

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Civil Division

DISTRICT OF COLUMBIA,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

CASE NO.: 2021 CA 001775 B

JUDGE: Hiram Puig-Lugo

NEXT EVENT: October 29, 2021 at
10:00 AM

EVENT: Initial Scheduling Conference

**DEFENDANT AMAZON.COM, INC.'S OPPOSED MOTION FOR A PROTECTIVE
ORDER AND TO STAY DISCOVERY**

Defendant Amazon.com, Inc. ("Amazon") respectfully moves, under Super. Ct. R. Civ. P. 26(c) and the Court's inherent authority for a protective order staying discovery pending resolution of Amazon's Motion to Dismiss the District of Columbia's Amended Complaint.

ORAL ARGUMENT REQUESTED

Amazon requests an oral hearing on this motion pursuant to Rule 12-I(h).

Dated: October 25, 2021

Respectfully submitted,

PAUL, WEISS, RIFKIND, WHARTON &
GARRISON, LLP

/s/ Karen L. Dunn

Karen L. Dunn (D.C. Bar No. 1002520)

William A. Isaacson (D.C. Bar No. 414788)

Amy J. Mauser (D.C. Bar No. 424065)

Julia Tarver Mason Wood (D.C. Bar No. 988021)

Martha L. Goodman (D.C. Bar No. 1017071)

Paul D. Brachman (D.C. Bar No. 1048001)

kdunn@paulweiss.com

wisaacson@paulweiss.com

amauser@paulweiss.com

jwood@paulweiss.com

mgoodman@paulweiss.com

pbrachman@paulweiss.com

2001 K Street, NW

Washington, D.C. 20006-1047

Tel: (202) 223-7371

Fax: (202) 379-4077

Attorneys for Defendant Amazon.com, Inc.

CERTIFICATE REGARDING DISCOVERY

Pursuant to Superior Court Rule of Civil Procedure 5(d)(2)(D), I hereby set forth all discovery that has occurred:

On September 14, 2021, Counsel for the District of Columbia served Amazon with its First Request for Production of Documents, directing Amazon to respond to the Request within thirty days. The parties mutually agreed to extend Amazon's deadline to respond to October 22, 2021. Amazon served Responses and Objections to the District's First Request for Production of Documents on October 22, 2021.

Amazon has not served any discovery requests to date.

/s/ Karen L. Dunn

Karen L. Dunn (D.C. Bar No. 1002520)

CERTIFICATE OF EFFORTS TO OBTAIN CONSENT

Pursuant to Superior Court Rule of Civil Procedure 12-I(a), 26(h)(1) and 37(a)(1)(B), I certify that Counsel for Amazon conferred with Counsel for the District of Columbia on October 15, 2021 at 12:30 p.m. via a Zoom videoconference. The participants in the conference were Julia Tarver Mason Wood, Amy Mauser, Martha Goodman, and Paul Brachman of the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP on behalf of Amazon and Paul Gallagher, Swathi Bojedla, and Halli Spraggins of the law firm Hausfeld LLP on behalf of the District of Columbia. During that conference, Amazon explained the bases for its request for a stay of discovery pending the resolution of its motion to dismiss the District of Columbia's Amended Complaint, and the District of Columbia informed Amazon that it opposes the requested relief.

A handwritten signature in black ink, appearing to read 'Me', with a long horizontal stroke extending to the right.

Martha L. Goodman (D.C. Bar No. 1017071)

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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANT'S
OPPOSED MOTION FOR A PROTECTIVE ORDER AND TO STAY DISCOVERY**

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INTRODUCTION

Amazon has moved to dismiss the District of Columbia’s (“District”) Amended Complaint in its entirety and with prejudice. The District has already amended its complaint once, in response to Amazon’s prior motion to dismiss. But its claims still suffer from the same fundamental problem: Amazon’s unilateral policies designed to ensure competitive pricing are the type of conduct the antitrust laws are designed to promote and protect. No discovery is required to resolve the legal issues raised by Amazon’s motion to dismiss. And if that motion is granted, no discovery will ever be needed.

Given the breadth of discovery in antitrust cases, courts commonly stay discovery pending a motion to dismiss to avoid a waste of judicial and party resources. For example, discovery was stayed in the District’s case against Facebook with the Court concluding it was “not . . . in either party’s interest to continue discovery” while Facebook’s “Motion to Dismiss [was] not yet fully briefed and argued.” Order, *District of Columbia v. Facebook Inc.*, No. 2018 CA 008715 B (D.C. Super. Ct. March 8, 2019) (granting Facebook’s motion to stay discovery).¹ And the federal district court overseeing a class action asserting near-identical claims to the ones here has issued a *sua sponte* stay of discovery pending resolution of Amazon’s motion to dismiss filed in that matter. That action is the longest-running of three similar class actions in the Western District of Washington. There will likely be substantial overlaps in discovery between this case and those—if any survives a motion to dismiss—and as a result, significant efficiency benefits will be gained from a coordinated approach to discovery across the cases. Those benefits will be lost, or at least significantly reduced, if discovery barrels ahead in this case while discovery in others has been stayed. In light of the potential breadth of discovery in this case, and the potential for coordination

¹ Exhibit A is attached to the Declaration supporting this Motion (hereinafter Ex. A). All citations to exhibits refer to exhibits attached to the Declaration supporting this Motion.

with other matters, Amazon moved to assign this case to the Civil I calendar; Judge Epstein granted that motion on July 15, 2021.

Having elected to pursue a “sue first, investigate later” approach, the District cannot be heard to argue that discovery is essential at this stage of proceedings or that it would be prejudiced by a stay. Before the District filed its original Complaint, it issued a Civil Investigative Demand (“CID”) to Amazon containing half the number of discovery requests it has now served. Although those requests were also overbroad in many respects, Amazon offered to respond to the CID and to cooperate with the District’s investigation on two conditions. First, Amazon asked the District to agree to a confidentiality agreement that would confirm that Hausfeld LLP—the private law firm which has sued Amazon in other jurisdictions and represents the District in this matter—would be bound by the same conflicts and ethics rules as the District’s own attorneys, ensuring that Amazon’s commercially sensitive business documents would be used solely for a public purpose, not private gain. Second, Amazon offered a set of document custodians and search terms to identify responsive documents. The District rejected both of those reasonable proposals, and instead opted to file its original Complaint, and now its Amended Complaint, without any investigation of Amazon’s files.

