monthly Meta product users as of 3rd quarter 2022," Statista, https://www.statista.com/statistics/947869/facebook-product-mau/			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1138	"Emerald Advance Line of Credit H&R Block," H&R Block, available at https://www.hrblock.com/financial-services/emerald-advanced-lending-credit/ , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1139	"FIFA World Cup Qatar 2022 Stream - Watch Live Online Now!," DirecTV, available at https://www.directv.com/stream/sports/soccer/?source=EDDS000000DsP00S , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1140	"File Taxes Online Free Tax Preparation Software for Tax Filing," TaxAct, available at https://www.taxact.com/ , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1141	"File Taxes Online Free Tax Preparation Software for Tax Filing," TaxAct, available at https://www.taxact.com/lp/media23?sc=2209470450001&ad=broad-ios&utm_source=facebook&utm_medium=social&utm_content=m_sl_fb_awa_ty22-all_aud_brd_nl_2209470450001_ta_mt_ig_broad-ios_ta_mt_consumer_prepeak_mixed_static_graphic_silent_value_freexpertassist_taxact_notest_nyresoluti_on_media23&fbclid , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1142	"Free Internet with the Affordable Connectivity Program (ACP)." Comcast/Xfinity, available at https://www.xfinity.com/learn/internet-service/acp/free-internet?dfaid=4053494&cmp=0&cid=4053494&dclid=CM-54ZuTtvsFCQXuswodG5UAug , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1143	"Get America's Top Satellite TV Provider DISH," Dish Network, available at https://www.dish.com/ip/movie-offer-1/?HCID=socialpr&sp=1&RP=rr_431969&MCID=GDISP&utm_medium=social&utm_source=sc&utm_campaign=n_rta_dishgm_prospecting_20220505_conversions_n_a&utm_term=prospecting_conversions_sc_mid_funnel_a017_us_a017_all_c0041_motm_q4_bc0027_video_lp004_na_na , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1144	"Gigabit internet by Xfinity: Gigabit Speed over Wifi, Comcast/Xfinity," available at https://www.xfinity.com/gig?dfaid=4053494&cmp=0&cid=4053494&dclid=CPL5to-ctvsCFVtNGAIdmEsEQ , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1145	"Humana Advantage USAA, USAA," available at https://www.usaa.com/inet/wc/insurance-humana-advantage?vurl=vurl_humana&txid=PSP%3ATX1%3AOXV5UMT80G , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1146	"Learn Why DISH has 99% Signal Reliability DISH," Dish Network, available at https://www.dish.com/reliable-satellite-tv/ , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1147	"Live Streaming TV Call 855.391.1966 - Order Now!," DirecTV, available at https://www.directv.com/stream/?source=EDDS0000DsP00S , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1148	"Make All Your Insurance Easy Progressive," Progressive, available at https://www.progressive.com/ip/auto-snapshot/?code=9903623000 , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1149	"Money When You Need It Refund Advance - Jackson Hewitt," Jackson Hewitt, available at https://www.jacksonhewitt.com/refund-advance/cp/2/?utm_medium=paid_social&utm_source=facebook&utm_campaign=tp-era-fb-ff6aa92b-18e2-41a6-b4c6-910d717d657a&utm_content=new&utm_term=&dcclid=CNPA-JINsfwCFWKGaGaduiUHQw , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1150	"Protect Your Small Business State Farm," State Farm, available at https://www.statefarm.com/general/small-business-a7cnpid=soc%3Afb%3AUPF%3ABRD%3ASMB%3AAUC-CPV%3AFB%2FIG%3ASMB%3AVID%3A6s%3A4x5%3APaint%20Roll , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1151	"Samsung Galaxy Chromebook Go 1 Color in 32 GB T-Mobile," T-Mobile, available at https://www.t-mobile.com/hotspot-iot-connected-devices/samsung-galaxy-chromebook-go?sku=610214671066&cmpid=MGPO_PDS_P_22SGC HBKFR_LW8XDZP6Z , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1152	"Spectrum 5G - Check Availability Near You & Save," Charter Spectrum, available at https://www.spectrum.com/mobile/5g?cid=soc_mob_fb_p_bnd_cv_mobileholiday_11fy22&cmp=soc_mob_fb_p_bnd_cv_mobileholiday_11fy22 , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1153	"Streaming TV Packages 844.522.2399 2399 Order Now!," DirecTV, available at https://www.directv.com/stream/packages/?source=EDSDS00000DsP00S , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1154	"Term-Life Insurance, Allstate," available at https://www.allstate.com/landingpages/lsp/term-life-insurance.html?cid=SMP-LF-V-129-LFI-NAT-NAT-221018&CAMPAIGN=444490000086295 , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1155	"T-Mobile SyncUP KidSTM Watch 1 color in 8 GB T-Mobile," T-Mobile, available at https://www.t-mobile.com/smart-watch/t-mobile-syncup-kids-watch?sku=610214674203&cmpid=BTS_PDS_C_SYNCUPKIDS_58YUS37AD991Q4BC86992 , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1156	"TurboTax: File Your Tax Return on the App Store," TurboTax, available at https://apps.apple.com/app/id940247939 , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1157	"Unbeatable Mobile Deal," Charter Spectrum, available at https://www.spectrum.com/ip/mobile/ban-mob-00037v=DjSNS&p1=877-961-8529&cmp=banm_facebook_12_352128001_180556507&dclid=Cjz05ZCltvsCFtqAkdetOCjA , last accessed on November 16, 2022		RX 1166	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1158	"Why Join USAA Benefits of Membership USAA," USAA, available at https://www.usaa.com/inet/wc/why_choose_usaa_main?vurl=vr1_join&txid=PSP%3ATX1%3AJX3LDC2MUD , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1159	"Xfinity Flex 4K Streaming Box Free with Xfinity Internet," Comcast/Xfinity, available at https://www.xfinity.com/learn/flex?dfid=4053494&cmp=0&cid=4053494&dclid=CNn0tq6RtvsCFsYFaGdhOUKWg , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1160	Allstate Meta Ad, "Your heirloom may keep your family timely, but it won't pay their bills on-time when you're gone. Get life insurance online for pennies a day," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1161	Allstate Meta Ad, "Your portrait may look appetizing, but it won't cover your family's groceries when you're gone. Get life insurance online, no in-person medical exam," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1162	Allstate Meta Ad, "Your trinkets can decorate your family's home, but they won't help pay it off when you're gone. Get life insurance online for pennies a day," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1163	AT&T Meta Ad, "Best deals on smartphones," available at https://www.facebook.com/ads/library , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1164-A	AT&T Meta Ad, "Thinking about making the switch during the holidays? (6 second)," available at https://www.facebook.com/ads/library , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1164-B	AT&T Meta Ad, "Thinking about making the switch during the holidays? (6 second)," available at https://www.facebook.com/ads/library , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1165-A	AT&T Meta Ad, "Thinking about making the switch during the holidays? (15 second)," available at https://www.facebook.com/ads/library , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1165-B	AT&T Meta Ad, "Thinking about making the switch during the holidays? (15 second)," available at https://www.facebook.com/ads/library , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1166	Charter Spectrum Meta Ad, "Get more this holiday season. Add one line, get another line free for 12 months," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022		RX 1157	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1167	Charter Spectrum Meta Ad, "Have an Unlimited Line? Add a 2nd line for only \$15 more per month, and get a 3rd line free for 12 mos.," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1168	Charter Spectrum Meta Ad, "Have two or more Unlimited lines? Add 2 more Unlimited lines at no extra cost for 12 months," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022		RX 1129	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1169	Comcast/Xfinity Meta Ad, "Come back and get Gig-speed internet, streaming and mobile with the Supersonic Bundle," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1170	Comcast/Xfinity Meta Ad, "Come back for entertainment that starts at free.," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1171	Comcast/Xfinity Meta Ad, "Get fast, reliable, FREE Internet at home when you qualify and enroll in Internet Essentials Plus and the ACP," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1172-A	DirecTV Meta Ad, "Never miss a moment of entertainment with DIRECTV - Don't miss out," available at https://www.facebook.com/ads/library , last accessed on December 1, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1172-B	DirecTV Meta Ad, "Never miss a moment of entertainment with DIRECTV - Don't miss out," available at https://www.facebook.com/ads/library , last accessed on December 1, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1173	DirecTV Meta Ad, "We have every FIFA World Cup match so you can cheer on your country all long," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1174	DIRECTV Meta Ad, "Your favorites. Your schedule. Get the best of live TV and on demand anytime. anywhere," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1175	Dish Network Meta Ad, "Get DISH and get a reliable signal every time you turn on the TV, plus unmatched recording power and DVR storage," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1176	Dish Network Meta Ad, "No matter how you look at it, DISH beats DirecTV. Find out how much you could save when you switch to DISH," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1177	Dish Network Meta Ad, "Sign up for DISH and get one On Demand movie included each month. Restrictions apply," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1178	H&R Block Meta Ad, "Ever wonder what the best states for paying fewer taxes are? We've put together a little guidebook of states that have the lowest tax rates. Of the 48 states that participate in the national lottery, these are the 12 states that do not collect taxes on national lottery winnings in the U.S.," available at https://www.facebook.com/ads/library , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1179	H&R Block Meta Ad, "To get where you're going in life, sometimes you need a little boost. You could get a line of credit up to \$1000 at H&R Block. Click the link in our bio to learn more. ^By Pathward, N.A.; Terms Apply," available at https://www.facebook.com/ads/library , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1180	H&R Block Meta Ad, "You could get a Refund Advance with 0% APR and no loan fees," available at https://www.facebook.com/ads/library , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1181-A	TurboTax Video advertisement re: "Start for Free - America's #1 Free Tax Prep Provider"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1181-B	TurboTax Video advertisement re: "Start for Free - America's #1 Free Tax Prep Provider"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1182	Intuit TurboTax Meta Ad, "Get live help from tax experts — FREE. File for \$0 with TurboTax Live Assisted. Simple tax returns only. See if you qualify," available at https://www.facebook.com/ads/library , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1183	Jackson Hewitt Display Ad, "Don't chance it. Choose an expert to do your taxes and get your biggest refund, guaranteed," available at https://www.facebook.com/ads/library , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1184	Progressive Meta Ad, "It's safe to say, good drivers can save with Progressive Snapshot," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1185	Progressive Meta Ad, "Savings Magic," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1186	Progressive Meta Ad, "We <3 to save you money," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1187	State Farm Meta Ad, "A fresh coat of paint to protect your walls is like a fresh insurance policy to help protect your small business. Get a quote!," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1188	State Farm Meta Ad, "Changing degrees means fresh fall khakis," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1189	State Farm Meta Ad, "Get a customized quote for your small business in a flash! Talk with your local State Farm agent today," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1190	TaxAct Display Ad, "it's okay to ask for help, and our team is here to support you. They can even give your return a quick review before you file.," available at https://www.facebook.com/ads/library , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1191	TaxAct Display Ad, "Simple resolution: Have our tax experts answer questions and quickly review your return. Xpert Assist is now included for free.," available at https://www.facebook.com/ads/library , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1192	TaxAct Display Ad, "We've got plans for everyone. Meaning you really can file basic federal returns for free.," available at https://www.facebook.com/ads/library , last accessed on January 5, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1193-A	T-Mobile Meta Ad, "Home sweet home just got sweeter," available at https://www.facebook.com/ads/library , last accessed on December 1, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1193-B	T-Mobile Meta Ad, "Home sweet home just got sweeter," available at https://www.facebook.com/ads/library , last accessed on December 1, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1194	T-Mobile Meta Ad, "Play, connect, share, effortlessly with SyncUP KIDS Watch," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1195	T-Mobile Meta Ad, "Still lookin' for the perfect gift? We got you. Get the Samsung Galaxy Chromebook Go FREE when you add a line at T-Mobile," available at https://www.facebook.com/ads/library , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1196	USAA Meta Ad, "New to Medicare? Get the benefits you deserve with a Medicare Advantage plan, like the Humana Honor plans, available to all but built with Veterans in mind.," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1197	USAA Meta Ad, "Some people think we only offer insurance or banking. But we can help with investing, retirement and lots more.," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408
Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1198	USAA Meta Ad, "We've been proudly serving the military and their eligible families," available at https://www.facebook.com/ads/library , last accessed on November 17, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1199	Verizon Meta Ad, "Love your phone? This holiday season, bring it and get \$500. With select 5G Unlimited plans," available at https://www.facebook.com/ads/library , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1200	Verizon Meta Ad, "Switch to Verizon Home Internet and get an Amazon Echo Show 10, on us," available at https://www.facebook.com/ads/library , last accessed on November 16, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1201-A	Verizon Meta Ad, "This holiday, give the gift of iPhone 14 Pro Max with 5G," available at https://www.facebook.com/ads/library , last accessed on December 1, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1201-B	Verizon Meta Ad, "This holiday, give the gift of iPhone 14 Pro Max with 5G," available at https://www.facebook.com/ads/library , last accessed on December 1, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1204	Screenshot of TY15 TurboTax Free Edition webpage, https://web.archive.org/web/20160313113020/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp	3/13/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1205	Screenshot of TY16 TurboTax Free Edition webpage, https://web.archive.org/web/20170126075134/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp	1/26/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1206	Screenshot of TY17 TurboTax Free Edition webpage, https://web.archive.org/web/20180102211454mp_/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp	1/2/2018	RX 1206-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1206-A	Screenshot of TY17 TurboTax Free Edition webpage, https://web.archive.org/web/20180102211454mp_/https://turbotax.intuit.com/personal-taxes/online/freeedition.jsp	1/2/2018	RX 1206	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1207	Screenshot of TY18 TurboTax Free Edition webpage, https://web.archive.org/web/20190201035237mp_/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp	2/1/2019	RX 1207-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1207-A	Screenshot of TY18 TurboTax Free Edition webpage, https://web.archive.org/web/20190201035237mp_/https://turbotax.intuit.com/personal-taxes/online/freeedition.jsp	2/1/2019	RX 1207	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1208	Screenshot of TY19 TurboTax Free Edition webpage, https://web.archive.org/web/20200129212202/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp	1/29/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1209	Screenshot of TY20 TurboTax Free Edition webpage, https://web.archive.org/web/20210126032910/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp	1/26/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1210	Screenshot of TY15 TurboTax Homepage, https://web.archive.org/web/20160115144229/https://turbotax.intuit.com/	1/15/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1211	Screenshot of TY16 TurboTax Homepage, https://web.archive.org/web/20170121153604/https://turbotax.intuit.com/	2/21/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	35			
RX 1212	Screenshot of TY17 TurboTax Homepage, https://web.archive.org/web/20180105033618/https://turbotax.intuit.com/	1/5/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	36-38			
RX 1213	Screenshot of TY18 TurboTax Homepage, https://web.archive.org/web/20190128061106/https://turbotax.intuit.com/	1/28/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1214	Screenshot of TY19 TurboTax Homepage, https://web.archive.org/web/202002081516/https://turbotax.intuit.com/	2/2/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	42-43			
RX 1215	Screenshot of TY20 TurboTax Homepage, https://web.archive.org/web/20210126000145/https://turbotax.intuit.com/	1/26/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1216	Screenshot of TY15 TurboTax Products & Pricing webpage, https://web.archive.org/web/20160218054940/https://turbotax.intuit.com/personal-taxes/online/	2/18/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1217	Screenshot of TY16 TurboTax Products & Pricing webpage, https://web.archive.org/web/20170125154641mp_/https://turbotax.intuit.com/personal-taxes/online/	1/25/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1218	Screenshot of TY17 TurboTax Products & Pricing webpage, https://web.archive.org/web/20180105034339/https://turbotax.intuit.com/personal-taxes/online/	1/5/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1219	Screenshot of TY18 TurboTax Products & Pricing webpage, https://web.archive.org/web/20190126174512mp_/https://turbotax.intuit.com/personal-taxes/online/	1/26/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1220	Screenshot of TY19 TurboTax Products & Pricing webpage, https://web.archive.org/web/20201101232358/https://turbotax.intuit.com/personal-taxes/online/	11/1/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1221	Screenshot of TY20 TurboTax Products & Pricing webpage, https://web.archive.org/web/20210126091057mp/hhttps://turbotax.intuit.com/personal-taxes/online/live/ .	1/26/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1222	TY21 PPC ad on Bing re: "tax extension 2022"		GX 666	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1223	Screenshot of TurboTax Products & Pricing webpage		GX 667	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1224	Screenshot of TY21 TurboTax Products & Pricing webpage, https://web.archive.org/web/20220201023105/https://turbotax.intuit.com/personal-taxes/online/	2/1/2022	RX 1224-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1224-A	Screenshot of TY21 TurboTax Products & Pricing webpage, https://web.archive.org/web/20220201023105/https://turbotax.intuit.com/personal-taxes/online/	2/1/2022	RX 1224	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	572-578			
RX 1225	Rabin, Matthew and J.L. Schrag. "First Impressions Matter: A Model of Confirmatory Bias." The Quarterly Journal of Economics, Vol. 114, No. 1, 1999	1999		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1226	FDA's Guidance for Industry Consumer-Directed Broadcast Advertisements, August 1999, https://www.fda.gov/media/75406/download	8/ 1999		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1227	FEC, "Special rules for television and radio ads: the "stand by your ad" provision," https://www.fec.gov/help-candidates-and-committees/advertising-and-disclaimers/			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1228	Kalyanam, Kirithi and Sridhar Narayanan, "Position Effects in Search Advertising and Their Moderators: A Regression Discontinuity Approach," Marketing Science, Vol. 34, No. 3, May-June 2015	Jun-15		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1229	Schultz, Carsten, "Informational, Transactional, and Navigational Need of Information: Relevance of Search Intention in Search Engine Advertising." Information Retrieval Journal, Vol. 23, April 2020	Apr-20		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1230	"Shopper Response to BOGO/Free Promotions," AMG Strategic Advisors, February 2012, https://members.ala-national.org/assets/research_center/Hot_Top_BoG_O_freeFINAL.pdf	Feb-12		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1231	Subscription Commence Conversion Index: The Exclusive Access Effect Edition, PYMNTS, November 2021, https://www.pymnts.com/study/subscription-commerce-conversion-direct-to-consumer-retail-subscribers-trust/	Nov-21		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1232	VSS Communications Industry Forecast for 2009, available at https://linchpinseo.com/free-sample-marketing-guide/		RX 1245, RX 1245-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1233	Gill, Kristine, "Are You Eligible for These Special Discounts? Here's How to Find Out So You Don't Miss Out," Real Simple, https://www.realsimple.com/work-life/money/saving/eligible-special-discounts			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1234	Tarilton, Amanda, "100 Popular Retailers That Offer A Discount To First-time Customers," USA Today, https://www.usatoday.com/story/tech/reviewed.com/2021/01/07/100-retailers-offer-discount-your-first-purchase/6563942002/	1/7/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1235	Nelson, Dustin, "Everywhere You Can Get Free Food for Kids Right Now," Thrillist, https://www.thrillist.com/news/nation/free-food-kids-meal-deals			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1236	Kamins, Michael et al., "Promotional Bundles and Consumers' Price Judgments: When the Best Things in Life Are Not Free," Journal of Consumer Research, December 2009	Dec-09		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1237	Quach, Karen, "Survey: How Many Americans Are 'Free Trial Hopping?'," Frontier, https://go.frontier.com/media-center/trial-hopping-survey/			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1238	"TurboTax Official Site: File Taxes Online, Tax Filing Made Easy," intuit, https://turbotax.intuit.com/ , last accessed December 28, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1239	TaxAct TV Advertisement, "Bear: Taxes Aren't Scary," https://www.ispot.tv/ad/tzw7/faxact-bear-taxes-arent-scary , last accessed July 13, 2022		RX 604	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1240	Screenshot of "Adobe Acrobat Reader" webpage			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1241	Screenshot of TurboTax product flow re: "OK, let's start with one investment type"		RX 1241-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1241-A	Screenshot of TurboTax product flow re: "OK, let's start with one investment type"		RX 1241	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1242	Screenshot of TurboTax upgrade screen re: "Because you sold investments, you need to upgrade to TurboTax Premier to continue"		RX 1242-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1242-A	Screenshot of TurboTax upgrade screen re: "Because you sold investments, you need to upgrade to TurboTax Premier to continue"		RX 1242	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1243	Screenshot of TurboTax upgrade screen re: "Based on your tax situation, you need to upgrade to TurboTax Deluxe"		RX 1243-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1243-A	Screenshot of TurboTax upgrade screen re: "Based on your tax situation, you need to upgrade to TurboTax Deluxe"		RX 1243	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1244	Presentation entitled "TY21 Turbo Tax September X - Agency Meeting," dated September 27, 2021	9/27/2021	GX 653	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1245	"The Beginner's Guide to Free Sample Marketing to Promote Your Products," Team Linchpin, October 1, 2022	10/1/2022	RX 1232, RX 1245-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1245-A	"The Beginner's Guide to Free Sample Marketing to Promote Your Products," Team Linchpin, October 1, 2022	10/1/2022	RX 1232, RX 1245	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1246	"Support," H&R Block, available at https://www.hrblock.com/tax-center/support/ , last accessed on January 7, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1247	"2020 Corporate Responsibility Report," H&R Block, November 2020, available at https://investors.hrblock.com/static-files/1cd086d4-6d8b-4a72-93db-fa545733fd61	11/2020	RX 1247-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1247-A	"2020 Corporate Responsibility Report," H&R Block, November 2020, available at https://investors.hrblock.com/static-files/1cd086d4-6d8b-4a72-93db-fa545733fd61	11/2020	RX 1247	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1248	"IRS Offers Last Minute Filing Tips," Internal Revenue Service, April 13, 2015, https://www.irs.gov/newsroom/irs-offers-last-minute-filing-tips , last accessed on July 20, 2022	4/13/2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1249	"Tax Time Guide: Use Free File for Help with Tax Returns, Extensions and More," Internal Revenue Service, April 15, 2016, https://www.irs.gov/newsroom/tax-time-guide-use-free-file-for-help-with-tax-returns-extensions-and-more , last accessed on July 20, 2022	4/15/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1250	"Some Taxpayers Get Extensions without Asking: Taxpayers Abroad, in Combat Zones and Disaster Areas Qualify," Internal Revenue Service, April 14, 2017, https://www.irs.gov/newsroom/some-taxpayers-get-extensions-without-asking-taxpayers-abroad-in-combat-zones-and-disaster-areas-qualify , last accessed on July 20, 2022	4/14/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1251	"IRS Systems are Back Up and Running: Millions of Tax Returns Accepted; Taxpayers Have Until Midnight Wednesday to File Their Taxes," Internal Revenue Service, April 18, 2018, https://www.irs.gov/newsroom/irs-systems-are-back-up-and-running-millions-of-tax-returns-accepted-taxpayers-have-until-midnight-wednesday-to-file-their-taxes , last accessed on July 20, 2022	4/18/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1252	"With tax-filing deadline nearing, IRS says about 50 million still need to file," Internal Revenue Service, April 12, 2019, https://www.irs.gov/newsroom/with-tax-filing-deadline-nearing-irs-says-about-50-million-still-need-to-file , last accessed on July 20, 2022	4/12/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1253	"REMINDER: Schedule and Pay Federal Taxes Electronically Due by July 15; Only a Few Hours Remaining for Taxpayers to Reschedule Payments Set for April 15," Internal Revenue Service, April 13, 2020, https://www.irs.gov/newsroom/reminder-schedule-and-pay-federal-taxes-electronically-due-by-july-15-only-a-few-hours-remaining-for-taxpayers-to-reschedule-payments-set-for-april-15 , last accessed on July 20, 2022	4/13/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1254	"Steer Clear of Typical Tax Return Errors: May 17 Deadline Nears," Internal Revenue Service, April 20, 2021, https://www.irs.gov/newsroom/steer-clear-of-typical-tax-return-errors-may-17-deadline-nears , last accessed on July 20, 2022	4/20/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1255	"IRS Reminders About April 18 Deadline for Last-minute Filers and Others," Internal Revenue Service, April 15, 2022, https://www.irs.gov/newsroom/irs-reminders-about-april-18-deadline-for-last-minute-filers-and-others , last accessed on July 20, 2022	4/15/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1256	"Most Popular Help Topics," TaxAct, https://www.taxact.com/support , last accessed on November 3, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1257	Kemberley Washington, "When Should I File in Multiple States?," Forbes, April 14, 2021, https://www.forbes.com/advisor/taxes/when-should-i-file-taxes-in-multiple-states , last accessed on January 10, 2023	4/14/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1258	"File with Liberty," Liberty Tax, https://www.libertytax.com , last accessed on January 10, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1259	"IRS Free File Online: Browse All Offers," Internal Revenue Service, https://web.archive.org/web/2020301220719/https://apps.irs.gov/app/efile/browse-all-offers/ , last accessed on January 8, 2023	3/1/2022	RX 1259-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1633-1634			
RX 1259-A	"IRS Free File Online: Browse All Offers," Internal Revenue Service, https://web.archive.org/web/2020301220719/https://apps.irs.gov/app/efile/browse-all-offers/ , last accessed on January 8, 2023	3/1/2022	RX 1259	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1515-1520			
RX 1260	Screenshot of TaxSlayer Website, https://www.taxslayer.com/homev3/ , last accessed on January 10, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1261	Maliath, George J., and Larry Samuelson, "Reputations in Repeated Games," <i>Handbook of Game Theory with Economic Applications</i> , Vol. 4, 2015, pp. 165-238	2015		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1262	Jackson Hewitt, "Get Your Biggest Refund or \$100, Guaranteed," https://www.jacksonhewitt.com/ , last accessed January 10, 2023.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1263	Screenshot of TurboTax Homepage, dated March 1, 2022, available at https://web.archive.org/web/2020301200806/https://turbotax.intuit.com/	3/1/2022	RX 1263-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	209-210, 212-213, 221-223			
RX 1263-A	Screenshot of TurboTax Homepage, dated March 1, 2022, available at https://web.archive.org/web/2020301200806/https://turbotax.intuit.com/	3/1/2022	RX 1263	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	209-210, 212-213, 221-223			
RX 1264	Screenshot of TurboTax Free Edition webpage, dated March 1, 2022, available at https://web.archive.org/web/2020302155539/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp	3/1/2022	RX 1264-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1264-A	Screenshot of TurboTax Free Edition webpage, dated March 1, 2022, available at https://web.archive.org/web/2020302155539/https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp	3/1/2022	RX 1264	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	595-596			
