

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

In re Meta Pixel Healthcare Litigation

In re Meta Pixel Healthcare Litigation · No. 22-cv-03580-WHO (VKD) · Decided June 27, 2025

OPINION

In Re Meta Pixel Healthcare Litigation

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 IN RE META PIXEL HEALTHCARE Case No. 22-cv-03580-WHO (VKD)

LITIGATION

8 This Document Relates To:

ORDER RE JUNE 2, 2025 DISCOVERY

9 All Actions. DISPUTE RE RFPS 22, 263, AND 268 10 Re: Dkt. Nos. 1044, 1045 11 12 13 The parties ask the Court to resolve their dispute regarding whether Meta should be 14 required to produce revenue-related data tied to “health-related domains” defined by Meta’s 15 internal classifications. Dkt. Nos. 1044; Dkt. No. 1060-2.1 Specifically, plaintiffs ask Meta to 16 produce documents showing the total revenue and profits it derived from “health advertisers,” or 17 all domains in the “health-related advertiser verticals and classifications used for enrollment in the 18 CoreSetup privacy program.” Dkt. No. 1060-2 at ECF 2. Plaintiffs contend that the discovery 19 they seek is responsive to their Requests for Production (“RFPs”) Nos. 22, 263, and 268, and is 20 otherwise relevant and proportional to the needs of this case. Id. at ECF 2-4. Meta responds that 21 it has already produced responsive revenue-related data for the covered entities at issue, in 22 23 1 Plaintiffs move to seal the discovery letter brief and exhibits on the ground that Meta claims the contents are confidential. Dkt. No. 1045. In response, Meta requests sealing for a narrowed 24 portion of the discovery letter, stating that the subject information reveals specific, non-public information about its internal analyses, data analysis tools, and proprietary classification systems. 25 See Dkt. No. 1060. Meta does not claim that any portion of the appended exhibits should be sealed. See id. As plaintiffs’ sealing motion relates to a discovery matter, the good cause standard 26 applies. Ctr. for Auto Safety v. Chrysler Group, LLC, 809 F.3d 1092, 1098-99 (9th Cir.), cert. denied sub nom FCA U.S. LLC v. Ctr. for Auto Safety, 580 U.S. 815 (2016); Kamakana v. City & 27 Cnty. of Honolulu, 447 F.3d 1172, 1179-80 (9th Cir. 2006). Good cause appearing, the Court 1 accordance with the Court’s resolution of the parties’ May 1, 2023 discovery dispute (see Dkt. 2 Nos. 223, 278). Id. at ECF 5-6. Meta objects that plaintiffs’ present demand is untimely and

3 overbroad and seeks information that is neither relevant nor proportional to the needs of the case. 4 Id. at ECF 6-8. The Court heard oral argument on this dispute on June 10, 2025. Dkt. No. 1062.

5 1. RFP 22

6 RFP 22 asks for “[d]ocuments sufficient to show the total revenues and profits Meta 7 derived from advertising associated with the use of the Meta Pixel on Medical Provider Web- 8 Properties” Dkt. No. 1060-2 at ECF 14. This request was among those at issue in a May 1, 9 2023 discovery dispute in which the Court was asked to address the scope of the term “Medical 10 Provider Web-Properties.” See Dkt. No. 223; Dkt. No. 223-1 at ECF 11. In that earlier discovery 11 dispute, plaintiffs argued that Meta should be required to use the following definition of “Medical 12 Provider”: “healthcare providers and covered entities under HIPAA or the CMIA.” Dkt. No. 223 13 at 1. In response, Meta did not contend that this definition encompassed irrelevant information; 14 rather, Meta objected that it had no systematic way to identify which entities that deployed the 15 Pixel fell within the scope of plaintiffs’ proposed definition. Id. at 4, 5. The Court accepted 16 plaintiffs’ definition for purposes of resolving the dispute and ordered the parties to confer further 17 about whether Meta could provide information from which plaintiffs could identify the entities 18 within the scope of plaintiffs’ definition. See Dkt. No. 278. 19 The Court has reviewed the May 1, 2023 discovery dispute letter, the transcript of the 20 hearing on that dispute, and the order resolving it. It is very clear from that record that plaintiffs 21 did not advocate the broad definition of “Medical Provider” on which they now rely—i.e. “a 22 physician, hospital, laboratory, pharmacy, or any other Person who provides medical- or health- 23 related services without regard to whether it is a covered entity under HIPAA.” Dkt. No. 223-1 at 24 ECF 5 (para. 17) (emphasis added). Instead, they defined the term more narrowly to mean 25 “healthcare providers and covered entities under HIPAA or the CMIA.” Dkt. No. 223 at 1. To the 26 extent plaintiffs now rely on the broad definition to support their present demand for revenue- 27 related data from all “health-related advertisers” enrolled in Meta’s CoreSetup privacy program, 1 see Dkt. No. 1060-2 at ECF 4 (“Scope of RFPs”), this argument is foreclosed by plaintiffs’ earlier 2 position on the scope of this term as used in RFP 22 and elsewhere, and by the Court’s earlier 3 order at Dkt. No. 278. 4 With respect to the process contemplated by the Court’s order at Dkt. No. 278, Meta says 5 that it has produced multiple sets of information that could be used by plaintiffs to investigate 6 which entities deploying the Pixel are covered by HIPAA or CMIA, precisely as the Court 7 directed in its earlier order, that the parties agreed plaintiffs would use this information to identify 8 relevant Pixel IDs, and that plaintiffs have done so, albeit belatedly and with some inaccuracies. 9 Dkt. No. 1060-2 at ECF 6 & n.2. Meta also states that it has produced revenue-related data for 10 more than 1,800 entities plaintiffs identified by Pixel ID earlier in the discovery period, and that it 11 has agreed to produce revenue-related data for an additional more than 1,000 entities plaintiffs 12 recently identified by Pixel ID. Id. at ECF 5. Plaintiffs counter that Meta delayed producing until 13 the very end of fact discovery additional

