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**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**

**JOINT MOTION TO MODIFY PREHEARING SCHEDULE**

Intercontinental Exchange, Inc. and Black Knight, Inc. (together, “Respondents”), joined by Complaint Counsel (together with Respondents, the “Parties”), submit this joint motion to modify certain prehearing deadlines in the Part 3 scheduling order, dated March 29, 2023 (the “Part 3 Schedule”), to conform those deadlines to deadlines in the schedule in the parallel Section 13(b) proceeding in the United States District Court for the Northern District of California (the “Section 13(b) Schedule”).<sup>1</sup> The Parties jointly propose the changes to the Part 3 Schedule reflected in the Proposed Amended Scheduling Order, attached at Exhibit A, to avoid or limit duplication between the actions.<sup>2</sup> Aligning those deadlines will promote “the just and expeditious disposition of the proceeding” and “avoid unnecessary cost.” *See* 16 C.F.R. § 3.21(f).

<sup>1</sup> A copy of the Section 13(b) Schedule was attached as Exhibit A to Respondents’ Motion to Set Status Conference, dated May 24, 2023.

<sup>2</sup> The attached joint submission is limited to the pre-hearing deadlines. As to the hearing itself, the parties submitted briefing related to the July 12 hearing date last week. Specifically, Respondents contend there is now a conflict with the hearing date, and Complaint Counsel contends there is no conflict.

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For the foregoing reasons, Intercontinental Exchange, Black Knight, and Complaint Counsel respectfully request that this court GRANT their joint motion and ENTER the proposed amended scheduling order at Exhibit A.

Dated: May 31, 2023

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 31, 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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Federal Trade Commission  
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The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
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I also certify that I caused the foregoing document to be served via email to the following:

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**EXHIBIT A**

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

In the Matter of	)	
	)	
Intercontinental Exchange, Inc.,	)	
a corporation, and	)	
Black Knight, Inc.,	)	Docket No. 9413
a corporation,	)	
Respondents.	)	

**[PROPOSED] AMENDED SCHEDULING ORDER**

Having found that amendments to certain pretrial deadlines are warranted to promote efficient and just administration of this proceeding, this Court GRANTS the Joint Motion to Amend Prehearing Schedule filed jointly by Intercontinental Exchange, Inc., Black Knight, Inc., and Complaint Counsel. *See, e.g.,* 16 C.F.R. § 3.21(f). The Court modifies the prehearing deadlines in this proceeding as set forth below. All other provisions of the Court’s March 29, 2023, Scheduling Order remain in effect.

- |               |  |  |
|---------------|--|--|
| April 7, 2023 |  | - Complaint Counsel provides preliminary list of witnesses that Complaint Counsel may call to testify at the Hearing (not including experts), which will include no more than 35 persons (including no more than 20 non-party witnesses) with a brief summary of the proposed testimony. |
|---------------|--|--|
- |                |  |   |
|----------------|--|---|
| April 14, 2023 |  | - Respondents’ Counsel provides preliminary list of witnesses that Respondents may call to testify at the Hearing (not including experts), which will include no more than 35 persons (including no more than 20 non-party witnesses) with a brief summary of the proposed testimony. |
|----------------|--|---|
- |                |  |   |
|----------------|--|---|
| April 21, 2023 |  | - Complaint Counsel provides expert witness list. |
|----------------|--|---|
- |                |  |  |
|----------------|--|--|
| April 28, 2023 |  | - Respondents’ Counsel provides expert witness list. |
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- May 5, 2023 - Complaint Counsel and Respondents to provide updated may call fact witness lists, which will include no more than 30 persons total with no more than 7 witnesses who did not appear on that side's preliminary list, with a brief summary of the proposed testimony.
- May 12, 2023 - Deadline for issuing requests for admissions, except for requests for admissions for purposes of authenticity of documents.
- Deadline for issuing document requests, interrogatories and subpoenas, except for discovery for purposes of authenticity of exhibits.
- May 23, 2023 - Close of discovery, other than discovery permitted under Rule 3.24(a)(4), depositions of experts, and discovery for purposes of authenticity of exhibits; provided that this deadline will not preclude the parties from completing discovery of third-parties pursuant to timely served subpoenas whose document productions have not been completed by May 23, 2023 and/or who did not make themselves reasonably available for deposition pursuant to a timely subpoena within the fact discovery period.
- May 30, 2023 - Deadline for Complaint Counsel and Respondents' Counsel to provide expert witness reports and all material required to be produced pursuant to Additional Provision 21 of this Order.
- June 8, 2023 Complaint Counsel provides to Respondents' Counsel final proposed witness list, comprised of no more than 25 witnesses that Complaint Counsel anticipates will be called to testify at the Hearing, with no more than 5 witnesses who did not appear on Complaint Counsel's preliminary or updated witness lists, 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 provides courtesy copies to ALJ of final proposed witness and exhibit lists, the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including its expert witnesses.
- June 15, 2023 Respondents' Counsel provides to Complaint Counsel final proposed witness list, comprised of no more than 25 witnesses that Respondents anticipate will be called to testify at the Hearing, with

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no more than 5 witnesses who did not appear on Respondents' Counsel's preliminary or updated witness lists, and exhibit lists, including depositions, copies of all exhibits (except for demonstrative, illustrative or summary exhibits and expert related exhibits), the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.

Respondents' Counsel provides ALJ with final proposed witness and exhibit lists, the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including expert witnesses.

- June 16, 2023 - 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).<sup>3</sup>
- June 23, 2023 - Complaint Counsel and Respondents' Counsel to identify rebuttal expert(s) and provide rebuttal expert report(s) and all material required to be produced pursuant to Additional Provision 21 of this Order. Any such reports are to be limited to rebuttal of matters set forth in Complaint Counsel's expert reports and Respondents' expert reports, respectively. If material outside the scope of fair rebuttal is presented, the parties will have the right to seek appropriate relief (such as striking the other side's rebuttal expert reports or seeking leave to submit surrebuttal expert reports).
- June 26, 2023 - Deadline for filing motions for *in camera* treatment of proposed trial exhibits.
- June 29, 2023 - Deadline for depositions of experts (including rebuttal experts) and exchange of expert related exhibits.
- June 29, 2023 - Exchange and serve courtesy copy on ALJ of objections to final proposed witness lists and exhibit lists. The parties are directed to

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<sup>3</sup> 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.

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review the Commission's Rules on admissibility of evidence before filing objections to exhibits and raise only objections that are necessary and valid.

- June 30, 2023 - Deadline for filing motions *in limine* to preclude admission of evidence.
- June 30, 2023 - Deadline for filing responses to motions for *in camera* treatment of proposed trial exhibits.
- June 30, 2023 Complaint Counsel and Respondents' Counsel file pretrial briefs supported by legal authority.
- July 6, 2023 Deadline for filing responses to motions *in limine* to preclude admission of evidence.
- July 7, 2023 Exchange proposed stipulations of law, facts, and authenticity.
- July 11, 2023
  - Final prehearing conference to begin at 1:00 p.m. EDT.
  - 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. All 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.
- July 12, 2023 - Commencement of Hearing, to begin at 10:00 a.m. EDT.

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ORDERED:

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D. Michael Chappell  
Chief Administrative Law Judge

Date: May \_\_, 2023