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

[PROPOSED] REVISED SCHEDULING ORDER

Judge: Hon. Araceli Martínez-Olguín

At the parties' joint request, the Court continued the preliminary injunction hearing in this matter to August 14–15, 2023. ECF 270, 272. The Court further ordered the parties to submit a proposed schedule governing revised prehearing submissions. ECF 271. Having considered the parties' submission, the Court **SETS** the following deadlines with respect to the evidentiary hearing on the FTC's claim for a preliminary injunction under Section 13(b) of the Federal Trade Commission Act and any defenses to that claim pursuant to Federal Rule of Civil Procedure 16 and Civil Local Rule 16-10:

Event	Deadline
Deadline to submit any supplemental or revised direct evidence through declarations, deposition designations, and exhibits.	July 31, 2023
Each side will notify the other side which witnesses that side intends to cross-examine during the hearing.	August 2, 2023
Submission of simultaneous 10-page opening briefs regarding the impact of the proposed Optimal Blue transaction	August 3, 2023
Each side will provide the other side with the availability of each witness who will appear for cross-examination.	August 4, 2023
Parties that intend to offer as evidence any new materials (i.e., not previously addressed by in-camera motions) designated as confidential by an opposing party or non-party shall provide notice to the opposing party or non-party by this date.	August 4, 2023
Submission of simultaneous, optional 5-page response briefs regarding the impact of the proposed Optimal Blue transaction	August 7, 2023
Deadline to submit joint statement (1) identifying each witness each party intends to call, the subject matter of the testimony, and the anticipated length of the examination; and (2) a list identifying each exhibit each party intends to offer at the evidentiary hearing through a witness declaration or live testimony. This list will also identify which exhibits are subject to a confidentiality designation and where on the docket the Court can locate a motion for in camera treatment, if any, or a declaration in support of sealing as required by Local Rule 79-5.	August 7, 2023

Deadline to file motions for in camera treatment of proposed hearing exhibits.	August 7, 2023
Deadline to file responses to motions for in camera treatment of any proposed hearing exhibits not covered by previous in camera motions.	August 8, 2023
Pre-hearing conference	August 9, 2023 at 11:00 a.m.
Evidentiary hearing on Plaintiff's Motion begins. The parties will cross-examine witnesses, as well as redirect them.[1] The parties are limited to 8 hours per side.	August 14 at 9:00 a.m.
Deadline to submit post-hearing proposed findings of fact and conclusions of law. Each side's post-hearing proposed findings of fact and conclusions of law shall not exceed 75 pages.	August 21, 2023

IT IS SO ORDERED.

Dated: _____, 2023

_____
Honorable Araceli Martínez-Olguín
United States District Judge
Northern District of California

Dated July 19, 2023

FEDERAL TRADE COMMISSION

By: */s/ Abby L. Dennis*
Abby L. Dennis

Peter Richman
Ashley Masters
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[1] Based on the Court's statements during the June 23, 2023, status conference that the parties "can use [their] eight hours however best [they] need it" (Hr'g Tr. 14:10-11), Defendants may elect to use a portion of their time to conduct short direct examinations for some witnesses. Based on the Court's subsequent minute order limiting live direct testimony to witnesses for whom the "parties could not secure declarations," the FTC objects to Defendants' proposed direct examination of witnesses who submitted declarations. ECF 154. The parties further explain their positions in the July 14, 2023 joint statement. ECF 266.

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FILER'S ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1

I, Abby Dennis, am the ECF User whose ID and password are being used to file the foregoing. In compliance with Civil Local Rule 5-1(h)(3), I attest that the other signatories concurred in this filing, and I shall maintain records to support this concurrence for subsequent production for the Court if so ordered or for inspection upon request by a party.

Dated: July 19, 2023

/s/ *DRAFT*

Abby L. Dennis