By contrast, the prejudice to Amazon of moving forward with discovery on claims that could be (and should be) dismissed in their entirety would be severe. Discovery in this case, were it to proceed, will be expensive, burdensome, and disputed. These are exactly the circumstances in which a temporary stay of discovery is warranted. As the Supreme Court has cautioned: “It is one thing to be cautious before dismissing an antitrust complaint in advance of discovery, but quite another to forget that proceeding to antitrust discovery can be expensive.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 558 (2007) (citations omitted). If Amazon’s motion to dismiss is granted,

that expense can be avoided altogether. Even if the motion were denied, in whole or in part, the parties and the Court can benefit from a more streamlined and efficient discovery process, guided by the Court's legal rulings.

For these reasons, and those discussed more fully below, a stay of discovery while the Court resolves Amazon's motion to dismiss should be granted.

ARGUMENT

I. Expensive and Potentially Needless Discovery Is Commonly Stayed Pending a Motion to Dismiss in Antitrust Cases Like This One.

Under Rule 26(c)(1)(A), “the court may, for good cause, issue an order to protect a party from . . . undue burden or expense, including . . . forbidding the disclosure or discovery.” D.C. Super. Ct. R. Civ. P. 26(c)(1)(A); *see also Hussain v. Nicholson*, 435 F.3d 359, 363 (D.C. Cir. 2006) (trial “courts have broad discretion in structuring discovery” (quoting *Edmond v. U.S. Postal Serv. Gen. Counsel*, 949 F.2d 415, 425 (D.C. Cir. 1991)) (internal quotation marks omitted)); *Mbakpuo v. Ekeanyanwu*, 738 A.2d 776, 781 n.9 (D.C. 1999) (“trial court has wide latitude in resolving discovery problems” (quoting *Rosenthal v. Nat'l Produce Co.*, 573 A.2d 365, 374 (D.C.1990)) (internal quotation marks omitted)).

“It is well settled that discovery is generally considered inappropriate while a motion that would be thoroughly dispositive of the claims in the Complaint is pending.” *Chavous v. Dist. Of Columbia Fin. Resp. & Mgmt. Assistance Auth.*, 201 F.R.D. 1, 2 (D.D.C. 2001) (quoting *Anderson v. United States Att'ys Office*, 1992 WL 159186, at *1 (D.D.C. June 19, 1992)). While the court considers the arguments to dispose of the case, “it would be inefficient, and potentially unfair . . . to launch the parties into expensive discovery while the Court considers whether” there is “a basis to go forward with the[] complaint.” *Carlyle Inv. Mgmt. L.L.C. v. Ace Am. Ins. Co.*, 131 A.3d 886, 891 (D.C. 2016) (internal quotation marks omitted); *see also Williams v. D.C.*, 9

A.3d 484, 493 n.10 (D.C. 2010) (trial court stayed discovery pending ruling on motion to dismiss); *Martin v. Georgetown Univ.*, 2012 WL 12124732, at *1-2 (D.C. Super. Ct. Aug. 27, 2012) (granting stay of discovery pending motion to dismiss); *Daley v. Alpha Kappa Alpha Sorority, Inc.*, 2001 WL 36380367 (D.C. Super. Ct. Feb. 10, 2001), *vacated on other grounds*, 26 A.3d 723 (D.C. 2011) (court had granted “Motion to Stay Discovery Pending Resolution of Defendant’s Motion to Dismiss”).

The court’s decision in *District of Columbia v. Facebook Inc.* is instructive. There, as here, the defendant argued that discovery should be stayed because the District’s claims against it would be resolved by a motion to dismiss, either because the District lacked personal jurisdiction over Facebook or because the District’s claims failed as a matter of law. As Facebook explained, a stay was appropriate because it presented multiple, potentially case dispositive, grounds for dismissal, and because a stay would conserve judicial resources and relieve Facebook of the burden of responding to burdensome and wide-ranging discovery. The Court agreed, finding it was “not . . . in either party’s interest to continue discovery” while Facebook’s “Motion to Dismiss [was] not yet fully briefed and argued.” Ex. A (Order, *District of Columbia v. Facebook Inc.*, No. 2018 CA 008715 B (D.C. Super. Ct. March 8, 2019)).

Similarly, here, as with Amazon’s motion to dismiss the original Complaint, its motion to dismiss the Amended Complaint asserts multiple reasons why the District fails to state antitrust claims, with any one of those reasons providing an independent basis to dismiss the District’s claims. The District bases its case on policies that the antitrust laws encourage, not condemn; misstates the plain language of Amazon policies; and alleges a fundamentally implausible antitrust market as well as conclusory allegations. In staying the earliest-filed and related action, *Frame-Wilson*, the court in the Western District of Washington recognized as much. *Infra* § III.

II. Permitting the District to Proceed with Discovery While the Motion to Dismiss Is Pending Would Unnecessarily Burden the Court.

Recognizing that “proceeding to antitrust discovery can be expensive,” *Twombly*, 550 U.S. at 558, and often requires the investment of substantial judicial resources in determining its proper scope, courts often grant motions to stay discovery pending resolution of a motion to dismiss. *See, e.g., Top Rank v. Haymon*, 2015 WL 9952887, at *2 (C.D. Cal. Sept. 17, 2015) (“Staying discovery in antitrust cases pending resolution of a motion to dismiss may be particularly appropriate.”); *DSM Desotech Inc. v. 3D Sys. Corp.*, 2008 WL 4812440, at *2 (N.D. Ill. Oct. 28, 2008) (granting defendant’s motion to stay because “the principles underlying *Twombly* counsel[ed] in favor”).²

The forty-two requests for production that the District has served on Amazon seek a broad array of documents from January 1, 2015, to the present (and in some instances, even longer) that touch on every aspect of Amazon’s worldwide consumer business, and have nothing to do with the historical price parity provision, the Marketplace Fair Pricing Policy, or Minimum Margin Agreements that form the basis for the District’s claims. As a few examples from the District’s document requests demonstrate, the breadth of the District’s requests will undoubtedly lead to disputes requiring judicial intervention. Resolving those disputes before Amazon’s motion to dismiss is decided would needlessly consume this Court’s resources, in addition to the resources of the parties.

