

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re Meta Pixel Healthcare Litigation

No. 22-cv-03580-WHO (VKD), Dkt. No. 991 (N.D. Cal. May 5, 2025) · No. 22-cv-03580-WHO (VKD) · Decided May 5, 2025

SUMMARY

The United States District Court for the Northern District of California resolves a discovery dispute concerning Meta’s advertising revenue allegedly attributable to health information collected through Meta Pixel and related business tools. The court orders Meta to provide a further answer to Interrogatory No. 18 and produce documents responsive to RFPs 283 and 287, subject to reasonable accessibility, while requiring further party conferral regarding RFPs 284–286. The order addresses the relevance and proportionality of discovery to plaintiffs’ unjust-enrichment theory.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Virginia K. DeMarchi
JURISDICTION	United States District Court for the Northern District of California
DECIDED	May 5, 2025
DOCKET	22-cv-03580-WHO (VKD)
DISPOSITION	other
PROCEDURAL POSTURE	Order resolving a discovery dispute in multidistrict litigation concerning an interrogatory and requests for production directed to Meta's advertising revenue and profits allegedly associated with use of health information.
STANDARD OF REVIEW	Discovery requests must seek relevant information and be proportional to the needs of the case under Federal Rule of Civil Procedure 26(b) (1). The court evaluated the requests for relevance, proportionality, clarity, and reasonable accessibility of the requested information.
PRECEDENTIAL VALUE	unpublished district court discovery order

TOPICS

- discovery dispute
- civil procedure
- health law
- consumer protection
- remedies

PRACTICE AREAS

civil procedure

discovery

health law

consumer protection

remedies

QUESTIONS PRESENTED

1. Whether Meta should be required to provide a further answer to Interrogatory No. 18 concerning profits from advertising revenue allegedly attributable to data obtained through the Meta Pixel.
2. Whether Meta should be required to produce documents responsive to RFPs 283 and 287 concerning advertising revenue, profits, apportionment, costs, and reductions.
3. Whether the court should order production responsive to RFPs 284 through 286 where the requests relied on unclear definitions or materials not in the record.

HOLDINGS

1. Discovery concerning advertising revenue and profits associated with the alleged use of putative class members' health information was relevant to plaintiffs' unjust-enrichment theory because it could assist in reasonably approximating profits causally connected to the alleged interceptions.
2. Meta must provide a further answer to Interrogatory No. 18 concerning profits from revenue received from non-Healthcare Providers for advertising in which data obtained from putative class members through the Meta Pixel was used during the relevant class period, based on reasonably accessible information.
3. Meta must produce reasonably accessible documents sufficient to show revenue from advertisements within the agreed definition covered by RFP 283 and documents permitting apportionment of that revenue or accounting for costs and other reductions under RFP 287.
4. The court would not order production responsive to RFPs 284 through 286 at that time because it could not determine from the discovery-dispute record what documents plaintiffs sought or how those documents were likely to yield relevant information.

KEY QUOTATIONS

“This is a question that goes to the merits of plaintiffs’ claims.” (at 2)

“However, discovery must be both relevant and proportional to the needs of the case.” (at 3)

“The Court will not order Meta to produce documents responsive to these requests at this time, but will require the parties to confer further, as explained below.” (at 5)

FACTUAL BACKGROUND

Plaintiffs alleged that Meta's Pixel and related business tools intercepted confidential health information and that Meta used the information, alone or with other data or health inferences, to facilitate advertising. They sought information concerning revenue and profits from advertisements served by non-Healthcare Providers, including information that could help approximate the portion attributable to the alleged unauthorized use of putative class members' health information. Meta argued that the requests were overbroad and disproportionate and that its

systems made it difficult to determine whether data obtained through the Pixel affected particular advertisements.

PROCEDURAL HISTORY

Plaintiffs moved for an order requiring Meta to provide a further answer to Interrogatory No. 18 and to produce documents responsive to RFPs 283 through 287. Meta opposed the requests as overbroad and disproportionate. The court resolved the dispute without oral argument, ordered further responses to Interrogatory No. 18 and production responsive to RFPs 283 and 287, and required further conferral concerning RFPs 284 through 286.

