

United States of America
Federal Trade Commission

In the Matter of

DOCKET NO. 9408 Hon.
Michael D. Chappell

Inuit Inc.
Respondent

MOTION TO QUASH AND/OR LIMIT
SUBPOENA DUCES TECUM

Pursuant to 16 C.F.R. § 3.34 and Rule 3.34(c) of the Rules of Practice for Adjudicative Proceedings before the United States Federal Trade Commission, Lisa Boldini, a non-party to this proceeding, files the following Motion to Quash and/or Limit Subpoena.

I. INTRODUCTION

On October 18, 2022, Lisa Boldini was served with a Subpoena Duces Tecum issued October 14, 2022 at the behest of Respondent Intuit, Inc. ("Intuit"). (A copy of the Subpoena is attached as Exhibit A.) Lisa Boldini moves to quash or limit the Subpoena on three main grounds. First, the Subpoena is overly broad, unduly burdensome, and not likely to lead to evidence relevant to the matter. Second, some of the documents to be produced are confidential and therefore should be protected from discovery. Third, assuming even that the scope of the Subpoena was manageable, and the responsive documents not confidential, the

timing of the Subpoena and the short time frame for response make compliance impossible.

II. ARGUMENT

A. Overview

First, and importantly, Lisa Boldini is not a party to this proceeding, and has no direct interest in its outcome. The complaint lodged with the FTC by Lisa Boldini is unrelated to this case and the evidence request is not likely to lead to probative evidence in this case. The Subpoena would be burdensome even if issued against a party. Because it is issued against a non-party, it is unreasonably burdensome, and should be either quashed in its entirety or dramatically limited.

Like a federal court, an Administrative Law Judge in an FTC proceeding should quash or limit any subpoena that is unduly burdensome or requires the disclosure of privileged or confidential information. 16 C.F.R. §3.31 (c)(1)(iii) (use of subpoena and other discovery methods "shall be limited by the Administrative Law Judge" where the "burden and expense of the proposed discovery outweigh its likely benefit"); 16 C.F.R. §3.31 (c)(2) (authorizing Administrative Law Judge to "enter a protective order denying or limiting discovery to preserve" a privilege); Fed. R. Civ. P. 45(c)(3) (a court "shall quash or modify the subpoena if it ...requires disclosure of privileged or other protected matter ... [or] subjects a person to undue burden"). Moreover, an Administrative Law Judge has the power to modify the subpoena and limit the scope of permissible discovery. 16 C.F.R. §3.31(d)(1) (authorizing Administrative Law

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Judge to "deny discovery or make any order which justice requires to protect a party or other person from annoyance, embarrassment, oppression, or undue burden or expense"); see also Fed. R. Civ. P. 26(c) (court may grant a protective order to protect a party from annoyance, embarrassment, oppression, or undue burden or expense). The Subpoena should be quashed, or at least should be limited in several significant respects:

B. General Objections to Scope of Subpoena

Lisa Boldini first objects to the scope of the Subpoena. It demands production of tax documents from 2015 to 2022, a period of eight years as well as estimates of time spent on preparing tax documents years ago. Moreover, as explained below, some of the document requests themselves are unreasonably broad to a point of being incomprehensible. In addition, and again as set forth more fully below, the Subpoena requests production of documents containing confidential information.

C. Specific Objections to Document Request

Lisa Boldini asserts the following specific objections to the categories of documents the Subpoena requires to be produced:

1. All federal AND state tax returns YOU filed from January 2015 to the present.

These documents are confidential and not likely to lead to evidence probative to this case.

- 2. All receipts, invoices, proofs of purchase, confirmations, OR other DOCUMENTS related to YOUR purchase of tax-preparation services, INCLUDING ANY TURBOTAX PRODUCT, from January 2015 to the present.**

This request is not reasonably limited. These documents do not exist.

