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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

1 At the parties' joint request, the Court continued the preliminary injunction hearing in this
 2 matter to August 14–15, 2023. ECF 270, 272. The Court granted the joint request particularly in
 3 light of changed circumstances – Defendants Intercontinental Exchange, Inc.'s ("ICE") and Black
 4 Knight, Inc.'s ("Black Knight") announcement of the planned divestiture of "Optimal Blue," a
 5 substantial element in the instant dispute. The Court further ordered the parties to submit a
 6 proposed schedule governing revised prehearing submissions. ECF 271. Considering the changed
 7 circumstances, the Court anticipates that the arguments and record for review have also changed,
 8 potentially substantially. Rather than review supplemental briefing merely referring or citing to
 9 earlier argument, the Court would prefer to review consolidated materials which fully include
 10 arguments as the facts now stand. Accordingly, the Court grants the parties additional pages for
 11 briefing than they originally proposed.


12 Having considered the parties' submission, the Court **SETS** the following deadlines with
 13 respect to the evidentiary hearing on the FTC's claim for a preliminary injunction under Section
 14 13(b) of the Federal Trade Commission Act and any defenses to that claim pursuant to Federal
 15 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 <u>the motion for preliminary injunction including discussion of the impact of the proposed Optimal Blue transaction</u>	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

1	the opposing party or non-party by this date.	
2	Submission of simultaneous, optional <u>510</u> -page	August 7, 2023
3	response briefs regarding the <u>motion for</u>	
4	<u>preliminary junction including discussion of the</u>	
5	<u>impact of the proposed Optimal Blue transaction</u>	
6	Deadline to submit joint statement (1) identifying	August 7, 2023
7	each witness each party intends to call, the subject	
8	matter of the testimony, and the anticipated length	
9	of the examination; and (2) a list identifying each	
10	exhibit each party intends to offer at the evidentiary	
11	hearing through a witness declaration or live	
12	testimony. This list will also identify which exhibits	
13	are subject to a confidentiality designation and	
14	where on the docket the Court can locate a motion	
15	for in camera treatment, if any, or a declaration in	
16	support of sealing as required by Local Rule 79-5.	
17	Deadline to file motions for in camera treatment of	August 7, 2023
18	<u>proposed hearing exhibits.</u>	
19	Deadline to file responses to motions for in camera	August 8, 2023
20	treatment of any proposed hearing exhibits not	
21	covered by previous in camera motions.	
22	Pre-hearing conference	August 9, 2023 at 11:00 a.m.
23	Evidentiary hearing on Plaintiff's Motion	
24	begins. The parties will cross-examine witnesses,	
25	as well as redirect them. The parties are limited to	August 14 at 9:00 a.m.
26	8 hours per side, <u>to be utilized however they</u>	
27	<u>choose; however, the parties are encouraged to</u>	
28	<u>secure advance declarations of witnesses where</u>	
	<u>possible to save time in court.</u>	
	Deadline to submit post-hearing proposed findings	August 21, 2023
	of fact and conclusions of law. Each side's post-	
	hearing proposed findings of fact and conclusions	
	of law shall not exceed 75 <u>50</u> pages.	

IT IS SO ORDERED.

Dated: July 20, 2023


 ARACELI MARTÍNEZ-OLGUÍN
 United States District Judge