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[Additional counsel identified on signature page in accordance with Local Rule 3-4(a)(1)]

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 **FEDERAL TRADE COMMISSION,**

12 Plaintiff,

13 v.

14 **INTERCONTINENTAL EXCHANGE, INC.**

15 and

16 **BLACK KNIGHT, INC.,**

17 Defendants.

Case No. 3:23-CV-01710-AMO

**PLAINTIFF FEDERAL TRADE
COMMISSION'S REQUEST TO
RESPOND TO DEFENDANTS'
SUBMISSION**

1 Following the status conference on June 22, 2023, the Court asked the Defendants,
2 Intercontinental Exchange, Inc. (“ICE”) and Black Knight, Inc. (“Black Knight”), “to submit
3 additional briefing on the matter of the Court's authority to supersede and/or stay administrative
4 proceedings.” Dkt. 154. Defendants then filed their submission. Dkt. 161.

5 The Court has not yet invited briefing from Plaintiff Federal Trade Commission (“FTC”)
6 on this topic. If the Court is considering taking any action with respect to Defendants’
7 submission, the FTC respectfully requests the opportunity to respond to Defendants’ arguments.
8 To our knowledge, no district court in a Section 13(b) merger case has ever issued an order
9 staying the Commission’s administrative proceeding, and such an extraordinary measure is not
10 appropriate here. Defendants also misinterpret the Commission’s rules of practice, which govern
11 *Commission* proceedings and do not expand or restrict district courts’ powers. In any event, as
12 Defendants acknowledge, FTC staff now have asked the Commission for a postponement of the
13 start of the evidentiary hearing in the administrative proceeding, and if granted, that
14 postponement should alleviate the scheduling concerns the Court expressed at the status
15 conference. The FTC also believes the July 12, 2023 status conference that Defendants request is
16 unnecessary in light of the pre-hearing conference set for July 20, 2023 (Dkt. 118 at 3), and the
17 parties’ joint statement of July 14, 2023 in advance of that conference (Dkt. 157 at 2).

18 Should the Court welcome briefing by the FTC on this matter, we request a response date
19 of Wednesday, June 28.

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Dated: June 24, 2023

Respectfully submitted,

/s/ Abby L. Dennis
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