- 3. All COMMUNICATIONS between YOU AND ANY provider of tax-preparation services OR software other than INTUIT between January 2015 to the present, INCLUDING COMMUNICATIONS related to marketing, consumer complaints, or inquiries.**

This request is not reasonably limited. These documents do not exist.

- 4. All COMMUNICATIONS between YOU AND the FTC.** This request is unrelated to the case and not likely to lead to evidence probative to the case.

- 5. All DOCUMENTS YOU provided to the FTC.**

This request is unrelated to the case and not designed to lead to probative evidence.

- 6. DOCUMENTS sufficient to show the amount of time YOU spent using ANY TURBOTAX PRODUCT from January 2015 to present.**

This request is not reasonably limited. These documents do not exist. Moreover, Intuit would be in the better position to determine the time spent on their products.

7. DOCUMENTS sufficient to show the amount of time YOU spent visiting the TURBOTAX WEBSITE from January 2015 to present.

This request is not reasonably limited. These documents do not exist. Moreover, Intuit would be in the better position to determine the time spent on their products.

8. All DOCUMENTS sufficient to show all ADVERTISEMENTS that YOU have seen OR received from ANY online tax preparation companies from January 2015 to present.

This request is not reasonably limited. These documents do not exist.

9. All DOCUMENTS sufficient to show ANY free products OR services YOU have used OR obtained from January 2015 to present.

This request is not reasonably limited. These documents do not exist.

D. Unreasonable Time Period

As noted above, the Subpoena seeks documents generated or received over a seven year period. The amount of effort, time and expense

necessary to respond to the Subpoena grows in proportion to the length of time covered by the Subpoena. Lisa Boldini requests that if it is required to respond to it, the Subpoena be expressly limited to the last two years.

Moreover, while the time period covered by the Subpoena is too long, the time allotted to Complete to respond is too short. If compliance is required, Lisa Boldini should be granted significantly more time to provide responsive information. Lisa Boldini is employed full time and 7 months pregnant and is not the custodian of many of the tax documents requested. Production related to this overly broad request would be burdensome in her current condition.

III. CONCLUSION

For the foregoing reasons, non party Lisa Boldini respectfully requests that the Administrative Law Judge quash, modify, or limit the Subpoena. If the Subpoena is not quashed in its entirety:

(1) Lisa Boldini should not be required to produce documents over a SEVEN year period;

(2) the overly broad document requests should be narrowed considerably;

(3) Lisa Boldini should not be required to produce confidential information; and

(4) Lisa Boldini requests additional time to comply with the subpoena.

Dated: October 27, 2022

Respectfully submitted,
/s/ Lisa N. Boldini
Lisa N. Boldini

CERTIFICATE OF SERVICE

I certify that on October 27, 2022, I electronically filed a document entitled “Motion to Quash and/or Limit Subpoena Duces Tecum” with the Federal Trade Commission using the FTC E-Filing System, which will send notification of such filing to:

April Tabor	ElectronicFilings@ftc.gov
Office of the Secretary	The Honorable D. Michael Chappell 600
Federal Trade Commission 600	Pennsylvania Ave., NW, Rm. H-110
Pennsylvania Avenue, NW Suite CC-5610	Washington, DC 20580
Washington, DC 20580	OALJ@ftc.gov

I further certify that on October 27, 2022, I caused the foregoing document to be served via email to:

Counsel for Respondent Intuit Inc.:
David Z. Gringer
Wilmer Cutler Pickering Hale and Dorr LLP
7 World Trade Center, 250 Greenwich St.
New York, NY 10007
Email: david.gringer@wilmerhale.com

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(212) 230-8800

And on October 27, 2022, I served the same document via email to:

Roberto Anguizola
Federal Trade Commission 600
Pennsylvania Avenue, NW
Washington, DC 20580
Email: ranguizola@ftc.gov
Tel: (202) 326-3284

Suite CC-5610
Washington, DC 20580
ElectronicFilings@ftc.gov

Frances Kern
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Email: fkern@ftc.gov
Tel: (202) 492-7942