² *See also Reveal Chat Holdco, LLC v. Facebook, Inc.*, 2020 WL 2843369, at *4 (N.D. Cal. Apr. 10, 2020) (granting motion to stay discovery in antitrust litigation where meritorious motion to dismiss would avoid need for “broad, time-consuming and expensive” discovery (internal quotation marks and citation omitted)); *Nexstar Broad., Inc. v. Granite Broad. Corp.*, 2011 WL 4345432, at *3 (N.D. Ind. Sept. 15, 2011) (collecting cases where stays pending resolution of motions to dismiss were granted); *In re Graphics Processing Units Antitrust Litig.*, 2007 WL 2127577, at *4–6 (N.D. Cal. July 24, 2007) (granting stay of discovery because “to allow antitrust discovery prior to sustaining a complaint would defeat one of the rationales of *Twombly*, at least when the discovery would be burdensome”); *In re: Pre-Filled Propane Tank Antitrust Litig.*, 2015 WL 11022887, at *3–5 (W.D. Mo. Feb. 24, 2015) (granting stay of discovery because, *inter alia*, “[t]he Supreme Court has recognized that[] ‘proceeding to antitrust discovery can be expensive’”) (quoting *Twombly*, 550 U.S. at 558).

The District seeks, for example, “All Documents and Communications” relating to “Amazon’s annual and five-year business plans . . . for Amazon Marketplace” and “Amazon Board of Directors Meeting presentations and meeting minutes regarding Amazon’s Marketplace.” *See* Ex. B at Request Nos. 36, 37. In other words, the District seeks every document and email related to Amazon’s business planning for, and its Board’s review of, Amazon’s entire worldwide consumer business—regardless of whether those materials relate to any of the three pricing policies the District challenges in its Amended Complaint. Objections aside (and Amazon has many), even attempting to collect all such documents and communications—many of which would have no bearing on the District’s claims—would require an enormous expenditure of time, resources, and money.

The District also seeks staggering amounts of confidential, commercially sensitive data touching on all aspects of Amazon’s retail business, its vendors’ business, and the business of the millions of third-party sellers in Amazon’s store and on other retail channels, including:

Amazon’s corporate data model and data dictionaries sufficient to show, *for each line of business*, any systems and the relevant data fields within those data systems relating to: a. First Party Seller and Third Party Seller *pricing, revenues, and sales*, both on Amazon Marketplace and *on other Online Marketplaces*; b. enforcement actions taken against First Party Sellers and Third Party Sellers; and c. contractual relationships between Amazon and First Party Sellers or Third Party Sellers.

Ex. B at Request No. 2 (emphasis added). That request would require Amazon to produce reams of information related to any “line of business,” no matter its connection to Amazon’s store, or to the policies the District challenges in its Amended Complaint.

Even where the District’s requests attempt to target elements of the District’s antitrust claims, such as market definition and market power, those too are near limitless in scope. Some examples:

- All Documents and Communications reflecting and relating to assessments of Amazon Marketplace’s market share and/or market power.

- All Documents and Communications relating to any plans or strategies by Amazon to increase Amazon Marketplace’s market share.

Ex. B at Request Nos. 14, 15. Amazon’s “plans or strategies . . . to increase . . . market share” include every strategic choice Amazon makes to increase its own sales and better serve its customers. For a company like Amazon that is obsessed with earning and keeping customer trust, a request for “all Documents and Communications” relating to strategies to increase sales is tantamount to a request for every document in Amazon’s possession.

The District even goes so far as to seek discovery on topics not mentioned anywhere in the Amended Complaint, such as “All Documents related to advantages/benefits impacting Amazon Marketplace that result from Amazon’s capabilities with regard to cloud computing and storage.” Ex. B at Request No. 32. This request has nothing to do with the District’s allegations, and everything to do with other purposes—the faint hope that trawling with a wide enough net might turn up something resembling support for an antitrust claim.

Finally, the District asks Amazon to produce the entire collection of records Amazon produced to investigative bodies, including the House Subcommittee on Antitrust, Commercial and Administrative Law, the Federal Trade Commission, and any state Attorney General’s office, and the European Commission—regardless of whether the investigations had anything to do with the price parity provision, the Fair Pricing Policy, or the Minimum Margin Agreements. Ex. B at Request Nos. 25, 27, 28.

That some—though certainly not all—of the materials previously produced to those regulators may also be relevant to the District’s claims does not entitle the District to these documents on a wholesale basis, and certainly not before the motion to dismiss is resolved. *TravelPass Grp., LLC v. Caesars Ent. Corp.*, 2020 WL 698538, at *6 (E.D. Tex. Jan. 16, 2020) (rejecting request for “cloned discovery” of documents produced in another investigation “as

failing to make the requisite showing of relevance” (internal quotation marks omitted)); *Goro v. Flowers Foods, Inc.*, 2019 WL 6252499, at *18 (S.D. Cal. Nov. 22, 2019) (the “fact that the documents were or were not produced in other litigation is irrelevant”); *Nexstar Broad., Inc.*, 2011 WL 4345432, at *4 (that defendant provided documents to the government “does not mean that everyone else has an equal right to rummage through the same records”) (quoting *In re Graphics Processing Units Antitrust Litig.*, 2007 WL 2127577, at *5 (N.D. Cal. July 24, 2007)).

Nor does requesting an entire production to other government regulators minimize the burden on Amazon or undermine the justification for a stay of discovery here. In *Facebook*, for example, Facebook had already produced to the District over 130,000 documents during a pre-suit investigation like the one the District refused to conduct in this case. But, as Facebook explained, absent a stay, it would have been required to re-produce all of those documents (plus more) to the District again, even though such discovery would have been unnecessary had its motion to dismiss been granted. That logic applies with even greater force here, where the requested documents are not documents previously produced to the District. In staying discovery in antitrust cases pending resolution of a motion to dismiss, courts have therefore applied discovery stays to cover prior productions to the government. *E.g.*, *In re: Pre-Filled Propane Tank Antitrust Litig.*, 2015 WL 11022887, at *3, 5 (W.D. Mo. Feb. 24, 2015) (granting defendants’ motion for stay of discovery in antitrust litigation, including a stay on production of documents previously produced to the FTC in a related investigation); *Rio Grande Royalty Co., Inc. v. Energy Transfer Partners, L.P.*, 2008 WL 8465061, at *1 (S.D. Tex. Aug. 11, 2008) (granting defendants’ motion for a stay of discovery in antitrust litigation, including a stay of documents previously produced to governmental agencies, because defendants’ “need to review such a large volume of documents prior to producing them would be a significant burden”); *In re Graphics Processing Units Antitrust Litig.*,

2007 WL 2127577, at *5–6 (granting defendants’ motion to stay discovery in multidistrict antitrust litigation, including production of documents previously produced to the SEC, pending court’s resolution of motion to dismiss).

