

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



In the Matter of

Tronox Limited
a corporation,

National Industrialization Company
(TASNEE)
a corporation,

National Titanium Dioxide Company
Limited (Cristal)
a corporation,

And

Cristal USA Inc.
a corporation.

Docket No. 9377

JOINT MOTION TO AMEND THE SCHEDULING ORDER

Complaint Counsel and Respondents, Tronox Limited, National Industrialization Company (TASNEE), National Titanium Dioxide Company Limited (Cristal), and Cristal USA Inc., jointly move to amend the Scheduling Order in the above-referenced matter. This is the first motion either party has filed for an amendment to the Court's December 20, 2017, Scheduling Order, revised by the Court on January 24, 2018.

In light of the need for accommodating the business and travel schedules of party and non-party witnesses for the upcoming depositions, Complaint Counsel and Respondents respectfully request the First Revised Scheduling Order be amended to move certain deadlines relating to fact and expert discovery. In particular, a brief extension of the discovery schedule will permit an orderly and efficient completion of fact discovery that will minimize any potential

burden on witnesses and third parties. Fact discovery is currently scheduled to conclude on March 20, 2018. Depositions have begun, and at least 18 more are scheduled between now and the end of fact discovery. Five more are scheduled after the fact discovery cut-off and at least 12 more will need to be scheduled as well. Many of these depositions are third-party depositions.

Following are the proposed amendments to the First Revised Scheduling Order:

Action	Current Deadline	Proposed Deadline
Close of discovery, other than discovery permitted under Rule 3.24(a)(4), depositions of experts, and discovery for purposes of authenticity and admissibility of exhibits.	March 20, 2018	March 27, 2018
Deadline for Complaint Counsel to provide expert witness reports.	April 2, 2018	April 6, 2018
Complaint Counsel provides to Respondents' Counsel its final proposed witness and exhibit lists, including depositions, copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Complaint Counsel's basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness. Complaint Counsel serves courtesy copies on ALJ of its final proposed witness and exhibit lists, its basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including its expert witnesses.	April 6, 2018	April 9, 2018
Deadline for Respondents' Counsel to provide expert witness reports (to be provided by 4 p.m. ET). Respondents' expert report shall include (without limitation) rebuttal, if any, to Complaint Counsel's expert witness report(s).	April 17, 2018	April 20, 2018
Respondents' Counsel provides to Complaint Counsel its final proposed witness and exhibit lists, including depositions, copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Respondents' basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness. Respondents' Counsel serves courtesy copies on ALJ its final proposed witness and exhibit lists, its basis of admissibility for each proposed exhibit, and a brief	April 17, 2018	April 20, 2018

summary of the testimony of each witness, including its expert witnesses.		
Parties that intend to offer confidential materials of an opposing party or non-party as evidence at the hearing must provide notice to the opposing party or non-party, pursuant to 16 C.F.R. § 3.45(b). ¹ See Additional Provision 7.	April 17, 2018	April 20, 2018
Complaint Counsel to identify rebuttal expert(s) and provide rebuttal expert report(s). Any such reports are to be limited to rebuttal of matters set forth in Respondents' expert reports. If material outside the scope of fair rebuttal is presented, Respondents will have the right to seek appropriate relief (such as striking Complaint Counsel's rebuttal expert reports or seeking leave to submit surrebuttal expert reports on behalf of Respondents).	April 26, 2018	April 30, 2018
Deadline for filing motions <i>in limine</i> to preclude admission of evidence. See Additional Provision 9.	April 30, 2018	May 3, 2018
Deadline for filing motions for <i>in camera</i> treatment of proposed trial exhibits.	April 30, 2018	May 3, 2018
Deadline for depositions of experts (including rebuttal experts) and exchange of expert related exhibits.	May 1, 2018	May 4, 2018

A Proposed Order is attached.

¹ Appendix A to Commission Rule 3.31, the Standard Protective Order, states that if a party or third party wishes *in camera* treatment for a document or transcript that a party intends to introduce into evidence, that party or third party shall file an appropriate motion with the Administrative Law Judge within 5 days after it receives notice of a party's intent to introduce such material. Commission Rule 3.45(b) states that parties who seek to use material obtained from a third party subject to confidentiality restrictions must demonstrate that the third party has been given at least 10 days' notice of the proposed use of such material. To resolve this apparent conflict, the Scheduling Order requires that the parties provide 10 days' notice to the opposing party or third parties to allow for the filing of motions for *in camera* treatment.