James Evans
Federal Trade Commission 600
Pennsylvania Avenue, NW
Washington, DC 20580
Email: jevans1@ftc.gov
Tel: (202) 326-2026
Counsel Supporting the Complaint

Rebecca Plett
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Email: rplett@ftc.gov
Tel: (202) 326-3664

April Tabor
Office of the Secretary
Federal Trade Commission 600
Pennsylvania Avenue, NW

The Honorable D. Michael Chappell
Administrative Law Judge
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580
OALJ@ftc.gov

Dated: October 27, 2022

Respectfully submitted,
/s/ Lisa N. Boldini
Lisa N. Boldini



Subpoena for Production of Documentary Material

TRADE COMMISSION | OFFICE OF THE SECRETARY | FILED 10/27/2022 | DOCUMENTING: 696001 | Page 9 of 16 | PUBLIC

Provided by the Secretary of the Federal Trade Commission, and

Issued Pursuant to Commission Rule 3.34(b), 16 C.F.R. § 3.34(b)(2010)

1. TO

Lisa Boldini
3250 Darley Avenue
Boulder, CO 80305

2. FROM

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things, at the date and time specified in Item 5, and at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

3. PLACE OF PRODUCTION

WHIntuit-FTC_Consumer_Depositions@wilmerhale.com
OR
Wilmer Cutler Pickering Hale and Dorr LLP
Attn: Emily Sides
7 World Trade Center, 250 Greenwich Street
New York, NY 10007

4. MATERIAL WILL BE PRODUCED TO

Counsel for Respondent Intuit Inc.

5. DATE AND TIME OF PRODUCTION

By October 28, 2022

6. SUBJECT OF PROCEEDING

In the Matter of Intuit Inc.; Docket No. 9408

7. MATERIAL TO BE PRODUCED

See attached Request for Production of Documentary Material

8. ADMINISTRATIVE LAW JUDGE

The Honorable D. Michael Chappell
Federal Trade Commission
Washington, D.C. 20580

9. COUNSEL AND PARTY ISSUING SUBPOENA

Counsel for Respondent Intuit Inc.
David Z. Gringer
Wilmer Cutler Pickering Hale and Dorr LLP
7 World Trade Center, 250 Greenwich St.
New York, NY 10007
(212) 230-8800

DATE SIGNED

10/11/2022

SIGNATURE OF COUNSEL ISSUING SUBPOENA

/s/ David Z. Gringer

INSTRUCTIONS AND NOTICES

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply. This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

PETITION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any petition to limit or quash this subpoena be filed within the earlier of ten days after service thereof or the time for compliance therewith. The original and twelve copies of the petition must be filed with the Secretary of the Federal Trade Commission, and one copy should be sent to the Commission Counsel named in Item 9.

YOUR RIGHTS TO REGULATORY ENFORCEMENT

FAIRNESS

The FTC has a longstanding commitment to a fair regulatory enforcement environment. If you are a small business (under Small Business Administration standards), you have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR (1-888-734-3247) or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.

The FTC strictly forbids retaliatory acts by its employees, and you will not be penalized for expressing a concern about these activities.

TRAVEL EXPENSES

Use the enclosed travel voucher to claim compensation to which you are entitled as a witness for the Commission. The completed travel voucher and this subpoena should be presented to Commission Counsel for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Commission Counsel. Witness travelers can contact the FTC travel office for guidance at (202) 326-3299 or travel@ftc.gov. PLEASE NOTE: Reimbursement for necessary transportation, lodging, and per diem expenses cannot exceed the maximum allowed for such expenses by an employee of the federal government.

A copy of the Commission's Rules of Practice is available online at <http://bit.ly/FTCsRulesofPractice>. Paper copies are available upon request.

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of:

Intuit Inc., a corporation.

