

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ELECTRONIC PRIVACY INFORMATION  
CENTER,

*Plaintiff,*

v.

FEDERAL TRADE COMMISSION,

*Defendant.*

Civil Action No. 18-942 (TJK)

**INTERVENOR FACEBOOK, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT**

Defendant-Intervenor Facebook, Inc., by and through its undersigned counsel, hereby answers Plaintiff's Complaint filed on March 20, 2018.

**General Denial**

Except as expressly admitted, Facebook denies each and every factual allegation contained in the Complaint.

**Specific Responses**

Facebook answers specifically each paragraph of the Complaint, using the same headings and numbering used in the Complaint, as follows:

**COMPLAINT FOR INJUNCTIVE RELIEF**

1. To the extent that Paragraph 1 purports to characterize the Complaint, the Complaint speaks for itself. To the extent that Paragraph 1 asserts legal conclusions, no response is required.

2. To the extent that Paragraph 2 purports to characterize the allegations in other paragraphs of the Complaint, Facebook respectfully refers the Court to those paragraphs for their

contents. Facebook respectfully refers the Court to the contents of the document cited in footnote 1, which speaks for itself, for a complete and accurate account of its contents. Facebook denies any allegation that mischaracterizes the contents of the document cited in footnote 1. To the extent that Paragraph 2 asserts additional factual allegations regarding Facebook that require a response, the allegations are denied. To the extent that Paragraph 2 asserts facts regarding other parties, Facebook is without knowledge and on that basis the allegations are denied. To the extent that Paragraph 2 asserts legal conclusions, no response is required.

### **JURISDICTION AND VENUE**

3. To the extent Paragraph 3 asserts legal conclusions, no response is required.
4. To the extent Paragraph 4 asserts legal conclusions, no response is required.

### **PARTIES**

5. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 5 and on that basis the allegations are denied.

6. Facebook admits that the FTC is a federal agency headquartered in Washington, D.C. To the extent Paragraph 6 asserts legal conclusions, no response is required.

### **FACTS**

#### **The 2012 FTC Consent Order Against Facebook**

7. Facebook respectfully refers the Court to the contents of the documents cited in footnotes 2 and 3, which speak for themselves, for a complete and accurate account of their contents. Facebook denies any allegation that mischaracterizes the contents of the documents cited in footnotes 2 and 3. Facebook is without knowledge or information sufficient to form a

belief as to the truth or falsity of the allegations concerning other parties in Paragraph 7 and on that basis the allegations are denied.

8. Facebook respectfully refers the Court to the document cited in footnote 4 for its contents. Facebook denies any allegation that mischaracterizes the contents of the document cited in footnote 4. The remainder of Paragraph 8 contains legal conclusions to which no response is required. To the extent a response is required, Facebook denies the remaining allegations of Paragraph 8.

9. Facebook respectfully refers the Court to the contents of the webpage and document cited in footnotes 5 and 6, which speak for themselves, for a complete and accurate account of their contents. Facebook denies any allegation that mischaracterizes the contents of the web page and document cited in footnotes 5 and 6. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 9 and on that basis the allegations are denied. The remainder of Paragraph 9 contains legal conclusions to which no response is required. To the extent a response is required, Facebook denies the remaining allegations of Paragraph 9.

10. Facebook respectfully refers the Court to the contents of the document cited in footnote 7, which speaks for itself, for a complete and accurate account of its contents. Facebook denies any allegation that mischaracterizes the document cited in footnote 7. The remainder of Paragraph 10 contains legal conclusions to which no response is required. To the extent a response is required, Facebook denies the remaining allegations of Paragraph 10.

**Reporting Requirements of the 2012 FTC Consent Order**

11. Facebook respectfully refers the Court to the contents of the document, cited in footnote 8, for a complete and accurate account of its contents. Facebook denies any allegation

that mischaracterizes the document cited in footnote 8. The remainder of Paragraph 11 contains legal conclusions to which no response is required. To the extent a response is required, Facebook denies the remaining allegations of Paragraph 11.

