

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHARMING BEATS LLC, :
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 Plaintiff, :
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 - against - :
 :
 META PLATFORMS, INC. and :
 INSTAGRAM, INC. :
 :
 Defendants. :
-----X

21 Civ. 8609 (VM)
ORDER


VICTOR MARRERO, United States District Judge.

On January 14, 2022, and consistent with the Court’s Individual Practices, counsel for defendants Meta Platforms, Inc. and Instagram, Inc. (collectively, “Defendants”) sent counsel for Charming Beats LLC (“Charming Beats”) a premotion letter identifying alleged deficiencies in the Third Amended Complaint (Dkt. No. 19) that Charming Beats filed in this action, and that allegedly would provide a basis supporting a motion to dismiss. (See Dkt. No. 21.) On January 19, 2022, also consistent with the Court’s Individual Practices, counsel for Charming Beats sent a three-page letter in response, opposing the grounds that Defendants stated in favor of the proposed motion. (See Dkt. No. 22.) On January 26, 2021, the Court received a letter from Defendants requesting a premotion conference and asserting that the letter exchange did not resolve the dispute and thus failed to avoid motion practice at this stage of the proceedings. (See Dkt. No. 23.) On June 22, 2022, the Court directed Charming Beats to file a motion to dismiss limited to three pages in length, (see Dkt. No. 26 (“June 22 Order”)).

In light of recent Second Circuit opinions, the parties are directed to advise the Court whether they consent for the Court to deem the briefing as set forth in the June 22 Order as a fully briefed motion and rule on the basis of the limited briefs, or whether the parties request supplemental or full briefing on Charming Beats' motion. If the parties request supplemental or full briefing, they shall submit a proposed briefing schedule within one week of the date of this order.

SO ORDERED.

Dated: New York, New York
August 10, 2022



Victor Marrero
U.S.D.J.