Docket No. 9408

**RESPONDENT INTUIT INC.'S REQUEST FOR PRODUCTION
OF DOCUMENTARY MATERIAL**

Pursuant to Rule 3.34(B) of the Commission's Rules of Practice, 16 C.F.R. § 3.34(b), Respondent Intuit Inc., by and through its attorneys, requests and demands that LISA BOLDINI produce and permit Respondent to inspect and copy the documents called for in the below document requests ("Requests"). The Requests set forth below are to be responded to in accordance with the following Definitions and Instructions.

DEFINITIONS

1. The term "ADVERTISEMENT" refers to any written OR verbal statement OR depiction that promotes the sale OR use of a consumer good OR service, OR is designed to increase consumer interest in a brand, good, OR service, in ANY form of media, including but not limited to, television, radio, print, online display, online search, AND social media.
2. The terms "AND" as well as "OR" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of each request ANY responses that might otherwise be construed to be outside its scope, or in other words, to give each request its broadest possible meaning.
3. The term "ANY" means "any and all."

4. The term “COMMUNICATION” means ANY transmission, exchange OR transfer of information (in the form of facts, ideas, inquiries, OR otherwise) by ANY means, including all written, electronic, telephonic, oral OR other inquiries, dialogues, discussions, conversations, interviews, correspondence, consultations, negotiations, agreements, understandings, meetings, letters, notes, telegrams, advertisements, computer mail, e-mail AND ANY other DOCUMENTS evidencing ANY verbal OR nonverbal interaction between PERSONS.

5. The term “DOCUMENT” shall mean the original AND all non-identical copies AND drafts, regardless of origin OR location, of ANY writing AND ANY written, printed, typed, OR other graphic OR photographic matter of ANY kind OR description, in draft OR final form, including, but not limited to, correspondence, letters, telegrams, facsimiles, cables, telex messages, e-mail, memoranda, notes, interoffice AND interdepartmental COMMUNICATIONS, transcripts, minutes of conversations OR meetings, reports, studies, ANY audio OR video recordings, voicemail, contracts, calendar OR diary entries, pamphlets, handwritten notes, charts, tabulations, records of meetings, conferences, telephone OR other conversations OR COMMUNICATIONS, AND tapes OR slides, AND other data compilations from which information can be obtained OR translated, if necessary, by YOU through detection devices into reasonably usable form, AND all other records kept by electronic, photographic, OR mechanical means however denominated, which are in YOUR possession, custody, OR control, including electronically-stored information. If a DOCUMENT has been prepared in several copies, OR additional copies have been made, OR copies are not identical (OR, which by reason of subsequent modification of a copy by the addition of notations OR other modifications, are no longer identical), each non-identical copy is a separate DOCUMENT.

6. The term “FTC” refers to the Complaint Counsel, the Federal Trade Commission AND ANY current OR former Commissioners, employees, agents, representatives, assigns, OR ANY other PERSON acting OR purporting to act on behalf of OR under the direction, authorization, OR control of the FTC.

7. The term “INCLUDING” means including, but not limited to, the referenced item or items.

8. The term “INTUIT” means Respondent Intuit Inc., its subsidiaries, divisions, departments, affiliates, each AND every other legal entity within its control, AND ANY officer, director, employee, agent, OR representative thereof.

9. The term “PERSON” shall mean ANY natural person, corporate entity, partnership, association, limited liability company, joint venture, government entity, trust, religious order OR other entity.

10. The term “TURBOTAX” means the brand under which Intuit markets and sells TURBOTAX PRODUCTS

11. The term “TURBOTAX PRODUCTS” means ANY online tax preparation OR tax filing software product that INTUIT markets OR has marketed under the registered trademark TurboTax® (e.g., “TurboTax Free Edition,” “TurboTax Deluxe,” “TurboTax Deluxe Live,” “TurboTax Premier,” “TurboTax Premier Live,” “TurboTax Self-Employed,” and “TurboTax Self-Employed Live”).