DISPOSITION

other

CASES CITED

- In re Meta Pixel Healthcare Litig., No. 22-cv-03580-WHO (VKD), 2025 WL 1191684, at *1 (N.D. Cal. Apr. 24, 2025)
- In re Google RTB Consumer Priv. Litig., No. 21-cv-02155-YGR (VKD), 2022 WL 4087514, at *7 (N.D. Cal. Sept. 6, 2022)

OPINION

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
REDACTED This Document Relates To: 9 ORDER RE APRIL 25, 2025 All Actions.
DISCOVERY DISPUTE RE REVENUE 10 FROM NON-HEALTHCARE PROVIDERS 11 Re:
Dkt. No. 991 12 13 The parties ask the Court to resolve their dispute regarding whether Meta
should be 14 required to answer an interrogatory and to produce documents regarding advertising
revenue Meta 15 received from “non-Healthcare Providers.” Dkt.

No. 991. The Court finds this dispute suitable 16 for resolution without oral argument. Civil L.R.
7-1(b). 17 For the reasons explained below, the Court orders Meta to provide a further answer to
18 Interrogatory No. 18 and to produce documents responsive to RFPs 283 and 287, consistent
with 19 the direction provided in this order.

The Court orders further proceedings re RFPs 284-286. 20 I. BACKGROUND 21 Plaintiffs seek
an order requiring Meta to answer Interrogatory No. 18, which asks Meta to 22 “[s]et forth with
specificity the Profits, on a monthly basis from 2017 to present, attributable to 23 Health
Advertising Revenue from non-Healthcare Providers.” Dkt. No. 991 at 3; Dkt. No. 992-3 24 at
ECF 17.

Plaintiffs define the phrase “Health Advertising Revenue from non-Healthcare 25 Providers” as
“revenue generated from serving advertisements by non-Healthcare Providers1 to 26 1

Presumably, a “non-Healthcare Provider” is any entity other than a “Healthcare Provider,” which 27 plaintiffs define as “any of the entities from which Meta was collecting information on their web- 1 Facebook users based on a match to a Health Inference.” Dkt.

No. 992-3 at ECF 14 (definition). 2 A “Health Inference” is “any that was 3 generated in whole or in part using Pixel-generated Health Information.” Id. at ECF 15. And 4 finally, “Pixel-generated Health Information” is “any information collected by the Meta Pixel² 5 relating to a Health Provider web-property that: (a) was classified or categorized based on the 6 content taxonomies identified in Exhibit B; or (b) included the fact that a user logged into or out of 7 a patient portal, made or changed an appointment[], or made a bill payment.” Id. In addition, 8 plaintiffs ask the Court to order Meta to produce documents responsive to the following five 9 document requests: 10 1.

RFP 283: Documents sufficient to identify total revenue from advertisements 11 served for each 3 collectively and separately, during the Class Period, broken down in the time increments used in 12 Meta’s ordinary course of business. 13 2. RFP 284: Documents sufficient to conduct an analysis of “Health Information”⁴ advertisements and its relationship to Health Information collected via the Pixel 14 similar to the analysis conducted by Meta in the document 15 PIXEL_HEALTH000538384.

16 3. RFP 285: Documents sufficient to identify, collectively and separately, the 17 percentage of revenue associated with advertisements in based on mapping the 18 of an advertisement to the equivalent 19 associated with a user,, or user feature – such as the 20 (b) classified by Meta in a or category specified in the attached 21 Exhibit A; (c) for which Meta’s data indicates that the web-property displayed HIPAA notice language required by law; or (d) Meta classified as a health care provider or HIPAA or CMIA 22 covered entity through or any other method.

23 2 Plaintiffs define “Meta Pixel” as encompassing the following Business Tools: “Pixel, SDK, CAPI, Customer List Uploads, DFCA, Offline Conversion Custom Audiences, and offline events 24 (OCAPI).” 25 3 The record does not reflect how plaintiffs define for purposes of these document requests.

