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14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**  
16 **SAN JOSE DIVISION**

17 **Federal Trade Commission,**

18 Plaintiff,

19 v.

20 **Intuit Inc.,**

21 Defendant.

No. 5:22-cv-1973

**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)**

22 Plaintiff, the Federal Trade Commission (“FTC”), petitions this Court to enter a  
23 temporary restraining order and grant a preliminary injunction enjoining Inuit Inc. (“Defendant”  
24 or “Intuit”) from engaging in deceptive acts or practices in connection with the advertising,  
25 marketing, promotion, distribution, and sale of online tax preparation products and services,  
26 including TurboTax. The FTC seeks this provisional relief pursuant to Sections 5(a) and 13(b) of  
27 the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a) & 53(b). Absent such  
28 provisional relief, Defendant would be free to continue disseminating the deceptive claim that  
consumers can file their taxes for free using TurboTax when in truth, in numerous instances  
Defendant does not permit consumers to file their taxes for free using TurboTax.

The Commission requires the aid of this Court to prevent interim harm to consumers during the pendency of an administrative trial on the merits. The Commission has already initiated an administrative proceeding, pursuant to Section 5 of the FTC Act, 15 U.S.C. § 45, by

1 filing an administrative complaint on March 28, 2022. The administrative hearing will determine  
2 whether Defendant’s representations violate Section 5 of the FTC Act, 15 U.S.C. § 45, and will  
3 provide all parties a full opportunity to conduct discovery and present testimony and other  
4 evidence regarding Plaintiff’s allegations.

5 **SUMMARY OF THE CASE**

6 1. Defendant Intuit advertises, markets, promotes, distributes, and sells TurboTax, a  
7 commonly-used online tax preparation service that enables users to prepare and file their income  
8 tax returns. (As used in this Complaint, “TurboTax” only refers to online products and services.)

9 2. Much of Intuit’s advertising for TurboTax conveys the message that consumers  
10 can file their taxes for free using TurboTax, even going so far as to air commercials in which  
11 almost every word spoken is the word “free.” For example, an ad called “Auctioneer,” which  
12 depicts a cattle auction with a fast-talking auctioneer and a crowd of grizzled cowboys:



25 AUCTIONEER: And free, and free, and free, and free, and free.  
26 Now a bidder and free! Now give me another bidder and free, and  
27 a free here and a free free free a free free free. Now a bidder and  
28 free! Now give me another bidder and free, and a free free free.  
And free, and free, and free, and free free free and free. Here we go  
at free, free, free and free. Free! Now give me another bidder and  
free. Hit free and here, free, free, free, freeeeeeeeeeee. Free!

1 VOICEOVER: That’s right, TurboTax Free Edition is free. See  
2 details at TurboTax.com.

3 3. In truth, TurboTax is only free for some users, based on the tax forms they need.  
4 For many others, Intuit tells them, after they have invested time and effort gathering and  
5 inputting into TurboTax their sensitive personal and financial information to prepare their tax  
6 returns, that they cannot continue for free; they will need to upgrade to a paid TurboTax service  
7 to complete and file their taxes.

8 4. Until 2021, Intuit offered a free online version of TurboTax through the IRS Free  
9 File Program, a public-private partnership with the IRS, that was available to low-income  
10 consumers regardless of which tax forms they need.

11 5. As detailed herein, Intuit has engaged in, and is engaging in, deceptive business  
12 practices in the advertising, marketing, distribution, and sale of TurboTax.

13 **JURISDICTION AND VENUE**

14 6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a),  
15 and 1345.

16 7. Venue is proper in this District under 28 U.S.C. § 1391(b)(1), (b)(2), (c)(2), and  
17 (d), and 15 U.S.C. § 53(b).

18 8. *Divisional assignment:* Divisional assignment is proper in the San Jose Division  
19 because a substantial part of the events or omissions giving rise to the claim occurred in Santa  
20 Clara County. L.R. 3-2(c), (e).

21 9. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), provides in pertinent part:

22 Whenever the Commission has reason to believe—

23 (1) that any person, partnership, or corporation is violating, or is  
24 about to violate, any provision of law enforced by the Federal  
25 Trade Commission, and

26 (2) that the enjoining thereof pending the issuance of a complaint  
27 by the Commission and until such complaint is dismissed by the  
28 Commission or set aside by the court on review, or until the order

1 of the Commission made thereon has become final, would be in the  
2 interest of the public—

3 the Commission by any of its attorneys designated by it for such  
4 purpose may bring suit in a district court of the United States to  
5 enjoin any such act or practice. Upon a proper showing that,  
6 weighing the equities and considering the Commission's likelihood  
7 of ultimate success, such action would be in the public interest, and  
8 after notice to the defendant, a temporary restraining order or a  
9 preliminary injunction may be granted without bond ....

10 10. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), authorize nationwide service of  
11 process, and personal jurisdiction exists where service is effected pursuant to federal statute. Fed.  
12 R. Civ. P. 4(k)(1)(C). Additionally, Defendant conducts business in this District. Defendant is  
13 subject to personal jurisdiction in this District, and venue is proper in this District under 28  
14 U.S.C. § 1391(b)(1), (b)(2), (c)(2), and (d), and 15 U.S.C. § 53(b).

15 **PLAINTIFF**

16 11. The FTC is an independent agency of the United States Government created by  
17 the FTC Act, which authorizes the FTC to commence this district court civil action by its own  
18 attorneys. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),  
19 which prohibits unfair or deceptive acts or practices in or affecting commerce.

20 12. The FTC is authorized to initiate federal district court proceedings to seek  
21 preliminary injunctive relief pending the Commission's adjudication of the challenged conduct in  
22 an administrative proceeding. 15 U.S.C. § 53(b).

23 **DEFENDANT**

24 13. Defendant Intuit Inc. is a Delaware corporation with its principal place of  
25 business in Mountain View, California.

26 14. Intuit transacts or has transacted business in this District and throughout the  
27 United States. At all times relevant to this Complaint, acting alone or in concert with others,  
28 Intuit has advertised, marketed, promoted, distributed, or sold TurboTax, an online tax  
preparation service that enables users to prepare and file their income tax returns, to consumers  
throughout the United States.

**COMMERCE**

15. At all times relevant to this Complaint, Intuit has maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

**DEFENDANT’S BUSINESS ACTIVITIES**

**I. TurboTax’s “Freemium” Version: TurboTax Free Edition**

16. [REDACTED]

17. [REDACTED] involves, in part, growing Intuit’s customer base by offering free services to consumers [REDACTED]

18. [REDACTED] also involves persuading consumers to upgrade from free to paid versions of TurboTax.

19. [REDACTED] further involves “brand loyalty,” or retention of consumers who previously filed their taxes for free in the “freemium” version of TurboTax returning to TurboTax in subsequent years when they are no longer eligible for the “freemium” version, and paying Intuit for a paid version of TurboTax.

20. Since at least 2017, Intuit has called the “freemium” version of TurboTax the “TurboTax Free Edition.” In 2016, Intuit called the “freemium” version of TurboTax the “Federal Free Edition.”

21. The “freemium” version of TurboTax is available only to consumers with “simple” tax returns, as defined by Intuit; other consumers are required to upgrade to paid versions of TurboTax.

22. In 2017 and 2018, when consumers filed tax returns for Tax Year (“TY”) 2016 and 2017 (e.g. taxes filed in 2017 for income earned in 2016), Intuit defined a “simple” tax return as a return that could be filed using a 1040A or 1040EZ tax form.

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