information plaintiffs need to identify to all relevant 14 covered entities and their associated Pixel IDs, and that Meta has yet other sources of information 15 that could also be used to efficiently identify additional covered entities and entities engaged in 16 “health-related” advertising. *Id.* at ECF 4 (“Production of incomplete revenue data”). The Court 17 explored this issue at length during the hearing. See Dkt. No. 1084. To the extent plaintiffs need 18 to update their list of Pixel IDs yet again based on Meta’s last-day-of-discovery document 19 production, they should do so promptly, and the Court expects Meta to produce the revenue- 20 related data for the corresponding healthcare providers and covered entities, as they have 21 previously done or agreed to do. However, to the extent plaintiffs argue (again) that Meta should 22 be required to investigate thousands, or hundreds of thousands, of entities to identify Pixel IDs for 23 covered entities, the Court is not persuaded that Meta has ready means available to do this 24 investigation without undue burden or that there are other circumstances that warrant 25 reconsideration of the approach adopted by the parties and the Court, as reflected in the order at 26 Dkt. No. 278.2 See Dkt. No. 1084 at 40:18-41:13. 27 1 2. RFPs 263 and 268 2 RFP 263 asks for “[d]ocuments sufficient to show Facebook’s United States advertising 3 revenue and profits from advertisements associated with each Meta Collection Tool . . . installed 4 on HIPAA- and CMIA-covered entities web properties, and on Healthcare Advertisers web 5 properties, for each month and quarter in aggregate and for each advertiser.” Dkt. No. 1060-2 at 6 ECF 19. RFP 268 asks for “[d]ocuments sufficient to show United States revenue and profits for 7 conversions from Meta Collection Tools for HIPAA- and CMIA-covered entities, and for 8 Healthcare Advertisers, for each month and quarter in aggregate and for each advertiser.” *Id.* at 9 ECF 21. Meta argues that the discovery plaintiffs seek in this discovery dispute—i.e. total 10 revenue and profits from all “health advertisers,” or all domains in the “health-related advertiser 11 verticals and classifications used for enrollment in the CoreSetup privacy program”—is not within 12 the scope of either RFP 263 or RFP 268. Dkt. No. 1060-2 at ECF 6. Plaintiffs do not respond to 13 this objection with respect RFPs 263 and 268. See *id.* at ECF 4. 14 The Court agrees with Meta. These requests do not appear to encompass the much broader 15 scope of revenue-related data plaintiffs seek in this discovery dispute letter. 16 *** 17 For the reasons explained above, the Court denies plaintiffs request for an order requiring 18 Meta to produce total revenue and profits from all “health advertisers,” or all domains in the 19 “health-related advertiser verticals and classifications used for enrollment in the CoreSetup 20 privacy program.” However, plaintiffs may update their list of Pixel IDs based on Meta’s last- 21 day-of-discovery document production, and if plaintiffs do so, Meta must promptly produce the 22 corresponding revenue-related data for those additional Pixel IDs for healthcare providers and 23 covered entities. If plaintiffs cannot accurately identify Pixel IDs for some subset of the relevant 24 covered entities, the Court expects Meta to reasonably assist with the identification of Pixel IDs. 25 See, e.g., Dkt. No. 1084 at 74:24-76:9 (discussing possible need for assistance with identifying 26 approximately 150 Pixel IDs). 27 The parties shall jointly file a status report of no more than 1,000 words (without argument 1 effort by July 8, 2025. 2 IT IS SO

ORDERED. 3 Dated: June 27, 2025 4 Virginia K. DeMarchi 5 United States Magistrate Judge 6 7
8 9 10 11 12 13 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28

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