12. Facebook respectfully refers the Court to the contents of the document, cited in footnotes 9 and 10, for a complete and accurate account of its contents. Facebook denies any allegation that mischaracterizes the document. The remainder of Paragraph 12 contains legal conclusions to which no response is required. To the extent a response is required, Facebook denies the remaining allegations of Paragraph 12.

13. Facebook respectfully refers the Court to the contents of the document, cited in footnotes 11 and 12, which speaks for itself, for a complete and accurate account of its contents. Facebook denies any allegation that mischaracterizes the document. The remainder of Paragraph 13 contains legal conclusions to which no response is required. To the extent a response is required, Facebook denies the remaining allegations of Paragraph 13.

14. Facebook respectfully refers the Court to the contents of the document, cited in footnotes 13 and 14, which speaks for itself, for a complete and accurate account of its contents. Facebook denies any allegation that mischaracterizes the document. The remainder of Paragraph 14 contains legal conclusions to which no response is required. To the extent a response is required, Facebook denies the remaining allegations of Paragraph 14.

#### **Cambridge Analytica**

15. Facebook respectfully refers the Court to the contents of the documents cited in footnotes 15 and 16, which speak for themselves, for a complete and accurate account of their contents. Facebook denies any allegation that mischaracterizes the contents of the documents cited in footnotes 15 and 16. The remainder of Paragraph 15 contains legal conclusions to which

no response is required. To the extent a response is required, Facebook denies the remaining allegations of Paragraph 15.

16. Facebook respectfully refers the Court to the contents of the document cited in footnote 15, which speaks for itself, for a complete and accurate account of its contents. Facebook denies any allegation that mischaracterizes the contents of the document cited in footnote 15. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 16 and on that basis the allegations are denied. To the extent that Paragraph 16 contains additional factual allegations regarding Facebook that require a response, Facebook denies those allegations.

17. To the extent Paragraph 17 contains legal conclusions, no response is required. Facebook respectfully refers the Court to the contents of the document cited in footnote 19, which speaks for itself, for a complete and accurate account of its contents. Facebook denies any allegation that mischaracterizes the contents of the document. To the extent that Paragraph 17 contains additional factual allegations about Facebook that require a response, Facebook denies those allegations.

18. To the extent Paragraph 18 contains legal conclusions, no response is required. Facebook respectfully refers the Court to the contents of the 2012 Consent Order, which speaks for itself, for a complete and accurate account of its contents. Facebook denies any allegation that mischaracterizes the contents of the 2012 Consent Order. Facebook denies the remaining allegations of Paragraph 18.

19. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 19 and on that basis the allegations are denied.

20. Facebook respectfully refers the Court to the contents of the documents cited in footnotes 20 and 21, which speak for themselves, for a complete and accurate account of their contents. Facebook denies any allegation that mischaracterizes the contents of the documents cited in footnotes 20 and 21. Facebook denies any allegation that mischaracterizes the press release referred to in Paragraph 20.

21. Facebook admits that Mark Zuckerberg testified publicly before Congress on April 10, 2018. Facebook respectfully refers the Court to the contents of the documents cited in footnotes 22, 23, and 24, which speak for themselves, for a complete and accurate account of their contents. Facebook denies any allegation that mischaracterizes the contents of the documents cited in footnotes 22, 23, and 24. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in Paragraph 21 and on that basis the allegations are denied.

22. Facebook respectfully refers the Court to the contents of the documents cited in footnote 25, which speak for themselves, for a complete and accurate account of their contents. Facebook denies any allegation that mischaracterizes the contents of the documents cited in footnote 25. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the additional allegations in Paragraph 22 as to other parties and on that basis the allegations are denied.

23. Facebook respectfully refers the Court to the contents of the document, cited in footnote 26, which speaks for itself, for a complete and accurate account of its contents. Facebook denies any allegation that mischaracterizes the contents of the document cited in footnote 26.