RX 1265	Screenshot of TurboTax Free Edition webpage, available at https://turbotax.intuit.com/personal-taxes/online/free-edition.jsp , last accessed January 6, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1266	Screenshot of TurboTax Products & Pricing webpage, March 1, 2022, available at https://web.archive.org/web/2020301150503/https://turbotax.intuit.com/personal-taxes/online/	3/1/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1267	Screenshot of TurboTax Products & Pricing webpage, available at https://turbotax.intuit.com/personal-taxes/online/ , last accessed January 6, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1268	Screenshot of TurboTax "overview of charges" webpage, example 1, dated July 20, 2022	7/20/2022	RX 1268-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1268-A	Screenshot of TurboTax "overview of charges" webpage, example 1, dated July 20, 2022	7/20/2022	RX 1268	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1269	Screenshot of TurboTax "overview of charges" webpage, example 2, dated July 20, 2022	7/20/2022	RX 1269-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1269-A	Screenshot of TurboTax "overview of charges" webpage, example 2, dated July 20, 2022	7/20/2022	RX 1269	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1270	Screenshot of TurboTax "payment options" webpage, dated March 17, 2022	3/17/2022	RX 1270-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1270-A	Screenshot of TurboTax "payment options" webpage, dated March 17, 2022	3/17/2022	RX 1270	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1271	Screenshot of TY15 TurboTax "What does Absolute Zero really mean?" Pop-up Screen		RX 1271-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1271-A	Screenshot of TY15 TurboTax "What does Absolute Zero really mean?" Pop-up Screen		RX 1271	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1272	Screenshot of TY15 TurboTax "What's the catch?" Pop-up Screen		RX 1272-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1272-A	Screenshot of TY15 TurboTax "What's the catch?" Pop-up Screen		RX 1272	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1273	Screenshot of TY15 TurboTax "Absolute Zero -- What does \$0 Fed \$0 State \$0 To File really mean?" Pop-up Screen		RX 1273-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1273-A	Screenshot of TY15 TurboTax "Absolute Zero -- What does \$0 Fed \$0 State \$0 To File really mean?" Pop-up Screen		RX 1273	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1274	Screenshot of TY15 TurboTax "Absolute Zero-- Give it a try" Pop-up Screen		RX 1274-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1274-A	Screenshot of TY15 TurboTax "Absolute Zero-- Give it a try" Pop-up Screen		RX 1274	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1275	Screenshot of TY15 TurboTax "Absolute Zero -- Rated 4.6 out of 5 stars by our customers" Pop-up Screen		RX 1275-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1275-A	Screenshot of TY15 TurboTax "Absolute Zero -- Rated 4.6 out of 5 stars by our customers" Pop-up Screen		RX 1275	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1276	Screenshot of TY16 TurboTax "What does Absolute Zero really mean?" Pop-up Screen		RX 1276-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1276-A	Screenshot of TY16 TurboTax "What does Absolute Zero really mean?" Pop-up Screen		RX 1276	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1277	Screenshot of TY16 TurboTax "What's the catch?" Pop-up Screen		RX 1277-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1277-A	Screenshot of TY16 TurboTax "What's the catch?" Pop-up Screen		RX 1277	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1278	Tax Foundation, York, Summary of the Latest Federal Income Tax Data, 2022 Update, https://taxfoundation.org/publications/latest-federal-income-tax-data/ , last accessed January 6, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1279	Screenshot of TurboTax Products & Pricing page, available at https://turbotax.intuit.com/personal-taxes/online , last accessed July 20, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1280	Screenshot of TY17 TurboTax "1040EZ/1040A" pop-up, https://web.archive.org/web/20180105034339/https://turbotax.intuit.com/personal-taxes/online/	1/5/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1281	Screenshot of TY16 TurboTax "No catch, here's why" pop-up, https://web.archive.org/web/20170121153604/https://turbotax.intuit.com/	1/21/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1282	Screenshot of TY16 TurboTax "No catch, here's why" pop-up, https://web.archive.org/web/20170121153604/https://turbotax.intuit.com/	1/21/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1283	Screenshot of TY16 TurboTax "No catch, here's why" pop-up, https://web.archive.org/web/20170121153604/https://turbotax.intuit.com/	1/21/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1284	Screenshot of TY16 TurboTax "No catch, here's why" pop-up, https://web.archive.org/web/20170121153604/https://turbotax.intuit.com/	1/21/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408
Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1285	Screenshot of TY17 TurboTax "See why it's free" popup. https://web.archive.org/web/20180105033618/https://turbotax.intuit.com/	1/5/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1286	Screenshot of TY17 TurboTax "See why it's free" popup. https://web.archive.org/web/20180105033618/https://turbotax.intuit.com/	1/5/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1287	Screenshot of TY18 TurboTax "See why it's free" popup. https://web.archive.org/web/20190128061106/https://turbotax.intuit.com/	1/28/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1288	Screenshot of TY18 TurboTax "See why it's free" popup. https://web.archive.org/web/20190128061106/https://turbotax.intuit.com/	1/28/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1289	Screenshot of TY18 TurboTax "Simple tax returns" popup. https://web.archive.org/web/20190126174512.mp/hhttps://turbotax.intuit.com/personal-taxes/online/	1/26/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1290	Screenshot of TY19 TurboTax "Simple tax returns" popup. https://web.archive.org/web/202002081516/https://turbotax.intuit.com/	2/2/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1291	Screenshot of TY19 TurboTax "Simple tax returns" popup. https://web.archive.org/web/202002081516/https://turbotax.intuit.com/	2/2/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1292	Screenshot of TY19 TurboTax "Simple tax returns" popup. https://web.archive.org/web/202002081516/https://turbotax.intuit.com/	2/2/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1293	Screenshot of TY20 TurboTax "Simple tax returns" popup. https://web.archive.org/web/20210126000145/https://turbotax.intuit.com/	1/26/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1294	Screenshot of TY20 TurboTax "Simple tax returns" popup. https://web.archive.org/web/20210126000145/https://turbotax.intuit.com/	1/26/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1295	TaxHawk, "File Federal Taxes Free," https://www.taxhawk.com/ , accessed October 11, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1296	TaxHawk, "File with help from a Pro," https://www.taxhawk.com/pro.jsp , accessed November 4, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1297	TaxHawk, "Free Import," https://www.taxhawk.com/software.jsp , accessed September 28, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1298	TaxHawk, "Free Tax Software," https://www.taxhawk.com/software.jsp?gclid=EAlaIQobChMIuqOE1bWT-wiVITzAB33kQHGEAYASABEgIdofD_BwE , accessed November 3, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1299	TaxHawk, "Supported Federal Tax Forms," https://www.taxhawk.com/federal-forms.jsp , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1300	TaxHawk, "TaxHawk® Safe and Secure," https://www.taxhawk.com/secure.jsp , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1301	TaxHawk, "Terms of Use for TaxHawk®," https://www.taxhawk.com/terms-of-use.jsp , accessed November 4, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1302	TaxHawk, "We're here to help," https://www.taxhawk.com/search_faq.jsp , accessed November 4, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1303	TaxSlayer, "4 Low-Cost Ways to File Your Taxes Online in 2022," March 28, 2022, https://www.taxslayer.com/blog/cheapest-way-to-file-taxes-online/ , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1304	TaxSlayer, "Audit Assistance," https://www.taxslayer.com/supportcenter/auditassistance , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1305	TaxSlayer, "Commonly-used IRS tax forms and schedules," https://www.taxslayer.com/tax-tools/federal-forms-for-taxes , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1306	TaxSlayer, "Compare Our Online Tax Software," https://www.taxslayer.com/tax-tools/compare-tax-software/ , accessed October 11, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1307	TaxSlayer, "File on the go with our free tax app," https://www.taxslayer.com/tax-tools/mobile-apps/ , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1308	TaxSlayer, "How do I amend my federal/state tax return?," https://support.taxslayer.com/hc/en-us/articles/360015909411-How-do-I-amend-my-federal-state-tax-return , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1309	TaxSlayer, "How do I file a Part Year New York return?," https://support.taxslayer.com/hc/en-us/articles/4408870111245-How-do-I-file-a-Part-Year-New-York-return , accessed November 4, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1310	TaxSlayer, "How Do I File My Taxes for Free in 2022?", December 6, 2021, https://web.archive.org/web/20211223002120/https://www.taxslayer.com/blog/how-to-file-taxes-for-free/ , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1311	TaxSlayer, "How Do I File My Taxes for Free in 2023?", September 26, 2022, https://www.taxslayer.com/blog/how-to-file-taxes-for-free/ , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1312	TaxSlayer, "How do I pull my prior year information to the current year?," https://support.taxslayer.com/hc/en-us/articles/360015899211-How-do-I-pull-my-prior-year-information-to-the-current-year- , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1313	TaxSlayer, "How do I report my business income or loss on my tax return?," https://support.taxslayer.com/hc/en-us/articles/360015713872-How-do-I-report-my-business-income-or-loss-on-my-tax-return- , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1314	TaxSlayer, "Is TaxSlayer Simply Free really free?," https://www.taxslayer.com/products/taxslayer-free-tax-filing#simply-free-info , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1315	TaxSlayer, "Our Guarantees," https://www.taxslayer.com/policies/guarantees , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1316	TaxSlayer, "Our Maximum Refund Guarantee," https://www.taxslayer.com/links/maxrefundguarantee , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1317	TaxSlayer, "Tax Identity Theft: How It Happens and Ways to Prevent It," February 1, 2022, https://www.taxslayer.com/blog/how-to-prevent-or-report-tax-identity-theft/ , accessed December 12, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1318	TaxSlayer, "TaxSlayer Premium," https://www.taxslayer.com/products/taxslayer-premium/ , accessed October 27, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1319	TaxSlayer, "TaxSlayer Pro Support Knowledgebase," https://support.taxslayerpro.com/hc/en-us/articles/360009168894-SecurelyID , accessed December 12, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1320	TaxSlayer, "TaxSlayer Self-Employed," https://www.taxslayer.com/products/taxslayer-self-employment-taxes/ , accessed November 4, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1321	TaxSlayer, "TaxSlayer Unmasks All New Brand Strategy, Putting The Customer At The Center," December 12, 2017, https://www.taxslayer.com/media-room/prdetails?articleID=122488 , accessed October 27, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1322	TaxSlayer, "What Is My State Residency Status?," September 11, 2019, https://www.taxslayer.com/blog/what-is-my-state-residency-status/ , accessed October 27, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1323	TaxSlayer, "Where's my refund?," https://www.taxslayer.com/tax-tools/refund-status/ , accessed October 27, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1324	TaxSlayer, "Who claims a child of divorced or separated parents?," https://support.taxslayer.com/hc/en-us/articles/360015701492-Who-claims-a-child-of-divorced-or-separated-parents- , accessed October 27, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1325	TaxSlayer, "Your Security is Our Priority," https://www.taxslayer.com/policies/security , accessed October 27, 2022.			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1326	TurboTax, "Offer details and disclosures for the Refund Advance program," April 15, 2022, https://ttic.intuit.com/turbotax-support/en-us/help-article/tax-refund/offer-details-disclosures-refund-advance-program/L4jXp6T1_US_en_US?uid=l5jghavn , accessed November 4, 2022.	4/15/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1327	Van Bloom, Chelsea, and Ed Oswald, "Best Mobile Tax Apps of 2022," U.S. News, February 2, 2022, https://www.usnews.com/360-reviews/technology/tax-software/best-mobile-tax-apps , accessed September 29, 2022.	2/2/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1328	Washington, Kemberley, "Best Tax Software Of September 2022," Forbes, September 19, 2022, https://www.forbes.com/advisor/taxes/best-tax-software/ , accessed September 29, 2022.	9/19/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1329	White, Alexandria, "Here's What a Simple Tax Return Is and How to Qualify So You Can file Your Taxes for Free," CNBC, March 30, 2022, https://www.cnbc.com/select/simple-tax-returns/ , accessed July 15, 2022.	3/30/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408
Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1330	Written Testimony of FTC Commissioner Rohit Chopra Before the U.S. House of Representatives Committee on the Judiciary Subcommittee on Antitrust, Commercial, and Administrative Law, "Hearing on Online Platforms and Market Power, Part 3: The Role of Data and Privacy in Competition," October 18, 2019, https://www.ftc.gov/system/files/documents/public_statements/1549812/chopra_-_testimony_at_hearing_on_online_platforms_and_market_power_part_3_10-18-19.pdf , accessed September 29, 2022	10/18/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1331	Yakal, Kathy, "Cash App Taxes 2022 (Tax Year 2021) Review," PCMag, March 3, 2022, https://www.pcmag.com/reviews/cash-app-taxes , accessed November 22, 2022	3/3/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1332	Yakal, Kathy, "The Best Tax Software for 2022," PCMag, August 24, 2022, https://www.pcmag.com/picks/the-best-tax-software , accessed September 29, 2022	8/24/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1333	Intuit, "What's Included in PLUS Help & Support," January 4, 2022, https://ftc.intuit.com/turbotax-support/en-us/help-article/intuit-product-orders/included-plus-help-support/L9YbRiw0c_US_en_US , accessed September 23, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1334	Internal Revenue Service, "Tax Year 2021 1040 Instructions," https://www.irs.gov/pub/irs-pdf/i1040gi.pdf , accessed July 8, 2022			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1335	Payne, S.L., 1951. "The Art of Asking Questions." Princeton University Press, Princeton, NJ	1951		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1336	Presentation entitled, "TurboTax Online Competitive NPS TY18 2019 Study"	Jun-19		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1337	Video: H&R Block - 'May Never Know' - iSpot.tv.mp4	12/29/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	477-479			
RX 1338	Video: TaxSlayer - 'Cash Cow' - YouTube.mp4	1/4/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	479-480, 751-752			
RX 1339	Video: H&R Block - 'Help is Here' - iSpot.tv.mp4	1/5/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	480-481, 752			
RX 1340	Video: TaxSlayer - 'Anthem-Simply Free' - YouTube.mp4	2/8/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	481-482			

