



1 The Court denies the FTC's motion for emergency relief for three reasons. First,  
2 Tax Day, which was April 18, 2022, has passed. Most taxpayers have already filed their  
3 taxes. Intuit represented in its briefing and at oral argument that its advertising is largely  
4 done for this tax season. See Opp. (dkt. 45) at vi. Any prospective harm is therefore  
5 attenuated. Second, even before Tax Day, Intuit had removed several of the most  
6 plausibly deceptive advertisements—that is, three videos that repeated the word “free” a  
7 dozen or more times over 30 seconds before a very brief disclaimer. See Shiller decl. (dkt.  
8 7-13, GX 301) ¶¶ 16-31 (describing these ads); Ryan decl. (dkt. 45-3) ¶¶ 16-26 (noting  
9 their removal). Third, to the extent other advertisements might violate the FTC Act, the  
10 Court notes that the FTC has brought an administrative proceeding against Intuit, with a  
11 hearing set for September 14, 2022. See 15 U.S.C. § 45(b); AMG Cap. Mgmt., LLC v.  
12 Fed. Trade Comm'n, 141 S. Ct. 1341, 1346 (2021) (detailing the administrative process).  
13 An Administrative Law Judge (ALJ) with expertise in these matters will hear (and likely  
14 rule) before Intuit resumes its advertising campaign in the lead-up to Tax Day 2023.

15 For the foregoing reasons, the Court DENIES the FTC's Emergency Motion for a  
16 Temporary Restraining Order and a Preliminary Injunction.<sup>1</sup> However, if Intuit resumes  
17 its full advertising campaign before the ALJ releases her § 45(b) report, or the facts on the  
18 ground change significantly, the FTC may return to this Court to request relief.

19 **IT IS SO ORDERED.**

20 Dated: April 22, 2022



CHARLES R. BREYER  
United States District Judge

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28 <sup>1</sup> The administrative motion for emergency relief on the briefs (dkt. 50) is DENIED AS