12. The term “TURBOTAX WEBSITE” means the website maintained by INTUIT at turbotax.intuit.com.

13. The terms “YOU” and “YOUR” refers to LISA BOLDINI.

GENERAL INSTRUCTIONS

1. A copy of the operative Protective Order in this case is attached for your review. Documents and information produced pursuant to this subpoena may be designated for confidential treatment under the Protective Order.
2. The following Requests seek production of the original OR a true AND legible copy of each AND every DOCUMENT in YOUR possession OR under YOUR control AND which is described below. Photocopies produced in lieu of original DOCUMENTS must be accompanied by an affidavit of the custodian of the record stating that the copies are true, correct, AND complete copies of the original DOCUMENTS.
3. These Requests shall be deemed continuing in nature so as to require the supplemental production of all DOCUMENTS to the extent required by law.
4. Each DOCUMENT requested herein is requested to be produced in its entirety without deletion OR excisions regardless of whether YOU consider the entire DOCUMENT to be relevant OR responsive to these Requests.
5. If a DOCUMENT contains both privileged AND non-privileged information, portions of the DOCUMENT that are not privileged must be produced. If a DOCUMENT OR portion of a DOCUMENT is withheld from production on the grounds of privilege (e.g., attorney-client privilege) OR other protection, the DOCUMENT OR portion of the DOCUMENT may be withheld from production but must be identified on a privilege log which identifies the following: the DOCUMENT Bates number, the author, the date, all recipients, the basic nature of the DOCUMENT (e.g., letter, report, notes, etc.), a description of the document's subject matter AND the grounds on which the privilege OR protection is asserted.
6. To the extent responsive DOCUMENTS exist in an electronic format, please contact Respondent's counsel to discuss the manner AND format in which the DOCUMENTS

will be produced AND to facilitate the production of full AND complete copies in a usable format.

7. The singular form of a word shall be interpreted as plural, and the plural form of a word shall be interpreted as singular, whenever appropriate, in order to bring within the scope of the Request for Production of Documents ANY DOCUMENTS that might otherwise be considered beyond its scope

8. None of the Definitions above OR Requests set forth below shall be construed as an admission relating to the existence of ANY evidence, to the relevance or admissibility of ANY evidence, OR to the truth or accuracy of ANY statement OR characterization in the Definitions OR a Request.

REQUESTS FOR PRODUCTION

DOCUMENT REQUEST NO. 1

All federal AND state tax returns YOU filed from January 2015 to the present. We will treat these materials as Confidential pursuant to the Protective Order.

DOCUMENT REQUEST NO. 2

All receipts, invoices, proofs of purchase, confirmations, OR other DOCUMENTS related to YOUR purchase of tax-preparation services, INCLUDING ANY TURBOTAX PRODUCT, from January 2015 to the present.

DOCUMENT REQUEST NO. 3

All COMMUNICATIONS between YOU AND ANY provider of tax-preparation services OR software other than INTUIT between January 2015 to the present, INCLUDING COMMUNICATIONS related to marketing, consumer complaints, or inquiries.

DOCUMENT REQUEST NO. 4

All COMMUNICATIONS between YOU AND the FTC.

DOCUMENT REQUEST NO. 5

All DOCUMENTS YOU provided to the FTC.

DOCUMENT REQUEST NO. 6

DOCUMENTS sufficient to show the amount of time YOU spent using ANY TURBOTAX PRODUCT from January 2015 to present.

DOCUMENT REQUEST NO. 7

DOCUMENTS sufficient to show the amount of time YOU spent visiting the TURBOTAX WEBSITE from January 2015 to present.

DOCUMENT REQUEST NO. 8

All DOCUMENTS sufficient to show all ADVERTISEMENTS that YOU have seen OR received from ANY online tax preparation companies from January 2015 to present.

DOCUMENT REQUEST NO. 9

All DOCUMENTS sufficient to show ANY free products OR services YOU have used OR obtained from January 2015 to present.

Dated: October 14, 2022

Respectfully submitted,

WILMER CUTLER PICKERING HALE
AND DORR LLP

/s/ David Z. Gringer

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