UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FEDERAL TRADE COMMISSION,

,

v.

INTERCONTINENTAL EXCHANGE, INC.,

and

BLACK KNIGHT, INC.,

s.

3:23-cv-01710-AMO

[~~PROPOSED~~] REVISED SCHEDULING ORDER AS AMENDED

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 granted the joint request particularly in light of changed circumstances – Defendants Intercontinental Exchange, Inc.'s ("ICE") and Black Knight, Inc.'s ("Black Knight") announcement of the planned divestiture of "Optimal Blue," a substantial element in the instant dispute. The Court further ordered the parties to submit a proposed schedule governing revised prehearing submissions. ECF 271. Considering the changed circumstances, the Court anticipates that the arguments and record for review have also changed, potentially substantially. Rather than review supplemental briefing merely referring or citing to earlier argument, the Court would prefer to review consolidated materials which fully include arguments as the facts now stand. Accordingly, the Court grants the parties additional pages for briefing than they originally proposed.

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~~25-page opening briefs regarding the motion for preliminary junction including discussion of 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	August 4, 2023

the opposing party or non-party by this date.	
Submission of simultaneous, ~~optional~~ ~~5~~10-page response briefs regarding the motion for preliminary junction including discussion of 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. The parties are limited to 8 hours per side, to be utilized however they choose; however, the parties are encouraged to secure advance declarations of witnesses where possible to save time in court.	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~~ 50 pages.	August 21, 2023

IT IS SO ORDERED.

Dated: July 20, 2023

ARACELI MARTÍNEZ-OLGUÍN
United States District Judge