Meta to buy VR startup Within after favorable court ruling

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Facebook's Meta logo sign is seen at the company headquarters in Menlo Park, Calif. on Oct. 28, 2021. A federal judge has sided with Facebook parent Meta and cleared the way for the company to buy virtual reality startup Within Unlimited, the maker of the popular fitness app Supernatural. Federal antitrust regulators had sought to block the acquisition on the grounds that it would hurt competition in the emerging virtual reality market. But U.S. District Judge Edward Davila denied the Federal Trade Commission's request for a preliminary injunction against the deal. Credit: AP Photo/Tony Avelar, File

A federal judge has sided with Facebook parent Meta and cleared the way for the company to buy virtual reality startup Within Unlimited, the maker of the popular fitness app Supernatural.

Federal antitrust regulators had sought to block the acquisition on the grounds that it would hurt competition in the emerging virtual reality market.

But U.S. District Judge Edward Davila denied the Federal Trade Commission's request for a preliminary injunction against the deal. The judge's ruling said the agency did not provide sufficient evidence to prove its case.

Meta said it will now proceed with its acquisition of Within Unlimited.

The FTC had argued that Meta's acquisition of the small company—reminiscent of Facebook's early purchases of Instagram and WhatsApp—would hurt competition in the emerging virtual reality market.

Allowing the tech giant to buy Los Angeles-based Within Unlimited, the FTC had argued, would violate antitrust laws and dampen innovation, hurting consumers who may face higher prices and fewer options outside of Meta-controlled platforms.

Meta Platforms Inc. said in a statement late Friday after the ruling was unsealed that it is "pleased" with the decision.

"This deal will bring pro-competitive benefits to the ecosystem and spur innovation that will benefit people, developers, and the VR space more broadly," the company based in Menlo Park, California, said. "We look forward to closing the transaction soon."

The FTC had argued that Meta scrapped its own plans to enter the nascent VR fitness market in the summer of 2021 when it decided to buy Within Unlimited. Without the competitive threat of the tech giant's entry into the market on its own, the agency asserts, innovation stalls, hurting end users.

"The threat is what keeps firms going," testified economist Hal Singer, a witness for the FTC. "If I know there is a chance that someone could come in and steal my lunch," he said, companies will innovate and constrain pricing.

But Meta executives—including CEO Mark Zuckerberg—sought to play down the notion that the company was anywhere close to creating its own VR fitness app. The Meta CEO testified that even though his company was "looking at" developing its own VR fitness app before deciding to acquire Within Unlimited in 2021, the business environment has changed and "there is almost no chance" it would start such a project today.

Under Zuckerberg's, Meta moved aggressively into virtual reality in 2014 with its acquisition of headset maker Oculus VR. Since then, Meta's VR headsets have become the cornerstone of its growth in the virtual reality space, the FTC noted in its suit. Fueled by the popularity of its top-selling Quest headsets, Meta's Quest Store has become a leading U.S. app platform with more than 500 apps available to download, according to the agency.

Meta bought seven of the most successful virtual-reality development studios, and now has one of the largest virtual-reality content catalogs in the world, the FTC noted.

Davila's ruling, however, says the FTC needed to provide "at least circumstantial evidence" that Meta's entry into the VR fitness market by itself, not via the acquisition, would have directly and favorably affected consumers by encouraging robust competition.

"Under this standard, the FTC's evidence on this element is insufficient," Davila wrote.

Representatives for the FTC did not immediately respond to a message seeking comment on Monday.

Davila also oversaw the trial of disgraced Theranos founder Elizabeth Holmes and her partner Ramesh "Sunny" Balwani. Both were sentenced to over a decade in prison for their roles in the company's blood-testing hoax.

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