Dated: February 22, 2018

Respectfully submitted,

/s/ Michael F. Williams

Michael F. Williams, P.C.
Matthew J. Reilly, P.C.
KIRKLAND & ELLIS LLP
655 Fifteenth Street, N.W.
Suite 1200
Washington, DC 20005
(202) 879-5000
(202) 879-5200 (facsimile)
michael.williams@kirkland.com
matt.reilly@kirkland.com

Counsel for Respondent Tronox Limited

/s/ James L. Cooper

James L. Cooper
Peter J. Levitas
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Ave, N.W.
Washington, DC 20001
(202) 942-5000
(202) 942-5999 (facsimile)
james.cooper@arnoldporter.com
peter.levitas@arnoldporter.com

*Counsel for Respondents National
Industrialization Company (TASNEE),
The National Titanium Dioxide Company
Limited (Cristal), and Cristal USA, Inc.*

/s/ Dominic Vote

Dominic Vote
Robert Tovsky
Charles A. Loughlin
Joonsuk Lee
Federal Trade Commission
Bureau of Competition
600 Pennsylvania Avenue, N.W.
Washington, DC 20580
(202) 326-2222
(202) 326-3384 (facsimile)
dvote@ftc.gov
rtovsky@ftc.gov
cloughlin@ftc.gov
jlee4@ftc.gov

Counsel Supporting the Complaint

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

_____)	
In the Matter of)	
)	
Tronox Limited,)	
a corporation,)	
)	
National Industrialization Company)	
(TASNEE))	
a corporation,)	DOCKET NO. 9377
)	
National Titanium Dioxide Company)	
Limited (Cristal))	
a corporation, and)	
)	
Cristal USA Inc.)	
a corporation,)	
)	
Respondents.)	
_____)	

[PROPOSED] SECOND REVISED SCHEDULING ORDER

Upon the Joint Motion of Complaint Counsel and Respondents, it is hereby

ORDERED, that the remaining dates in the January 24, 2018 First Revised Scheduling

Order be revised as follows:

- February 23, 2018 - Deadline for supplementing preliminary witness lists.
- March 8, 2018 - Deadline for issuing requests for admissions, except for requests for admissions for purposes of authenticity and admissibility of exhibits.
- March 27, 2018 - Close of discovery, other than discovery permitted under Rule 3.24(a)(4), depositions of experts, and discovery for purposes of authenticity and admissibility of exhibits.
- April 6, 2018 - Deadline for Complaint Counsel to provide expert witness reports.
- April 9, 2018 - Complaint Counsel provides to Respondents' Counsel its final

proposed witness and exhibit lists, including depositions, copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Complaint Counsel's basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.

Complaint Counsel serves courtesy copies on ALJ of its final proposed witness and exhibit lists, its basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including its expert witnesses.

April 20, 2018 - Deadline for Respondents' Counsel to provide expert witness reports (to be provided by 4 p.m. ET). Respondents' expert report shall include (without limitation) rebuttal, if any, to Complaint Counsel's expert witness report(s).

April 20, 2018 - Respondents' Counsel provides to Complaint Counsel its final proposed witness and exhibit lists, including depositions, copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), Respondents' basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.

Respondents' Counsel serves courtesy copies on ALJ its final proposed witness and exhibit lists, its basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including its expert witnesses.

April 20, 2018 - Parties that intend to offer confidential materials of an opposing party or non-party as evidence at the hearing must provide notice to the opposing party or non-party, pursuant to 16 C.F.R. § 3.45(b).² See Additional Provision 7.