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1341	Video: H&R Block - 'Football Season' - iSpot.tv.mp4	1/1/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	483-487, 759-760			
RX 1342	Video: NBC Nightly News, "TurboTax and H&R Block facing lawsuits over free tax filing," May 6, 2019. (filename: NBC News.mp4)	5/6/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1343	Video: Scripps News, "H&R Block, Intuit sued for defrauding taxpayers," May 8, 2019. (filename: Scripps News - YouTube.mp4)	5/8/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1344	Video: WXYZ-TV Detroit, "TurboTax facing class-action lawsuit," June 10, 2019 (filename: WXYZ-TV Detroit - YouTube.mp4)	6/10/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1345	Rebuttal Expert Report of Nathan Novemsky, Ph.D., in the Matter of Intuit Inc., Docket No. 9408, January 27, 2023	1/27/2023	GX 749	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	451-455, 497-501, 1811-1813, 1824-1825		Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1346	Corrections to the Rebuttal Expert Report of Nathan Novemsky, Ph.D., in the Matter of Intuit Inc., Docket No. 9408		GX 750	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1347	Expert Report of Dr. Nathan Novemsky, in the Matter of: Integrity Advance, 2015-CFPB-0029, March 25, 2016	3/25/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1348	Exhibit D: Deposition of Nathan Novemsky, in the Matter of: Integrity Advance, 2015-CFPB-0029, April 15, 2016	4/15/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1349	Excerpt of Novemsky Testimony, State of Oregon v. Living Essentials and Innovation Ventures, Case No. 14-cv-09149, July 18, 2016.	7/18/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	493-497			
RX 1350	Elliot, Justin and Waldron, Lucas, "The TurboTax Trap: Here's How TurboTax Just Tricked You Into Paying to File Your Taxes," ProPublica, April 22, 2019 (last updated March 24, 2021)	4/22/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1351	Wamsley, Laurel, "H&R Block, TurboTax Accused of Obstructing Access to Free Tax Filing," NPR, May 7, 2019	5/7/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1352	Hutchinson, Bill, "TurboTax maker, H&R Block sued for allegedly charging taxpayers for free service," ABC News, May 7, 2019	5/7/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1353	City News Service, "LA Attorney Sues TurboTax, H&R Block," NBC Los Angeles, May 7, 2019	5/7/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1354	Index of Video Exhibits played during the Nathan Novemsky Deposition - February 1, 2023	2/1/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1355	Klar, Rebecca, "TurboTax, H&R Block used 'unfair and abusive practices' to get more money out of people, state regulator finds," The Hill, July 15, 2020	7/15/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1356	Frankel, Alison, "Judge Breyer Rejects \$40 million Intuit class settlement amid arbitration onslaught," Reuters, December 22, 2020	12/22/2020		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1357	Social Media Solicitations https://signup.turbotaxclaims.com/free-filing-claim/ . Accessed on June 12, 2020			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1358	Chart entitled "Respondents Flagged as 'Consistent' by the Novemsky Rebuttal Report"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	443-451, 525-530			
RX 1359	2023 TurboTax Free Edition web page	2/10/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1221-1225, 1256-1262			
RX 1360	Gillespie, E., et al., "A Tangled Web: Views of Deception from the Customer's Perspective," Business Ethics: A European Review, Vol. 25, No. 2, April 2016, pp.198-217	4/2016		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1361	E. Yoeli, "The Risks of Avoiding a Debate on Gender Differences," Rady Business Journal, January 19, 2013	1/19/2013		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1362	Expert Report of Erez Yoeli, In the Matter of: Intuit Inc., a corporation, No. 9408, United States of America Before The Federal Trade Commission, February 16, 2023	2/16/2023	GX 743	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1697-1699, 1702-1703, 1706-1708, 1721-1722, 1732-1734, 1753-1759		Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1363	Erez Yoeli, "Erez Yoeli," Ted Speaker			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1364	Civil Investigative Demand Response, dated July 29, 2019	7/29/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1368	Appendix B of Expert Report of Bruce F. Deal, In the Matter of: Intuit Inc., a corporation, No. 9408, United States of America Before The Federal Trade Commission, January 13, 2023	1/13/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1723		Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1369	<i>United States v. Dish Network LLC</i> , 256 F. Supp. 3d 810, 875 (C.D. Ill. 2017)	6/5/2017		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1370	George A. Akerlof, "The Market for Lemons': Quality Uncertainty and the Market Mechanism," The Quarterly Journal of Economics, Vol. 84, No. 3, (August 1970), pp. 488-500	8/1970		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1739-1745			
RX 1371	Megan Baburek LinkedIn Profile			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1372			GX 857	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment

In the Matter of Intuit Inc.
Docket No. 9408
Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1373			GX 868	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1374				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1375				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1376				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1377	Spreadsheet entitled "CRM_word_cnt"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1378	Word Cloud Generated from Intuit's CRM Data – BU Customer Verbatim			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1379	Word Cloud Generated from Intuit's CRM Data – Comment Body			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1380	Word Cloud Generated from Intuit's CRM Data – Description			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1381	Word Cloud Generated from Intuit's CRM Data – Short Description			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1382	Word Cloud Generated from Intuit's CRM Data – Subject			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1383	Word Cloud Generated from Intuit's CRM Data – What Caused the Escalation			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1384	Word Cloud Generated from Intuit's CRM Data – What Did The Customer Need Help			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1385				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1386				April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1387	Spreadsheet entitled "INTUIT-FTC-PART3-000608571_Summary"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1388	Spreadsheet entitled "Online_Ads"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1389	Spreadsheet entitled "TV_Ads"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1390	January 9, 2023; Diana Shiller Deposition Transcript	1/9/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1391	January 25, 2023; John Hauser Deposition Transcript	1/25/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1392	February 1, 2023; Nathan Novemsky Deposition Transcript	2/1/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1393	February 2, 2023; Rebecca Kirk Fair Deposition Transcript	2/2/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1394	February 10, 2023; Peter Golder Deposition Transcript	2/10/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1395	February 15, 2023; Bruce Deal Deposition Transcript	2/15/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1668-1669		Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1396	February 16, 2023; Erez Yoeli Deposition Transcript	2/16/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1717-1720, 1723-1732		Partial In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1397	February 23, 2023; Megan Baburek Deposition Transcript	2/23/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1398	TY19 Video ad: re "Crossword" (15 seconds)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1399	TY19 Video ad: re "Spelling Bee" (15 seconds)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1400	TY19 Video ad: re "Credits" (15 seconds)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1401	TY20 Video ad: re "Freeloader" (30 seconds)		GX 601	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	621-624			
RX 1402	TY20 Video ad: re "Freeloader" (5 seconds)		GX 602	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1403	TY20 Video ad: re "Dog Show" (30 seconds)		GX 604	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1404	TY20 Video ad: re "Echo" (5 seconds)		GX 605	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1405	TY20 Video ad: re "Auctioneer" (30 seconds)		GX 606	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1406	TY20 Video ad: re "Freeloader" (5 seconds) v.2		GX 607	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1407	TY20 Video ad: re "Auctioneer" (5 seconds)		GX 610	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1408	TY20 Video ad: re "Auctioneer" (15 seconds)		GX 611	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1409	TY20 Video ad: re "Dance Class" (5 seconds)		GX 612	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1410	TY20 Video ad: re "Dog Show" (5 seconds)		GX 613	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1411	TY20 Video ad: re "Freeloader" (15 seconds)		GX 616	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1412	TY20 Video ad: re "Dance Class" (30 seconds)		GX 628	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1413	TY21 Video ad: re "Spit Take" (6 seconds)		GX 619	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1414	TY21 Video ad: re "Dance Class" (30 seconds)		GX 620	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1415	TY21 Video ad: re "Auctioneer" (30 seconds)		GX 623	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1416	TY21 Video ad: re "Auctioneer" (5 seconds)		GX 624	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1417	TY21 Video ad: re "Dance Class" (15 seconds)		GX 625	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	48-49			
RX 1418	TY21 Video ad: re "Dance Class" (5 seconds)		GX 626	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1419	TY22 Display ad re: "Spinning Zeros"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1420	TY22 Display ad re: "Snap Tap Done"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	760-761, 1562-1564			