There is no reason to require Amazon or the Court to dedicate resources to addressing the scope of discovery that should ultimately prove unnecessary, if any of the District’s claims are dismissed or narrowed. *Chavous*, 201 F.R.D. at 2 (recognizing that staying discovery is an “eminently logical means to prevent wasting the time and effort of all concerned, and to make the most efficient use of judicial resources” (quoting *Coastal States Gas Corp. v. Dep’t of Energy*, 84 F.R.D. 278, 282 (D. Del. 1979) (internal quotation marks omitted))); *Loumiet v. United States*, 225 F. Supp. 3d 79, 84–85 (D.D.C. 2016) (granting stay of discovery because discovery requests are likely to lead to disputes and “it would not be a prudent use of the Court’s—or the parties’—resources to litigate a discovery dispute while the dispositive motions, which may significantly change the nature of the case, are pending”). The point of the above examples is not to litigate the scope of these requests now, but simply to illustrate that they undoubtedly will need to be litigated if the District intends to stand on the requests it has served.

Moreover, in addition to “ordinary” disputes over the scope of discovery, there also is likely to be a dispute in this case about the appropriate degree of confidentiality protections for Amazon’s confidential documents. The District has deputized private lawyers—the Hausfeld firm—to act on its behalf in this case while lawyers from the same firm also have pursued other claims against Amazon in other jurisdictions and contemplate further suits. During the pre-suit phase of this case, the District refused to agree to reasonable measures to address this situation, including a confidentiality agreement that would have clarified that Hausfeld lawyers working on this case were bound by the same ethics rules as the District’s own lawyers.. Thus, even disputes

over what should be routine discovery matters, like the negotiation of a protective order, are likely to come before the Court while Amazon’s motion to dismiss is pending. If Amazon’s motion to dismiss is granted, there would be no need to resolve such disputes.

III. There Are Similar and Overlapping Cases Pending in the Western District of Washington, and Discovery Should Be Coordinated with Those Actions.

There are class action cases currently pending in the Western District of Washington that are similar to and overlap with the District’s Amended Complaint. *Frame-Wilson v. Amazon.com, Inc.*, No. 2:20-CV-00424; *De Coster v. Amazon.com, Inc.*, No. 2:21-CV-00693; and *Hogan v. Amazon.com, Inc.*, No. 2:21-cv-00996-RSM. Motions to dismiss in *Frame-Wilson* and *De Coster* have also been filed. A stay of discovery in this case, assuming it survives dismissal, would preserve the possibility that the District, Amazon, and this Court could benefit from the coordination of discovery and resolution of complex discovery disputes across the cases.

In the longest-pending overlapping consumer class action filed in the Western District of Washington, *Frame-Wilson v. Amazon.com, Inc.*, No. 2:20-CV-00424, the district court *sua sponte* stayed discovery pending the Court’s ruling on Amazon’s motion to dismiss. Ex. C at 20 (copy of docket reflecting *sua sponte* order). In the subsequent actions, the court has also stayed discovery pending resolution of motions to dismiss.³

The most efficient course is to stay discovery in this case pending the resolution of the motion to dismiss, just as discovery is stayed in the related cases pending resolution of motions to dismiss in those cases, keeping all cases on a comparable track. *E.g.*, *Spotts v. United States*, 2012 WL 3994223, at *3 (M.D. Pa. Sept. 11, 2012) (staying discovery until the filing of an answer to allow multiple related cases to stay “on consistent and coherent litigation tracks”); *Amey v.*

³ *Hogan* is subject to a pending motion to consolidate that case with *De Coster*. Because discovery in *De Coster* is stayed, discovery in *Hogan* has not proceeded.

Cinemark, 2013 WL 12143815, at *2-3 (C.D. Cal. Oct. 18, 2013) (granting motion to stay discovery pending resolution of a motion to dismiss that was a “potentially dispositive motion,” and noting efficiencies of “coordinating discovery . . . across a number of separate cases”).

If any case survives a motion to dismiss, Amazon, the District, and the various private plaintiffs can explore informal and formal means of coordinating discovery across the actions that may promote greater efficiencies for all involved. The fact that the cases are pending in different courts should not be an obstacle to such coordination. *E.g.*, *Fed. Trade Comm’n v. Qualcomm Inc.*, Case No. 17-cv-00220-LHK-NMC (N.D. Cal. Sept. 22, 2017); *In re: Qualcomm Antitrust Litig.*, Case No. 17-md-02773-LHK-NMC (N.D. Cal. Sept. 22, 2017); *In re: Qualcomm Litig.*, Case No. 3:17-cv-00108-GPC-MDD (S.D. Cal. Jan. 25, 2018) (coordinating discovery in FTC, private antitrust, and consumer class actions pending in two different courts) (Exs. D, E, F).

IV. A Stay Will Not Prejudice the District.

A stay will not unduly delay the District’s ability to obtain discovery should the case survive Amazon’s motion to dismiss. The motion to dismiss will be fully briefed by January 2022, in just three months’ time—a relatively short period given the complex and novel claims at issue. In the District’s case against Facebook, the court stayed discovery pending resolution of the motion to dismiss under similar timing: Facebook’s motion to dismiss was briefed over a two-month period and the motion to stay discovery was fully briefed within that same time frame. The court found no prejudice to the District in waiting for discovery to commence until after the motion to dismiss was decided. *See* Ex. A at 2 (“[T]he Court does not find it is in either party’s interest to continue discovery at this time.”). A similar stay is appropriate here.

Furthermore, there is no scheduling order in place, with the initial conference scheduled for October 29, 2021. If the District’s Amended Complaint survives, Amazon will agree to a sufficient and appropriate amount of time for the District to engage in discovery. As the Court is

already aware, Amazon moved to transfer this case to the Civil I complex case calendar given the breadth and complexity of the District's claims, and the discovery it would likely pursue. Judge Epstein granted that motion, but after Judge Irving's recusal, transferred the case back to this Court's calendar. The same considerations that warranted transfer of the case to the Civil I calendar have only been magnified since the District filed its original complaint, supporting this Court's continued management of the case as a complex case.⁴ A pause now in order to allow the Court to determine whether any of that substantial discovery is necessary will advance the mandate that the parties and the Court construe, administer, and apply the applicable rule governing civil proceedings in this Court "to secure the just, speedy, and inexpensive determination of every action and proceeding." D.C. Super. Ct. Civ. P. 1.