24. To the extent Paragraph 24 asserts legal conclusions, no response is required. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 24 and on that basis the allegations are denied. To the extent that Paragraph 24 contains additional allegations related to Facebook that require a response, Facebook denies those allegations.

#### **EPIC's FOIA Request**

25. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in Paragraph 25 on that basis the allegations are denied.

26. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 26 and on that basis the allegations are denied. To the extent Paragraph 26 contains Plaintiff's characterization of its FOIA request, Facebook respectfully refers the Court to the contents of that document, which speaks for itself, for a complete and accurate account of its contents.

27. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 27 and on that basis the allegations are denied. To the extent Paragraph 27 contains Plaintiff's characterization of its FOIA request, Facebook respectfully refers the Court to the contents of the document, which speaks for itself, for a complete and accurate account of its contents.

28. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 28 and on that basis the allegations are denied. To the extent Paragraph 28 contains EPIC's characterization of its FOIA request, Facebook respectfully refers the Court to the contents of the document, which speaks for itself, for a complete and accurate account of its contents.

29. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 29 and on that basis the allegations are denied.

30. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 30 and on that basis the allegations are denied.

31. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 31 and on that basis the allegations are denied.

32. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 32 and on that basis the allegations are denied.

33. Facebook respectfully refers the Court to the contents of the website in footnote 27, which speaks for itself, for a complete and accurate account of its contents. Facebook denies any allegation that mischaracterizes the contents of the website cited in footnote 27. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 33 and on that basis the allegations are denied.

34. Facebook respectfully refers the Court to the contents of the documents posted on the website identified in footnote 27, which speak for themselves, for a complete and accurate account of their contents and any redactions. Facebook denies any allegation that mischaracterizes the contents of the documents posted on the website identified in footnote 27.

35. Paragraph 35 contains legal conclusions to which no response is required.



36. Paragraph 36 contains legal conclusions to which no response is required.

Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 36 and on that basis the allegations are denied.

37. Facebook is without knowledge or information sufficient to form a belief as to the

truth or falsity of the allegations concerning other parties in Paragraph 37 and on that basis the allegations are denied.

**EPIC's Constructive Exhaustion of Administrative Remedies**

38. Facebook is without knowledge or information sufficient to form a belief as to the

truth or falsity of the allegations in Paragraph 38 on that basis the allegations are denied.

39. To the extent that Paragraph 39 contains legal conclusions, no response is

required. Facebook is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations concerning other parties in Paragraph 39 and on that basis the allegations are denied.

40. Paragraph 40 contains legal conclusions to which no response is required.

**Count I**

41. Facebook asserts and incorporates its answers to Paragraphs 1-35 above.

42. Paragraph 42 contains legal conclusions to which no response is required.

43. Paragraph 43 contains legal conclusions to which no response is required.

**Count II**

44. Facebook asserts and incorporates its answers to Paragraphs 1-35 above.

45. Paragraph 45 contains legal conclusions to which no response is required. To the extent a response is required, Facebook denies the allegations of Paragraph 45.

46. Paragraph 46 contains legal conclusions to which no response is required.

47. Paragraph 46 contains legal conclusions to which no response is required.

Facebook denies that EPIC is entitled to any relief requested.

**Requested Relief**

The remainder of the Complaint consists of Plaintiff's prayer for relief, to which no response is required. To the extent a response is necessary, Facebook denies that Plaintiff is entitled to any relief requested.

**First Affirmative Defense**

The Complaint should be dismissed in whole or in part for failure to state a claim upon which relief can be granted.

**Second Affirmative Defense**

The information requested in Plaintiff's FOIA request is exempt in whole or in part under FOIA, 5 U.S.C. § 552.

**Third Affirmative Defense**

The information requested in Plaintiff's FOIA request is exempt in whole or in part under 15 U.S.C. § 46(f).

**Fourth Affirmative Defense**

Facebook reserves the right to assert additional defenses that become available or apparent during the course of this litigation and reserves the right to amend this answer to assert such defenses.

DATE: May 3, 2019

Respectfully submitted,

**GIBSON, DUNN & CRUTCHER, LLP**

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