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1421	TY22 Display ad re: "X-ray"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1422	TY22 Display ad re: "Jeans Phone"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1423	TY22 Display ad re: "W-2 Guys"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1424	TY22 Display ad re: "Mariah Tablet"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1425	TY22 Display ad re: "Claudell Zero No Text"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1426	TY22 Display ad re: "Claudell Laptop"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	695-696			
RX 1427	TY22 Display ad re: "Testimonial"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1428	TY22 Display ad re: "Claudell Big Zero 9x16"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1429	TY22 Display ad re: "Claudell Big Zero 16x9"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1430	TY22 Display ad re: "Lifestyle Phone"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1431	TY22 Email ad re: "Free Mobile"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	767-769, 775-776, 814-815			
RX 1432	TY22 Email ad re: "Returning 1+ Free Desktop"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1433	TY22 Email ad re: "Baseline Free Desktop"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1434	TY22 Email ad re: "Free Refund Desktop"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1435	TY22 Email ad re: "Baseline Free Desktop"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1436	Screenshot of TY22 Google search results for "file my taxes for free"	2/15/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1437	Screenshot of TY22 Bing search results for "file my taxes for free"	2/15/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1438	Screenshot of TY22 Google search results for "free file taxes"	2/15/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1439	Screenshot of TY22 Bing search results for "free file taxes"	2/15/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1440	Screenshot of TY22 Google search results for "free file taxes online"	2/15/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	696-711			
RX 1441	Screenshot of TY22 Bing search results for "free file taxes online"	2/15/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1442	Screenshot of TY22 Google search results for "irs taxes for free"	2/15/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1443	Screenshot of TY22 Bing search results for "irs taxes for free"	2/15/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1444	TY22 Video ad re: "Lasso," QTTX0616000H (16x9, 15 second, NO DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	757-759, 776			
RX 1445	TY22 Video ad re: "Lasso," QTTX0461000H (16x9, 15 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1446	TY22 Video ad re: "Lasso," QTTX0646000H (16x9, 6 second, FPG)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1447	TY22 Video ad re: "Lasso," QTTX0463000H (16x9, 6 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1449	TY22 Video ad re: "Roller Boogie," QTTX0425000H (16x9, 15 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1451	TY22 Video ad re: "Roller Boogie," QTTX0638000H (16x9, 6 second, FPG)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1452	TY22 Video ad re: "Roller Boogie," QTTX0636000H (16x9, 15 second, NO DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1453	TY22 Video ad re: "Roller Boogie," QTTX0427000H (16x9, 6 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1454	TY22 Video ad re: "Lasso," QTTX0473000H (4x5, 15 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1455	TY22 Video ad re: "Lasso," QTTX0625000H (4x5, 15 second, NO DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1456	TY22 Video ad re: "Lasso," QTTX0619000H (9x16, 15 second, NO DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1457	TY22 Video ad re: "Lasso," QTTX0465000H (9x16, 15 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1458	TY22 Video ad re: "Lasso," QTTX0649000H (4x5, 6 second, FPG)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1459	TY22 Video ad re: "Lasso," QTTX047000H (4x5, 6 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1460	TY22 Video ad re: "Lasso," QTTX0469000H (9x16, 6 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1461	TY22 Video ad re: "Lasso," QTTX0647000H (9x16, 6 second, FPG)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1462	TY22 Video ad re: "Roller Boogie," QTTX0597000H (9x16, 15 second, NO DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1463	TY22 Video ad re: "Roller Boogie," QTTX0603000H (4x5, 15 second, NO DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1464	TY22 Video ad re: "Roller Boogie," QTTX0437000H (4x5, 15 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1465	TY22 Video ad re: "Roller Boogie," QTTX0429000H (9x16, 15 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1466	TY22 Video ad re: "Roller Boogie," QTTX0439000H (4x5, 6 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1467	TY22 Video ad re: "Roller Boogie," QTTX0641000H (4x5, 6 second, FPG)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1468	TY22 Video ad re: "Roller Boogie," QTTX0639000H (9x16, 6 second, FPG)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1469	TY22 Video ad re: "Roller Boogie," QTTX0433000H (9x16, 6 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1470	TY22 Video ad re: "Taxbourne," QTTX0455000H (4x5, 15 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	516			