CONCLUSION

For the foregoing reasons, Amazon's motion for a protective order should be granted, and discovery stayed.

⁴ The District may attempt to argue that a stay is inappropriate because Amazon's counsel, Paul, Weiss, Rifkind, Wharton & Garrison, LLP ("Paul, Weiss") served a request under the Freedom of Information Act ("FOIA Request") on the Office of the Attorney General, seeking information about the District's decision to file this lawsuit. As Paul, Weiss informed the District, any such argument is improper because the FOIA statute grants completely different access rights than civil litigation discovery. *See* D.C. Code § 2-532; *see also* *Riley v. Fenty*, 7 A.3d 1014, 1019 n.3 (D.C. 2010) ("While irrelevant to a determination of the availability of the records under FOIA, we understand that appellants' request relates to a pending suit against the District in federal court Our opinion addresses only appellants' entitlement to the documents under FOIA; we express no view as to appellants' entitlement to the documents through discovery or other litigation tools.").

Dated: October 25, 2021

Respectfully submitted,

PAUL, WEISS, RIFKIND, WHARTON &
GARRISON, LLP

/s/ Karen L. Dunn

Karen L. Dunn (D.C. Bar No. 1002520)
William A. Isaacson (D.C. Bar No. 414788)
Amy J. Mauser (D.C. Bar No. 424065)
Julia Tarver Mason Wood (D.C. Bar No. 988021)
Martha L. Goodman (D.C. Bar No. 1017071)
Paul D. Brachman (D.C. Bar No. 1048001)
kdunn@paulweiss.com
wisaacson@paulweiss.com
amauser@paulweiss.com
jwood@paulweiss.com
mgoodman@paulweiss.com
pbrachman@paulweiss.com
2001 K Street, NW
Washington, D.C. 20006-1047
Tel: (202) 223-7371
Fax: (202) 379-4077

Attorneys for Defendant Amazon.com, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of October, 2021, a true and correct copy of the foregoing Motion to Stay, the accompanying Memorandum of Points and Authorities, and a proposed Order were served electronically via Case File Xpress to the following:

Kathleen Konopka (D.C. Bar No. 495257)
kathleen.konopka@dc.gov
Catherine A. Jackson
catherine.jackson@dc.gov
Jennifer C. Jones
jen.jones@dc.gov
Office of the Attorney General for the District of Columbia

Swathi Bojedla (D.C. Bar No. 1016411)
sbojedla@hausfeld.com
Paul T. Gallagher (D.C. Bar No. 439701)
pgallagher@hausfeld.com
Hilary K. Scherrer (D.C. Bar No. 481465)
hscherrer@hausfeld.com
Leland Shelton
lshelton@hausfeld.com
Theodore F. DiSalvo (D.C. Bar No. 1655516)
tdisalvo@hausfeld.com
Halli Spraggins (D.C. Bar No. 1671093)
hspraggins@hausfeld.com
HAUSFELD LLP

I additionally certify that I caused a paper courtesy copy to be mailed to chambers.

Dated: October 25, 2021

Respectfully submitted,

/s/ Karen L. Dunn

Karen L. Dunn (D.C. Bar No. 1002520)

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Civil Division

DISTRICT OF COLUMBIA,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

CASE NO.: 2021 CA 001775 B

JUDGE: Hiram Puig-Lugo.

NEXT EVENT: October 29, 2021 at
10:00 AM

EVENT: Initial Conference

**DECLARATION OF AMY J. MAUSER IN SUPPORT OF DEFENDANT
AMAZON.COM INC.'S MOTION FOR A PROTECTIVE ORDER AND TO
STAY DISCOVERY**

AMY J. MAUSER declares:

1. I am a counsel at Paul, Weiss, Rifkind, Wharton & Garrison LLP, 2001 K Street, NW, Washington, D.C. 20006-1047, attorneys for defendant Amazon.com, Inc. in this case. I submit this Declaration in support of Amazon.com, Inc.'s Opposed and Expedited Motion for a Protective Order and to Stay Discovery filed herewith.

2. Attached as Exhibit A is a true and accurate copy of an Order granting Facebook, Inc.'s Motion for a Protective Order and to Stay Discovery filed on March 8, 2019, in *District of Columbia v. Facebook Inc.*, 2018 CA 008715 B in the Superior Court of the District of Columbia, Civil Division.

3. Attached as Exhibit B is a true and accurate copy of the District of Columbia's First Request for Production of Documents to Amazon.com, Inc.

4. Attached as Exhibit C is a true and accurate copy of the docket for *Frame-Wilson v. Amazon.com, Inc.*, No. 2:20-CV-00424 in the Western District of Washington.

5. Attached as Exhibit D is a true and accurate copy of an Order filed on September 22, 2017, granting the Joint Stipulation and Discovery Coordination Order, in *Fed. Trade Comm'n v. Qualcomm Inc.*, Case No. 17-cv-00220-LHK-NMC in the Northern District of California (ECF No. 207).

6. Attached as Exhibit E is a true and accurate copy of an Order filed on September 22, 2017, granting the Joint Stipulation and Discovery Coordination Order, in *In re: Qualcomm Antitrust Litig.*, Case No. 17-md-02773-LHK-NMC in the Northern District of California (ECF No. 131).

7. Attached as Exhibit F is a true and accurate copy of an Order filed on January 25, 2018, granting the Joint Stipulation and Discovery Coordination Order, in *In re: Qualcomm. Litig.*, Case No. 3:17-cv-00108-GPC-MDD in the Southern District of California (ECF No. 295).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 25, 2021, at Washington, D.C.

/s/ Amy J. Mauser

Amy J. Mauser (D.C. Bar No. 424065)
2001 K Street, NW
Washington, D.C. 20006-1047
Tel: (202) 223-7371
Fax: (202) 379-4077
amauser@paulweiss.com

EXHIBIT A

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

**DISTRICT OF COLUMBIA,
Plaintiff,**

vs.