April 30, 2018 - Complaint Counsel to identify rebuttal expert(s) and provide rebuttal expert report(s). Any such reports are to be limited to rebuttal of matters set forth in Respondents' expert reports. If material outside the scope of fair rebuttal is presented, Respondents will have the right to seek appropriate relief (such as

² Appendix A to Commission Rule 3.31, the Standard Protective Order, states that if a party or third party wishes *in camera* treatment for a document or transcript that a party intends to introduce into evidence, that party or third party shall file an appropriate motion with the Administrative Law Judge within 5 days after it receives notice of a party's intent to introduce such material. Commission Rule 3.45(b) states that parties who seek to use material obtained from a third party subject to confidentiality restrictions must demonstrate that the third party has been given at least 10 days' notice of the proposed use of such material. To resolve this apparent conflict, the Scheduling Order requires that the parties provide 10 days' notice to the opposing party or third parties to allow for the filing of motions for *in camera* treatment.

striking Complaint Counsel’s rebuttal expert reports or seeking leave to submit surrebuttal expert reports on behalf of Respondents).

- May 3, 2018 - Deadline for filing motions *in limine* to preclude admission of evidence. *See* Additional Provision 9.
- May 3, 2018 - Deadline for filing motions for *in camera* treatment of proposed trial exhibits.
- May 4, 2018 - Deadline for depositions of experts (including rebuttal experts) and exchange of expert related exhibits.
- May 7, 2018 - Exchange and serve courtesy copy on ALJ objections to final proposed witness lists and exhibit lists. The Parties are directed to review the Commission’s Rules on admissibility of evidence before filing objections to exhibits.
- May 8, 2018 - Complaint Counsel files pretrial brief supported by legal authority.
- May 9, 2018 - Deadline for filing responses to motions *in limine* to preclude admission of evidence.
- May 9, 2018 - Deadline for filing responses to motions for *in camera* treatment of proposed trial exhibits.
- May 10, 2018 - Exchange proposed stipulations of law, facts, and authenticity.
- May 11, 2018 - Respondents’ Counsel files pretrial brief supported by legal authority.
- May 16, 2018 - Final prehearing conference to begin at 1:00 p.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

The parties shall meet and confer prior to the prehearing conference regarding trial logistics and proposed stipulations of law, facts, and authenticity of exhibits.

To the extent the parties have agreed to stipulate to any issues of law, facts, and/or authenticity of exhibits, the parties shall prepare a list of such stipulations and submit a copy of the stipulations to the ALJ one business day prior to the conference. At the conference, the parties’ list of stipulations shall be marked as “JX1” and signed by each party, and the list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required.

Any subsequent stipulations may be offered as agreed by the parties.

Counsel may present any objections to the final proposed witness lists and exhibits. Trial exhibits will be admitted or excluded to the extent practicable. To the extent the parties agree to the admission of each other's exhibits, the parties shall prepare a list identifying each exhibit to which admissibility is agreed, marked as "JX2" and signed by each party, which list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required.

May 18, 2018 - Commencement of Hearing, to begin at 10:00 a.m. in FTC Courtroom, Room 532, Federal Trade Commission Building, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

All Additional Provisions to the December 20, 2017 Scheduling Order remain in effect.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date: February __, 2018

CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2018, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, DC 20580
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-110
Washington, DC 20580

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

Michael F. Williams
Karen McCartan DeSantis
Matthew J. Reilly
Travis Langenkamp

James L. Cooper
Seth Wiener
Carlamaria Mata

Kirkland & Ellis LLP
655 Fifteenth Street, NW
Washington, DC 20005
michael.williams@kirkland.com
kdesantis@kirkland.com
matt.reilly@kirkland.com
travis.langenkamp@kirkland.com

Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave, NW
Washington DC 20001
james.cooper@arnoldporter.com
seth.wiener@arnoldporter.com
carlamaria.mata@arnoldporter.com

*Counsel for Respondent
Tronox Limited*

*Counsel for Respondents National Industrialization
Company (TASNEE), The National Titanium
Dioxide Company Limited (Cristal), and Cristal
USA, Inc.*

/s/ Charles A. Loughlin
Charles A. Loughlin

Counsel Supporting the Complaint

CERTIFICATE FOR ELECTRONIC FILING

I certify that the electronic copy sent to the Secretary of the Commission is a true and correct copy of the paper original and that I possess a paper original of the signed document that is available for review by the parties and the adjudicator.

February 22, 2018

By: /s/ Charles A. Loughlin
Charles A. Loughlin