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1471	TY22 Video ad re: "Taxbourine," QTTX0614000H (4x5, 15 second, NO DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1472	TY22 Video ad re: "Taxbourine," QTTX0447000H (9x16, 15 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1473	TY22 Video ad re: "Taxbourine," QTTX0608000H (9x16, 15 second, NO DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1474	TY22 Video ad re: "Taxbourine," QTTX0645000H (4x5, 6 second, FPG)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1475	TY22 Video ad re: "Taxbourine," QTTX0457000H (4x5, 6 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1476	TY22 Video ad re: "Taxbourine," QTTX0451000H (9x16, 6 second, DATE)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1477	TY22 Video ad re: "Taxbourine," QTTX0643000H (9x16, 6 second, FPG)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1478	TY22 TikTok ad screen recording re: "Lasso" (6 second, no date)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1479	TY22 TikTok ad screen recording re: "Taxbourine" (15 second, no date)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1480	TY22 TikTok ad screen recording re: "Roller Boogie" (6 second, date)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1481	TY22 TikTok ad screen recording re: "Roller Boogie" (15 second, no date)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1482	TY22 TikTok ad screen recording re: "Taxbourine" (15 second, date)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1483	TY22 TikTok ad screen recording re: "Taxbourine" (6 second, date)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1484	TY22 TikTok ad screen recording re: "Lasso" (15 second, no date)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1485	TY22 TikTok ad screen recording re: "Roller Boogie" (6 second, no date)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1486	TY22 TikTok ad screen recording re: "Roller Boogie" (15 second, date)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1487	TY22 TikTok ad screen recording re: "Lasso" (15 second, date)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1488	TY22 TikTok ad screen recording re: "Taxbourne" (6 second, no date)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1489	TY22 TikTok ad screen recording re: "Lasso" (6 second, date)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1490	Decision and Order: <i>In the Matter of LCA-VISION</i> , No. 1923157 (F.T.C. Jan. 19, 2023)	1/19/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1491	Wieden+Kennedy draft ad titled "Spell_30.06B"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1492	Wieden+Kennedy draft ad titled "Young_Love_30.36D"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1493	Wieden+Kennedy draft ad titled "Auctioneer_30.06C"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1494	Wieden+Kennedy draft ad titled "Dance_Class_30.19E_VO_Client_Presented"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1495	Wieden+Kennedy draft ad titled "Dance_Class_30.22"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1496	Declaration of Tobey Hall Bennett (Wieden+Kennedy), dated February 23, 2023	2/23/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1497	Melanie Pinola, The Best Online Tax Filing Software, https://www.nytimes.com/wirecutter/reviews/best-tax-software/ , dated February 7, 2023	2/7/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1498	TY22 Screenshot of "See If You Qualify" Disclosure Pop Up	1/30/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1499	TY22 Screenshot of "Simple Tax Return Only" disclosure pop-up	1/30/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	776-777, 1566-1570			
RX 1500	TY22 Screenshot of TurboTax website homepage	2/1/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1501	TY22 Screenshot of TurboTax website Free Edition disclosure webpage (https://turbotax.intuit.com/best-tax-software/why-its-free/)	1/31/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1503	Cash App, "States available for filing with Cash App Taxes," February 23, 2023, https://taxeshelp.cash.app/s/article/States-available-for-filing-with-Cash-App-Taxes , accessed March 1, 2023	2/23/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1536-1545, 1636			
RX 1504	Cash App, "Forms and situations Cash App Taxes does not support," November 29, 2022, https://taxeshelp.cash.app/s/article/Forms-and-situations-Cash-App-Taxes-does-not-support , accessed March 1, 2023	11/29/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1536-1545			
RX 1505	Google One, "Choose a plan that works for you," https://one.google.com/about/plans , accessed March 1, 2023	3/1/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1506	Internal Revenue Service, "Filing Season Statistics for Week Ending December 25, 2015," page last reviewed or updated on March 4, 2020, https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-december-25-2015 , accessed March 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1507	Internal Revenue Service, "Filing Season Statistics for Week Ending December 29, 2017," page last reviewed or updated on November 2, 2021, https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-december-29-2017 , accessed March 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1508	Internal Revenue Service, "Filing Season Statistics for Week Ending December 27, 2019," page last reviewed or updated on January 16, 2020, https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-december-27-2019 , accessed March 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1509	Internal Revenue Service, "Filing Season Statistics for Week Ending December 3, 2021," page last reviewed or updated on October 18, 2022, https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-december-3-2021 , accessed March 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1510	Internal Revenue Service, "Filing Season Statistics for Week Ending December 30, 2022," page last reviewed or updated on January 27, 2023, https://www.irs.gov/newsroom/filing-season-statistics-for-week-ending-december-30-2022 , accessed March 2, 2023			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1511	Spreadsheet entitled "Internal Revenue Service's Mid-July Filing Season Statistics by AGI for TY20, tbl. 1," available at https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.irs.gov%2Fpub%2Firs-soi%2F21inweek30.xls&wdOrigin=BROWSELINK			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1512	Spreadsheet entitled "Internal Revenue Service's Mid-November Filing Season Statistics by AGI for TY21, tbl. 1," available at https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.irs.gov%2Fpub%2Firs-soi%2F22inweek47.xls&wdOrigin=BROWSELINK			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1513	Internal Revenue Service, "2015 Internal Revenue Service Data Book," March 2016	Mar-16		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1514	Internal Revenue Service, "2016 Internal Revenue Service Data Book," March 2017	Mar-17		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1515	Internal Revenue Service, "2017 Internal Revenue Service Data Book," March 2018	Mar-18		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1516	Internal Revenue Service, "2018 Internal Revenue Service Data Book," March 2019	Mar-19		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1517	Spreadsheet entitled "Internal Revenue Service's Mid-November Filing Season Statistics by AGI for TY17, tbl. 1C" (Electronic Filename: RX 1517 - 2018 Mid Nov (TY2017) 18inweek47expanded.xls)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1518	Spreadsheet entitled "Internal Revenue Service's Mid-November Filing Season Statistics by AGI for TY18, tbl. 1" (Electronic Filename: RX 1518 - 2019 Mid Nov (TY2018) 19inweek47expanded.xls)		GX 336	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1519	Spreadsheet entitled "Internal Revenue Service's Late-December Filing Season Statistics by AGI for TY19, tbl. 1" (Electronic Filename: RX 1519 - 2020 Late-Dec (TY2019) 20inweek53.xls)		GX 337, RX 095	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1521	Wicks et al., Dual-Modality Disclaimers, Emotional Appeals, and Production Techniques in Food Advertising Airing During Programs Rated for Children, 38 J. Advert. 93, 99 (2009)	Dec-09		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1522	IRS, Here are five facts about the new Form 1040 (IRS Tax Tip 2019-13) (Feb. 25, 2019), https://www.irs.gov/newsroom/here-are-five-facts-about-the-new-form-1040	2/25/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1523	TY22 Screenshot of Google search results for "is turbotax free for me?"	3/10/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1524	TY22 Screenshot of Google search results for "what is a simple tax return turbotax"	3/10/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1547-1552, 1559-1562			
RX 1525	Screenshot of TY22 Google search results for "free turbotax file"	3/10/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1526	Screenshot of TY22 Google search results for "free online taxes"	3/10/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1269-1275			
RX 1527	Screenshot of TY18 TurboTax Free Edition webpage – Tax Forms	2/24/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1528	Screenshot of TY19 TurboTax Free Edition webpage – Tax Forms			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1529	Screenshot of TY20 TurboTax Free Edition webpage – Tax Forms			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1530	Screenshot of TY21 TurboTax Free Edition webpage – Tax Forms			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	223-229			
RX 1531	Screenshot of TY22 TurboTax Free Edition webpage – Tax Forms	1/14/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1564-1570			
RX 1532	Screenshot of TY22 TurboTax Products & Pricing webpage	1/14/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1570-1577, 1613-1615, 1639-1646			
RX 1533	Screenshot of TY22 Screening Questions on TurboTax Products & Pricing Page, Showing Deluxe Recommendation (House and Charity)	1/14/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1534	Screenshot of TY22 Screening Questions on TurboTax Products & Pricing Page, Showing Deluxe Recommendation (House, Charity, and Maximize Deductions)	1/14/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1535	Screenshot of TY22 Screening Questions on TurboTax Products & Pricing Page, Showing Deluxe Recommendation (House, Charity, Maximize Deductions, and Unemployment Income)	1/14/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1536	Screenshot of TY22 Screening Questions on TurboTax Products & Pricing Page, Showing Free Recommendation	1/14/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1575-1577, 1579-1591			
RX 1537	Screenshot of TY22 Screening Questions on TurboTax Products & Pricing Page, Showing Premium Recommendation	1/14/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1538	Screenshot of TY22 Screening Questions on TurboTax Products & Pricing Page, Showing Self-Employed Recommendation (Freelancer, Gig-Worker)	1/14/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408
Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1539	Screenshot of TY22 Screening Questions on TurboTax Products & Pricing Page, Showing Self-Employed Recommendation (Self-Employed, Independent Contractor and Freelancer, Gig-Worker)	1/14/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1540	Screenshot of TY22 Screening Questions on TurboTax Products & Pricing Page, Showing Self-Employed Recommendation (Self-Employed, Independent Contractor)	1/14/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1541	TY22 Premium Email ad re: "1099-NEC"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1542	2021 Intuit Investor Day Presentation Video, available at https://www.youtube.com/watch?v=BHUTqlg-5hc		RX 1542-A	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1542-A	2021 Intuit Investor Day Presentation Video, available at https://www.youtube.com/watch?v=BHUTqlg-5hc		RX 1542	April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1543		3/9/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	511-514, 516-519, 771-773, 825		Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1544		3/6/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1545		2/23/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1546		2/16/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing			Complete In Camera Treatment	April 24, 2023 Order on Motions for In Camera Treatment
RX 1547	TY22 Video ad re: "Taxbourne" (Free Edition)			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	514-516, 772-773			
RX 1548	Original Disclosures Group Video (John Hauser Jan. Expert Report)	1/13/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	859-867, 990-991			
RX 1549	Revised Disclosures Group Video (John Hauser Jan. Expert report)	1/13/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	859-867, 989-991			
RX 1550	Screenshot of TY21 Military Landing Page	7/12/2022		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	440-443, 579-582			
RX 1551	Spreadsheet entitled "TY21 Carousel Supplement.xlsx" (spreadsheet reflecting creative copy for four "carousel" ads that aired in Tax Year 2021, which were reflected in combined rows on GX 434)	3/26/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				