**FACEBOOK, INC.,
Defendant.**

Case number: 2018 CA 008715 B

Judge Fern Flanagan Saddler

ORDER

This matter is before the Court based upon Defendant Facebook, Inc.'s Motion for a Protective Order and to Stay Discovery, filed on February 1, 2019, and Plaintiff District of Columbia's Opposition thereto, filed on February 15, 2019. The parties came before the Court for a Motion hearing on March 6, 2019.

In the instant motion, Defendant requests that an order staying discovery be issued pending resolution of Defendant's Motion to Dismiss, which is currently pending before this Court. Defendant argues that staying discovery will conserve the Court's and the parties' resources, and that it is routine for District of Columbia courts to grant stay orders pending resolution of dispositive motions. Additionally, Defendant contends that proceeding with discovery would be particularly burdensome for Defendant at this stage of the lawsuit. Defendant further argues that two other matters involving Defendant, namely, a multi-district litigation (MDL) lawsuit in the Northern District of California and a Federal Trade Commission (FTC) investigation, involve similar allegations and complaints against Defendant. Defendant argues that the Court should stay the present proceedings pending resolution of these other matters.

Plaintiff opposes Defendant's motion on grounds that the MDL lawsuit and FTC investigation are irrelevant to the instant case. Plaintiff notes that the MDL lawsuit involves

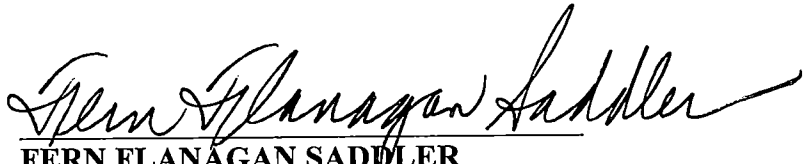
private plaintiffs in a class action suit against Defendant, while the FTC investigation concerns a 2012 Consent Order between Defendant and the FTC. Plaintiff argues that the instant case involves a law enforcement action brought against Defendant, and that discovery in the present case will have no bearing on Defendant's other matters.

The Court finds that a stay is warranted in the present context. The Court notes that Defendant's Reply brief to Plaintiff's Opposition to the Motion to Dismiss is due by March 20, 2019, and that a hearing on Defendant's Motion to Dismiss is set for March 22, 2019. As the Motion to Dismiss is not yet fully briefed and argued before this Court, the Court does not find it is in either party's interest to continue discovery at this time. Therefore, the Court will stay the proceedings pending the resolution of Defendant's Motion to Dismiss.

Accordingly, upon consideration of the representations made, the entire record herein, and for good cause shown, it is this 8th day of March 2019, *nunc pro tunc* March 6, 2019, hereby

ORDERED that Defendant Facebook, Inc.'s Motion for a Protective Order and to Stay Discovery is **GRANTED**. It is

FURTHER ORDERED that all parties shall appear for an Initial Scheduling Conference on **Friday, March 22, 2019 at 3:00 p.m. in Courtroom 100** at the Superior Court of the District of Columbia, 500 Indiana Avenue, Northwest, Washington, D.C. 20001.


FERN FLANAGAN SADDLER
ASSOCIATE JUDGE

COPIES TO:

Benjamin Wiseman, Esquire

Randolph Chen, Esquire

Robyn Bender, Esquire

Jimmy Rock, Esquire

Assistant Attorney Generals for the District of Columbia

Office of the Attorney General for the District of Columbia

(via e-service)

Joshua Lipshutz, Esquire

Chantale Fiebig, Esquire

Counsels for Defendant

(via e-service)

EXHIBIT B

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA, Plaintiff, v. AMAZON.COM, INC., Defendant.	CASE NO.: 2021 CA 001775 B JUDGE: Alfred S. Irving, Jr.
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**PLAINTIFF’S FIRST REQUEST FOR PRODUCTION
OF DOCUMENTS TO AMAZON.COM, INC.**

The District of Columbia, by and through their undersigned counsel, and pursuant to Rule 34 of the Superior Court Rules of Civil Procedure, requests that Defendant Amazon.com, Inc. respond to this Request for Production within thirty (30) days of service of this Request and produce all responsive Documents and electronically stored information.

DEFINITIONS

1. “Amazon,” “You,” and “Your” means Amazon.com, Inc., Amazon.com, and Amazon Marketplace and the respective predecessors, successors, officers, directors, employees, agents, consultants, attorneys, affiliated entities or other affiliates, subdivisions, subsidiaries, and all other persons or entities acting or purporting to act on behalf of or under the control of each of the foregoing.
2. “Amazon Marketplace” is Amazon’s Online Marketplace.
3. “Any” shall be construed to include and encompass “all,” and vice versa.

4. “Buy Box” is a box on a product detail page on the Amazon Marketplace where customers begin the purchasing process by adding items to their account.

5. “Communication” or “Communications” means any exchange, transfer, or dissemination of facts, opinion, or information, regardless of the means by which it is accomplished in any format, such as electronic communications, emails, facsimiles, telephone communications, text messaging or instant, multimedia, or social media messaging (including SMS, MMS, Allo, Google+, Google Chat, Google Groups, Google Messenger, Google Talk, Google Voice, Gtalk, Gchat, Gmessage, WhatsApp, iMessage, or other text, or chat, via whichever application or provider), wire or computer transmissions, via any video conference platform (*e.g.*, Zoom, Google Hangouts); or face-to-face meetings (including notes or transcripts thereof), interviews, consultations, agreements, and understandings between and among two or more persons, and other published or transmitted oral or written material including all electronic copies of the above.

6. “Document” or “Documents” encompasses all forms of tangible expression, including all electronically stored information or data, and all written, recorded, printed, typed, transcribed, filmed, digitized, or graphic matter and all other tangible things and media upon which any handwriting, typing, printing, computer code, software, drawing, representation, electrostatic or other copy, sound or video recording, magnetic or electrical impulse, visual reproduction or communication is recorded, reproduced or represented, including papers, books, records, correspondence, reports, memoranda, electronic mail (e-mail), text, instant, or social media messages (including SMS or MMS text or multimedia messages and proprietary messages such as those sent or received via Allo, Google+, Google Chat, Google Hangouts, Google Groups, Google Messenger, Google Talk, Google Voice, Gtalk, Gchat, WhatsApp, Twitter,

Facebook, or iMessage), contracts, accounting or other ledgers, tables, tabulations, graphs, charts, diagrams, plans, schedules, appointment books, calendars, diaries, time sheets, studies, analyses, drafts, telegrams, teletype or telecopy messages, files, telephone logs and messages, checks, microfilms, microfiche, pictures, photographs, printouts, electronic data, electronic data compilations, tapes, diskettes, hard drives, magnetic drives, solid-state disks or solid-state drives, hybrid drives, cloud storage, removable media, notes, minutes or transcripts of proceedings. Documents shall include originals and all non-identical copies (whether different from the original because of notes made in or attached to such copy, or otherwise), all other data compilations from which information can be obtained (translated, if necessary, into useable form), and any preliminary versions, drafts, or other revisions of any of the foregoing.