In the discovery dispute letter, plaintiffs refer the Court to 26 Exhibit C of Dkt. No. 652, but this is just a “placeholder” exhibit. 27 4 The record does not reflect how plaintiffs define “Health Information” for purposes of these mappings included in the source code file cited in the Declaration of Dr. Atif 1 Hashmi 2 filed at Dkt. 630-9, footnote 24. 3 4.

RFP 286: Documents sufficient to identify the percentage of and user features that are derived from data collected via the Meta 4 Business Tools associated with HIPAA- or CMIA-Covered Entities or Healthcare Provider web-properties. 5 5. RFP 287: To the extent that Meta claims that revenues from advertisements in 6 are only partially related to Health 7 Information Meta

collected from HIPAA- or CMIA-covered entities or Healthcare Provider web-properties, Documents sufficient to calculate or reasonably approximate any reduction Meta contends is necessary for health-related data that Meta collected from non-Healthcare Provider sources.

9 10 Dkt. No. 991 at 3; Dkt. No. 992-3 at ECF 60-64. 11 Plaintiffs argue that this information is relevant to their calculation of Meta's profits 12 attributable to Meta's alleged unauthorized interception of putative class members' confidential 13 health information. Dkt. No. 991 at 1. Specifically, plaintiffs contend that Meta has used the data 14 at issue, alone or in combination with other data, and/or "health inferences" drawn from the data, 15 to facilitate advertising from non-Healthcare Providers.

Id. at 1, 2. Plaintiffs argue that they need 16 the information and documents described above "to present a reasonable approximation of profits 17 causally connected to Meta's interceptions[.]" Id. at 4. 18 Meta responds that the discovery plaintiffs seek is overbroad and disproportionate to the 19 needs of the case. Id. at 5. Meta notes that it has already agreed to produce revenue-related 20 information and documents for "healthcare advertisers previously identified by plaintiffs," but it 21 objects to having to investigate all advertisements to determine which had a health-related 22 classification, regardless of any connection to the putative class members' data at issue, and then 23 investigate the revenue and profits derived from such advertisements.

Id. at 5-6. 24 II. DISCUSSION 25 There appears to be no dispute that Meta 26 27 See 1 2 Id. at 6. Plaintiffs contend that this is an unauthorized 3 "use" of putative class members' data and that Meta has been unjustly enriched by such use. Id. at 4 4-5. Meta counters that, given how its operate, it is not possible to 5 determine in the first instance whether any such data obtained via the Meta Pixel "had an effect on 6 whether any particular ads or types of ads were shown to any Meta user[.]" Id. at 6.

7 Essentially, the parties disagree about whether plaintiffs will be able to show the necessary 8 connection between putative class members' data and particular advertising, especially advertising 9 from "non-Healthcare Providers." This is a question that goes to the merits of plaintiffs' claims. 10 And while Meta may be correct that plaintiffs will not be able to make the necessary showing, the 11 Court is not in a position to make that determination in resolving this discovery dispute.

If, as 12 Meta acknowledges, putative class members' data is 13 the 14 damages-related discovery plaintiffs seek appears to be relevant to their unjust enrichment theory 15 of recovery. See Fed. R. Civ. P. 26(b)(1); *In re Meta Pixel Healthcare Litig.*, No. 22-cv-03580- 16 WHO (VKD), 2025 WL 1191684, at *1 (N.D. Cal. Apr. 24, 2025) (concluding that payments to 17 consumers who share data with Meta are discoverable, even if Meta ultimately shows that such 18 payments are an unreliable basis for calculating damages); *In re Google RTB Consumer Priv.*

19 Litig., No. 21-cv-02155-YGR (VKD), 2022 WL 4087514, at *7 (N.D. Cal. Sept. 6, 2022) (“It is
20 possible plaintiffs may be able to construct a reliable damages model using, at least in part, 21
information from the Screenwise program. At the very least, the Court is not prepared to conclude
22 that discovery relating to the Screenwise program is wholly irrelevant.”).