In the Matter of Intuit Inc.
Docket No. 9408

Intuit's Exhibit Index

Exhibit No.	Description	Date	Duplicate Exhibit/Also Marked As	Transcript Page / Citation to Order re Exhibit's Admissibility	Transcript Page(s) Where Exhibit Is Discussed	Summarized By / Exhibits Summarized	In Camera Status	In Camera Order
RX 1552	Raval, D., "Whose Voice Do We Hear in the Marketplace? Evidence from Consumer Complaining Behavior," Marketing Science, Jan-Feb 2020	9/21/2018		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing	1746-1750			
RX 1553	Diva Limosine v. Uber Techs. Inc., Order Granting Defendants' Motion to Disqualify - Docket No. 96	1/9/2019		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1554	Klein v. Facebook, Inc., Order Granting Defendants' Motion to Disqualify - Docket No. 127	7/20/2021		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX 1555	April 12, 2023; Rebecca Kirk Fair Trial Deposition Transcript	4/12/2023		April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing				
RX Summary 01	Charts Showing Novemsky Group A's Tax Methods Used in Past 3 Years			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		GX 757		
RX Summary 02	Chart Showing Information Sources Used by Consumers in Researching Tax Preparation			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX 1017		
RX Summary 03	Chart Comparing Intuit's BBB Complaint Rate to Benchmark Companies			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX 1018		
RX Summary 04	Chart entitled "TY21 TurboTax Customer Base"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX 821		
RX Summary 05	Chart entitled "17.6M Customers Explored TurboTax and Pursued Other Options"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX 821		
RX Summary 06	Chart entitled "Total Time Elapsed Before First Income Upgrade Screen Since Starting Return Among TY21 Customers Who Started in Free Edition"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX 819, RX 821, RX 823		
RX Summary 09	Chart entitled "22.1M Customers Demonstrated Awareness of TurboTax Paid Products"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX 820, RX 821, RX 822, RX 823		
RX Summary 10	Chart entitled "7.3M Customers Revealed Preference for Paid Add-On Features or Functionality"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX 821, RX 823		
RX Summary 11	Chart entitled "Further Analysis of the Remaining TY21 Customers"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX 820, RX 821, RX 822, RX 823		
RX Summary 12	Chart entitled "Did These Customers Arrive at the TurboTax Website Directly from a TurboTax Advertisement?"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX 820, RX 821, RX 822, RX 823		
RX Summary 13	Chart entitled "Were These Customers New to TurboTax?"			April 24, 2023 Order on JX2 and JX3 and Completion of Evidentiary Hearing		RX 820, RX 821, RX 822, RX 823		

CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2023, I caused the foregoing document to be filed 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

The Honorable D. Michael Chappell
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

I further certify that on May 23, 2023, I caused the foregoing document to be served via email to:

Roberto Anguizola
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Email: ranguizola@ftc.gov
Tel: (202) 326-3284

Rebecca Plett
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Email: rplett@ftc.gov
Tel: (202) 326-3664

James Evans
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Email: jevans1@ftc.gov
Tel: (202) 326-2026

Sara Tonnesen
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Email: stonnesen@ftc.gov
Tel: (202) 326-2879

Counsel Supporting the Complaint

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

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

Dated: May 23, 2023

Respectfully submitted,

/s/ Derek Woodman
Derek Woodman
Counsel for Intuit Inc.