7. “Electronically Stored Information,” or “ESI,” means the complete original and any non-identical copy (whether different from the original because of notations, different metadata, or otherwise) of any electronically created or stored information, including but not limited to e-mail, instant messaging, videoconferencing, SMS, MMS, or other text messaging, and other electronic correspondence (whether active, archived, unsent, or in a sent or deleted-items folder), word-processing files, spreadsheets, databases, unorganized data, document metadata, presentation files, and sound recordings, regardless of how or where the information is stored, including if it is on a mobile device.

8. “Fair Pricing Policy” or “FPP” means Amazon’s written policy agreed to by TPSs that includes a provision that states that if a TPS sells its product on Amazon Marketplace for a price that is significantly higher than recent prices offered on or off Amazon Marketplace, the TPS is subject to certain consequences imposed by Amazon, including limiting its sales activities

or performance on Amazon Marketplace. The current version is found at

<https://sellercentral.amazon.com/gp/help/external/G5TUVJKZHUVMN77V>.

9. “First Party Sellers” or “FPSs” means persons (businesses or individuals) that sell products to Amazon that Amazon subsequently sells through Amazon Marketplace.

10. “Including” shall be construed to mean “without limitation.”

11. “Minimum Margin Agreement” or “MMA” means the Minimum Margin Agreement that Amazon reaches with First Party Sellers that includes a provision guaranteeing Amazon a certain minimum profit margin on its sales of products sold to it by First Party Sellers.

12. “Online Marketplace(s)” means e-commerce internet sites that bring sellers and buyers of retail goods together in one electronic forum.

13. “Original Price Parity Provision” means Amazon’s written policy through which TPSs agreed not to sell their products for less on non-Amazon Online Marketplaces for less than the TPSs sold their products on Amazon Marketplace.

14. “Regarding” or “relating to” means to discuss, describe, refer to, reflect, contain, analyze, study, report on, comment on, evidence, constitute, set forth, consider, recommend, concern, or pertain to, in whole or in part.

15. “Third Party Sellers” or “TPSs” mean non-Amazon persons (businesses and individuals) that sell their products through Amazon Marketplace.

16. The connectives “and” and “or” shall be used disjunctively or conjunctively as necessary to bring within the scope of this request all responses that might otherwise be construed to be outside of its scope.

INSTRUCTIONS

1. Produce all responsive Documents in Your possession, custody, or control without regard to the physical location of the Documents. Unless You assert a claim of privilege, Documents produced must be complete, unredacted, and submitted as they are naturally found in the organization's files or by specification, unless privileged or redacted pursuant to Instruction 8 herein. Copies of Documents may be submitted in lieu of permitting inspection of originals, but all originals must be preserved until You receive written notice that this litigation has concluded. If You produce copies, each copied page produced must be identified with a Document control number, numbered consecutively from the Document preceding it. Document breaks must be clearly identified.

2. Unless otherwise indicated, these Requests are limited to the Relevant Period. Unless specified differently, the Relevant Period for purposes of these Requests is January 1, 2015 to the present. However, if it is necessary for You to go beyond the Relevant Period to fully and accurately respond to a document request, You are required to do so. If a Document relates to the Relevant Period, it is to be produced, regardless of when it came into being.

3. If any Document called for by a Request has been destroyed or discarded, that Document or information is to be identified by stating: (i) date, name of author(s) or creator(s); recipients; and description of any attachment(s), enclosures(s), or appendix(ices); (ii) the date of the Document or information's destruction or discard and its manner of destruction or discard; (iii) the names of the persons authorizing or carrying out such destruction or discard; and (iv) the reasons for the Document or information's destruction or discard.

4. No part of a Request shall be left unanswered merely because an objection was interposed to another part of the document request.

5. If You object to any Request or subpart thereof, the objection must state whether any responsive materials are being withheld on the basis of that objection. Any objection to a part of a Request must specify the part and produce Documents in response to the rest.

6. These Requests include all responsive e-mail correspondences and all attachments thereto. This includes e-mail that may have been deleted. To the extent that any responsive e-mail exists or existed (before being deleted) on any computer, laptop, PDA, smartphone, backup tape, CD, DVD or other media, You are requested to immediately preserve such data in its original format (including all metadata and tags) and make it available for duplication or inspection.

7. Documents should be produced electronically, by downloading electronic documents, files, and emails to a physical storage device in their native format or by creating electronic files, such as TIFF images or PDF images, of existing hard copy documents. When producing documents that are kept in electronic format natively, those documents should be produced in their uncorrupted native format, with metadata intact, and preserved by You. For electronic mail systems, such as Microsoft Outlook, ensure that all responsive emails are produced with any attachments.

8. If You withhold, in whole or part, any Document or Communication on the basis of any claimed privilege or protection, provide the following information in log form:

- a. the type of document or communication, its length and its date;
- b. the author(s) and recipient(s) of the document or communication;
- c. the subject matter of the document or communication;
- d. the location of the document or communication; and
- e. the privilege claimed and the basis for Your claim.

9. If a claim of privilege is made only to a portion or portions of the document, then in addition to the information required, produce a copy of such document from which the allegedly privileged portions have been redacted, noting where in the document such redactions have been made.

DOCUMENT REQUESTS

1. Documents sufficient to identify and describe Amazon's corporate structure, and the names, titles, contact information, and dates of employment of Your officers, directors, or employees with responsibility for or involvement with Amazon Marketplace.

2. Amazon's corporate data model and data dictionaries sufficient to show, for each line of business, any systems and the relevant data fields within those data systems relating to:

- a. First Party Seller and Third Party Seller pricing, revenues, and sales, both on Amazon Marketplace and on other Online Marketplaces;
- b. enforcement actions taken against First Party Sellers and Third Party Sellers; and
- c. contractual relationships between Amazon and First Party Sellers or Third Party Sellers.

3. Documents sufficient to show the composition (by product segment and size) of Third Party Sellers and First Party Sellers, respectively, in the United States on Amazon Marketplace.

