

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES**

In the Matter of

Intercontinental Exchange, Inc.,
a corporation,

and

Black Knight, Inc.,
a corporation.

Docket No. 9413

**COMPLAINT COUNSEL’S OPPOSITION TO RESPONDENTS’ MOTION TO SET
STATUS CONFERENCE**

Complaint Counsel submits that a status conference is unnecessary and, respectfully, Respondents’ motion should be denied. Respondents’ motion asserts that the schedule regarding the Federal Trade Commission’s motion for a preliminary injunction under Section 13(b) of the FTC Act “conflicts with the schedule in this matter in several material respects” and that the “two proceedings now completely overlap.” Neither assertion is true, and there are no scheduling conflicts for this Court to resolve. As Respondents note, Rule 3.21(f) calls for a status conference to “ensure the just and expeditious disposition of the proceeding and to avoid unnecessary cost.” *See* 16 C.F.R. § 3.21(f). Given the lack of conflicts for this Court to resolve, a status conference itself is an unnecessary cost to your Honor’s time.

First, the parties were working to resolve the few discrepancies between the two proceedings’ respective pre-hearing schedules when Respondents filed their motion. Complaint Counsel reached out to Respondents on Wednesday, May 24, 2023, to discuss conforming the pre-hearing schedules, and Respondents sent proposed changes to the Part 3 pre-hearing

schedule that same day. Respondents' changes were limited to (1) the deadlines for expert reports, (2) the schedule for motions *in limine*, and (3) the schedule for the parties' pre-hearing briefs. Only a little more than an hour after proposing these changes, Respondents filed their motion to set a status conference. Complaint Counsel has subsequently informed Respondents that Complaint Counsel is not opposed to Respondents' proposed changes. Complaint Counsel thus expects that, within the next few days, the parties will submit for this Court's approval a proposed amended scheduling order that addresses all the pre-hearing scheduling issues raised Respondents' motion.

Second, no conflict exists with the merits hearing in this matter, which is set to begin on July 12, and the evidentiary hearing in federal court on July 25-26. As Complaint Counsel has explained to Defendants, with respect to the Part 3 merits hearing, the parties should endeavor to complete as much live evidence as possible (and maybe even conclude the hearing) by July 19; to the extent that the hearing is not complete by the end of the day on July 19, the parties can request that this Court pause the proceedings until August 1. While Complaint Counsel cannot predict Respondents' presentation of evidence, the risk of carryover to August 1 does not create a conflict. The federal court hearing is over only two days, with a limit of eight hours per side, creating minimal disruption, even should the parties need additional time to complete the Part 3 hearing after July 19. For those reasons, Complaint Counsel intends to oppose any motion to the Commission by Respondents to move the Part 3 hearing date and/or stay the Part 3 proceedings.

Complaint Counsel is mindful of your Honor's time and busy schedule and, in light of the foregoing, does not see a need for a status conference. We thus respectfully request that this Court deny Respondents' motion.

Dated: May 25, 2023

By: /s/ Abby L. Dennis
Abby L. Dennis
Federal Trade Commission
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CERTIFICATE OF SERVICE

I hereby certify that on May 25, 2023, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

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I also certify that I caused the foregoing document to be served via email to:

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