23 However, discovery must be both relevant and proportional to the needs of the case. Fed. 24 R.
Civ. P. 26(b)(1). Plaintiffs claim their discovery requests contemplate a “simple three-step 25
methodology.” Dkt. No. 991 at 5. Meta objects that, to the contrary, these requests would require
26 it to investigate “voluminous data,” and that the apportionment information plaintiffs demand
27 ignores how Meta’s systems operate.

Id. at 7. 1 very difficult to understand, and plaintiffs do little to clarify what documents they seek
and why 2 they are likely to yield relevant information. However, taking plaintiffs at their word
regarding 3 the purpose of the discovery requested, the Court orders as follows: 4 Interrogatory
No. 18: This interrogatory is difficult to parse, but it appears to be limited to 5 a statement of
Meta’s profits on revenue received (a) from “non-Healthcare Providers” (b) for 6 advertising
where (c) data obtained from putative class members via the Meta Pixel (d) was 7 8 (g) during the
relevant class period.⁵ Meta 9 must answer this interrogatory based on information that is
reasonably accessible.

The Court 10 appreciates that Meta may not have some or all of the information called for by this
interrogatory, 11 or that an answer might only be available as a product of expert discovery. If this
is the case, Meta 12 may so state in its further response to Interrogatory No. 18. 13 Document
requests: As noted above, these document requests rely on defined terms and/or 14 cross-
referenced materials that are not part of the record before the Court.

While Meta’s written 15 responses include objections that these requests are vague and
ambiguous, Meta does not rely on 16 those objections in its portion of the discovery dispute letter.
As best the Court can discern, 17 plaintiffs seek documents that will allow them to calculate or
estimate the portion of Meta’s 18 advertising revenue and/or profits that they contend is
attributable to the alleged unauthorized use 19 of putative class members’ health information.

If there is agreement about what it means for 20 advertisements to be classified in a (RFP 283),
then 21 Meta must produce documents sufficient to show its revenue from such advertisements
during the 22 class period, to the extent those documents are reasonable accessible. Likewise, if
Meta contends 23 that the revenue responsive to RFP 283 cannot be attributed in whole or in part
to the alleged 24 unauthorized use of putative class members’ health information, Meta must
produce the 25 documents that would permit apportionment of that revenue and/or account for
costs or other 26 reductions (RFP 287).

27 1 Conversely, the Court cannot determine from the discovery dispute letter what documents 2 ||
plaintiffs seek by means of RFPs 284-286 or how those documents are likely to yield information
3 that will allow plaintiffs to do what they say they are trying to do—reasonably approximate 4 ||
Meta’s unjust enrichment.

The Court will not order Meta to produce documents responsive to 5 these requests at this time,
but will require the parties to confer further, as explained below. 6 || I. CONCLUSION 7 The
Court orders Meta to provide a further answer to Interrogatory No. 18, consistent with 8 || the
Court’s direction above, by May 23, 2025, unless the parties stipulate to a different date.

The 9 Court also orders Meta to produce documents responsive to RFPs 283 and 287, consistent
with the 10 Court’s direction above, by May 23, 2025, unless the parties stipulate to a different
date. 11 As for RFPs 284-286, the Court directs the parties to confer further regarding the specific
12 || data or documents plaintiffs seek, taking into account the Court’s determination in this order
that 14 plaintiffs may obtain 15 discovery of the revenue and/or profits associated with that use in
aid of their unjust enrichment 16 || theory, but only to the extent the information plaintiffs seek is
reasonably accessible to Meta.

The 3 17 parties shall jointly report back to the Court by May 19, 2023 regarding the status of their
efforts 18 to reach agreement on these document requests. The joint status report is limited to 500
words 19 total. 20 IT IS SO ORDERED. 21 Dated: May 5, 2025 22 2 Uniaiuin®, Marcle: A
Virginia K. DeMarchi United States Magistrate Judge 25 26 27 28