Meta calls FTC suit to block VR fitness deal 'ill-conceived'

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Meta Platforms Inc. urged a judge to reject the U.S. Federal Trade Commission attempt to block the company's acquisition of virtual reality app Within Unlimited, saying the agency's claims about competition in

the area are based on "pure speculation."

Meta argued the FTC hasn't laid out the elements to show the deal announced in October 2021 would hurt potential competition in a still-young VR fitness space, according to a court filing Thursday. The company's argument to U.S. District Judge Edward Davila follows the FTC's move last week to narrow its rationale for blocking the deal.

The FTC's newly amended complaint dropped allegations that Meta's virtual-reality game, Beat Saber, directly competes with Within's Supernatural fitness app. Supernatural is a subscription fitness service where users can work out or meditate to music in immersive environments. The FTC's complaint now calls Beat Saber an "incidental fitness app" and argues that before the acquisition Meta was likely to create its own dedicated fitness app to compete with Within's offering.

Virtual reality is Meta's next big bet as Chief Executive Officer Mark Zuckerberg believes that people will want to spend time in a digital universe, called the metaverse. The company previously bought Oculus, which makes VR headsets. Acquisitions like Within are meant to add to the portfolio of experiences for users, bringing them back repeatedly to Meta's products and services.

The Facebook-parent featured Within's Supernatural multiple times during its annual product conference Monday and is making announcements on its behalf, saying that users, for example, will soon be able to add a "knee strike" movement.

The FTC alleges that Meta would kill future competition in a new market, often referred to as "nascent competition." A suit on these grounds is rare, given the difficulty in proving a deal would suppress the potential of a young industry. The last time the FTC brought such a case, in a 2015 instance involving sterilization technology, the agency lost.

"The FTC's attempt to fix its ill-conceived complaint still ignores the facts and the law and relies on pure speculation of a hypothetical future state," a Meta spokesperson said in an email. "There is vibrant competition in the fitness space and across VR, and our acquisition of Within will be good for people, developers, and the VR space. For these reasons, the complaint should be dismissed."

FTC Chair Lina Khan has taken a more aggressive approach to antitrust enforcement than her predecessors. The agency sued July 27 to stop Meta's purchase of Within. Davila has scheduled a two-week hearing in December on the FTC's request for an injunction to block the deal. The judge can decide whether to rule on Meta's motion to dismiss the case, schedule a separate hearing on the issue, or wait until the previously scheduled evidentiary hearing.

Separately, the FTC filed a complaint against the merger in its in-house court, and an administrative judge has scheduled a trial to start in January. Even if the injunction is dismissed or if Meta prevails before Davila, the agency could decide to proceed with its administrative process.

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