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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

INTERCONTINENTAL EXCHANGE, INC.

and

BLACK KNIGHT, INC.,

Defendants.

Case No. 3:23-cv-01710-AMO

STIPULATION TO EXTEND DEADLINE TO RESPOND TO COUNTERCLAIMS AND STIPULATED REQUEST TO SET BRIEFING SCHEDULE

Under Civil Local Rules 6-1 and 6-2, Plaintiff and Defendants submit this stipulated request for the Court to extend Plaintiff's time to respond to Defendants' constitutional counterclaims and set an agreed-upon dispositive briefing schedule for those claims. In support of this request, the parties stipulate and agree as follows:

1. On April 10, 2023, Plaintiff Federal Trade Commission brought this case seeking a preliminary injunction to block the acquisition of Defendant Black Knight, Inc. by Defendant Intercontinental Exchange, Inc. *See* Compl., ECF No. 1. Defendants answered the complaint on April 25, 2023 and effectuated service of their answers on May 10, 2023. *See* Defs.' Answers, ECF Nos. 57 & 58. In their answers, Defendants asserted counterclaims challenging "the unconstitutional structure and processes employed by the FTC to prohibit lawful acquisitions." ECF No. 57 at 33 ¶ 1; ECF Nos. 58 at 29 ¶ 1. The FTC's deadline to respond to these counterclaims is July 10, 2023. *See* Fed. R. Civ. P. 12(a)(2).

2. Civil Local Rule 6-1(a) provides that "[p]arties may stipulate in writing, without a Court order, to extend the time within which to answer or otherwise respond to the complaint, or to enlarge or shorten the time in matters not required to be filed or lodged with the Court" as long as "the change will not alter the date of any event or any deadline already fixed by Court order." Civil Local Rule 6-2(a) likewise provides that "[t]he parties may file a stipulation" requesting "an order changing time . . . that would accelerate or extend time frames set in the Local Rules or in the Federal Rules."

3. The parties have conferred and, under Rules 6-1(a) and 6-2(a), hereby stipulate and request that the Court approve the following briefing schedule on Defendants' counterclaims, which includes an extension of the FTC's time to respond to those claims:

- Defendants' summary-judgment motion: due August 4, 2023
- FTC's combined opposition and cross motion to dismiss and cross motion for summary judgment: due September 8, 2023
- Defendants' combined opposition and reply: due September 22, 2023
- FTC's reply: due October 6, 2023.

4. This stipulated briefing schedule will not alter the date of any event or any deadline already fixed by Court order. Consequently, the Court may proceed on the FTC's preliminary-injunction motion (and accompanying hearing) as planned without any alteration to those proceedings. A proposed order and a Rule 6-2(a) declaration are attached.

DATED: July 10, 2023

Respectfully submitted,

/s/ Stephen Ehrlich
Stephen Ehrlich

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Counsel for Plaintiff Federal Trade Commission

ATTESTATION

Under Local Rule 5-1(h)(3), I attest that I am the ECF user whose user ID and password are being used in the electronic filing of this document, and further attest that I have obtained permission to file this document from the other parties.

/s/ Stephen Ehrlich

Stephen Ehrlich

[PROPOSED] ORDER

Upon stipulation of the parties, and good cause appearing, the Court hereby orders that the FTC's time to respond to Defendants' counterclaims shall be extended and the following briefing schedule shall be entered:

- Defendants' summary-judgment motion: due August 4, 2023
- FTC's combined opposition and cross motion to dismiss and cross motion for summary judgment: due September 8, 2023
- Defendants' combined opposition and reply: due September 22, 2023
- FTC's reply: due October 6, 2023.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: July ____, 2023

_____
Hon. Araceli Martínez-Olguín

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DECLARATION OF STEPHEN EHRLICH IN SUPPORT OF STIPULATION TO SET BRIEFING SCHEDULE

I, Stephen Ehrlich, do hereby declare:

1. I am an attorney licensed to practice law in New York and I'm employed as an attorney with the U.S. Department of Justice's Civil Division. I am counsel for the FTC in this action, and I'm filing this declaration under Local Rule 6-2(a) in support of the parties' stipulation to set a briefing schedule that includes an extension of the FTC's time to respond to Defendants' counterclaims.

2. I contacted Defendants' counsel on June 27, 2023 to confer about extending the FTC's time to respond as part of a joint briefing schedule on Defendants' counterclaims. After further back and forth, the parties agreed to the briefing schedule as reflected in the concurrently filed stipulation.

3. The reasons for this briefing schedule are to allow the parties sufficient time to brief Defendants' constitutional counterclaims without interfering with the proceedings on the FTC's preliminary-injunction motion. Consequently, this briefing schedule will have no effect on the current deadlines in the case. There have been no previous modifications of the schedule for these briefs.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 10, 2023



Stephen Ehrlich