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**FTC Loses Antitrust Challenge to Facebook Parent Meta**

**Judge denies agency’s request for injunction blocking Meta’s proposed acquisition of virtual-reality startup**

A picture containing text, outdoor, sign

Description automatically generatedMeta Platforms has made a big bet on immersive virtual worlds or metaverses.

By [Dave Michaels](https://www.wsj.com/news/author/dave-michaels) and [Jan Wolfe](https://www.wsj.com/news/author/jan-wolfe) Feb. 1, 2023 12:28 pm ET

WASHINGTON—A federal judge declined to halt [Meta Platforms](https://www.wsj.com/market-data/quotes/META) Inc.’s [META](https://www.wsj.com/market-data/quotes/META?mod=chiclets) acquisition of the virtual-reality startup Within Unlimited, delivering [a setback to antitrust enforcers](https://www.wsj.com/articles/ftc-seeks-to-block-meta-platforms-from-acquiring-within-unlimited-11658946464?mod=article_inline) at the Federal Trade Commission seeking to block the deal, a person familiar with the ruling said.

In a sealed court decision issued overnight, U.S. District Judge Edward Davila in San Jose, Calif., denied the FTC’s request for an injunction blocking the proposed merger, the person said.

The judge’s opinion, which isn’t yet public, is a boost to [Meta’s virtual-reality ambitions](https://www.wsj.com/articles/meta-metaverse-horizon-worlds-zuckerberg-facebook-internal-documents-11665778961?mod=article_inline) and appears to vindicate for now the Facebook parent’s claims that the FTC overreached by bringing a flawed antitrust case.

The FTC could continue to try to block the deal through a separate lawsuit filed in its in-house administrative court, where a trial is scheduled to begin on Feb. 13. But antitrust enforcers have in the past often abandoned such administrative litigation once a federal judge denies the request for an injunction.

The lawsuit has been closely watched because it is based on an unusual theory of competitive harm focusing on potential future competition in a nascent industry. The case is also widely seen as emblematic of FTC Chair Lina Khan’s [opposition to the expansion of big technology companies](https://www.wsj.com/articles/bidens-regulators-take-a-harder-look-at-wall-street-deals-11660555801?mod=article_inline).

Bloomberg News earlier reported the judge’s decision.

Meta, which [has staked its future on the growth of virtual-reality products](https://www.wsj.com/articles/meta-platforms-q4-earnings-report-2022-11675203491?mod=article_inline), has asked Ms. Khan to recuse herself from the administrative trial process. While an administrative law judge would initially rule on that case, that decision could be appealed to Ms. Khan and other commissioners, who would sit as a type of appellate court. Meta has argued in a court filing that Ms. Khan’s past criticism of Meta show her mind is already made up about whether the deal should be permitted.

Meta announced its intention to buy Within Unlimited in 2021. The transaction is part of Meta’s big bet on [immersive virtual worlds, or metaverses](https://www.wsj.com/story/what-is-the-metaverse-the-future-vision-for-the-internet-ca97bd98?mod=article_inline). That strategic shift led to [the 2021 rebranding of Facebook as Meta](https://www.wsj.com/articles/mark-zuckerberg-to-sketch-out-facebooks-metaverse-vision-11635413402?mod=article_inline).

In July, the FTC sued to block the deal, saying it would lessen competition in the virtual-reality industry. The antitrust lawsuit was the first under Ms. Khan against one of the “big four” technology giants.

Under Ms. Khan’s leadership, the commission is questioning mergers that likely would have gone unchallenged in years past—a change Ms. Khan says is needed to prevent companies from building up too much power and stifling competition.

The FTC’s original complaint to the Meta-Within deal argued that an existing Meta product, a game called Beat Saber, competed directly against Within’s popular Supernatural app.

Meta was critical of that argument, saying Beat Saber and Supernatural have different uses and are different products.

In October, the FTC refiled its lawsuit and dropped all references to Meta and Within being direct competitors.

In its amended complaint, the FTC focused on a more unusual theory that the Meta-Within deal is a threat to potential competition in the future. The agency said blocking the deal would enhance competition because Meta would be forced to develop an app that competes with Within’s product.

The mere prospect of Meta’s potential entry into the market for virtual-reality fitness apps spurs Within and others to compete harder to retain customers and improve their products, the agency added.

The FTC is separately litigating with Meta’s Facebook unit over [claims that the company has abused a monopoly position](https://www.wsj.com/articles/federal-judge-rejects-facebooks-request-to-dismiss-ftcs-latest-antitrust-lawsuit-11641932982?mod=article_inline) in social media. The agency’s lawsuit in that case seeks to unwind its acquisition of messaging platform WhatsApp and image-sharing app Instagram.

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