4. All Documents and Communications from any time period relating to Amazon's creation, modification, implementation and enforcement of its Original Price Parity Provision, Fair Pricing Policy and Minimum Margin Agreement in the United States, including Documents and Communications sent to or received from TPSs or FPSs regarding Amazon's creation,

implementation, modification and enforcement of those policies and Documents showing variations in those policies over time and/or across different product segments or business lines.

5. All Documents and Communications that compare and contrast all similarities and differences between Amazon's Original Price Parity Provision and its Fair Pricing Policy.

6. All Documents and Communications relating to any TPSs on Amazon (current or former) against whom Amazon has taken any adverse, enforcement, or disciplinary actions (including, but not limited to, issuance of warning emails or letters, issuance of cessation emails or letters, removal of Amazon's Buy Box from the seller's product listing, removal of the seller's product from Amazon, reduced prominence in search results, suspension of any shipping options, or suspension or termination of the seller's privileges on Amazon Marketplace) relating to pricing of TPSs' products on non-Amazon Online Marketplaces.

7. Documents sufficient to identify and describe all processes, procedures, programs, devices, algorithms, and formulas or any other way through which Amazon monitors prices of products offered or sold by Third Party Sellers or First Party Sellers on non-Amazon Online Marketplaces

8. Any analyses by You of the reasons for implementing and impact on TPSs of the Original Price Parity Provision and Fair Pricing Policy.

9. Any analyses by You of the reasons for implementing and impact on FPSs of the Minimum Margin Agreement.

10. All Documents and Communications relating to the impact of Amazon's Original Price Parity Provision, Fair Pricing Policy and Minimum Margin Agreement, and/or any similar policies or agreements, on prices to purchasers of products on Amazon Marketplace and other

Online Marketplaces and/or online retailers, including on the prices that Amazon charges in its role as a retailer for products on Amazon Marketplace.

11. All Documents and Communications relating to commissions, fees, or other amounts that Amazon charges, considers charging, or receives from or imposes on TPSs in exchange for permitting TPSs to sell their products through Amazon Marketplace; any changes or modifications by Amazon in those items since 2015; and other Online Marketplaces' commissions, fees or amounts charged for TPSs to sell on their Online Marketplaces, including any analysis or comparison of fees between Amazon Marketplace and other Online Marketplaces.

12. All Documents and Communications concerning pricing practices that harm customer trust.

13. All Documents and Communications relating to Amazon's consideration and decision to withdraw or not enforce its Original Price Parity Provision in the United States.

14. All Documents and Communications reflecting and relating to assessments of Amazon Marketplace's market share and/or market power.

15. All Documents and Communications relating to any plans or strategies by Amazon to increase Amazon Marketplace's market share.

16. All Documents and Communications concerning competition between or comparing Online Marketplaces (including Amazon Marketplace) to "brick and mortar" marketplaces and stores (including Amazon's physical stores).

17. All Documents and Communications relating to competition that Amazon Marketplace faces from other Online Marketplaces, including potential market entrants, and

including, but not limited to, Walmart, e-Bay, Google, Instacart, Shopify, Target, Macy's, Costco, and Etsy.

18. All Documents and Communications concerning competition between multi-seller marketplaces, specialty marketplaces, and single-seller online marketplaces.

19. All Documents and Communications discussing or referring to competition between the products that Amazon sells (whether through Amazon Basics or otherwise) on Amazon Marketplace and products TPSs sell on Amazon Marketplace.

20. All Documents and Communications relating to competition that Amazon Marketplace faces from any other source.

21. All Documents and Communications relating to the decision to develop, the development of, and the sale of the Amazon Basics line of products.

22. All Documents and Communications produced to the United Kingdom Office of Fair Trading (or its predecessors, successors or affiliates) and/or the German Federal Cartel Office (or its predecessors, successors or affiliates) relating to those entities' investigations of Amazon's Original Price Parity Provision in the United Kingdom, Germany, or elsewhere in Europe since 2010.

23. All Documents and Communications relating to, referring to, or discussing the investigations referenced in Request No. 22 above.

24. All Documents and Communications since January 1, 2010 relating to Amazon's consideration and decision to withdraw or not enforce the Original Price Parity Provision outside the United States.

25. All Documents and Communications since January 1, 2015 produced to the United States Federal Trade Commission, the State of California, the State of New York, the

Commonwealth of Massachusetts, the State of Washington, or any other state Attorney General's Office, or any other regulatory or enforcement agency, relating to any antitrust, competition or consumer protection investigation of Amazon.

26. All Documents and Communications relating to any investigations referenced in Request No. 25 above.

27. All Documents and Communications that Amazon produced to the House Subcommittee on Antitrust, Commercial and Administrative Law — Investigation of Competition in Digital Markets, or any related investigations by any other Congressional body.

28. All Documents and Communications that Amazon produced to the European Commission, or any associated regulatory body, relating to seller audits or seller price compliance since January 1, 2020.

29. All Documents and Communications relating to barriers to entry for competition to Amazon Marketplace.

30. All Documents relating to advantages/benefits impacting Amazon Marketplace that result from Amazon's Fulfillment by Amazon program.

31. All Documents relating to advantages/benefits impacting Amazon Marketplace that result from Amazon's early acquisition of large numbers of sellers and buyers on Amazon Marketplace, and any comparisons of those advantages/benefits to other Online Marketplaces.

32. All Documents relating to advantages/benefits impacting Amazon Marketplace that result from Amazon's capabilities with regard to cloud computing and storage.

33. Documents sufficient to identify all methodologies, programs, inputs and algorithms, and all changes thereto, used to determine which seller on Amazon Marketplace wins the Buy Box.

34. Documents and Communications relating to the importance to TPSs of access to Amazon Marketplace and the importance to TPSs of winning the Buy Box.

35. All Documents and Communications relating to the advantages and benefits that Amazon Prime (including two-day delivery, one-day delivery, grocery delivery, Prime Video, Amazon Music, and Prime Gaming) creates for Amazon Marketplace over other Online Marketplaces.

36. All Documents and Communications relating to Amazon's annual and five-year business plans, and related meetings (including OP1 meetings), developed for Amazon Marketplace.

37. All Documents and Communications relating to Amazon Board of Directors Meeting presentations and meeting minutes regarding Amazon's Marketplace.

38. All Documents and Communications relating to presentations and minutes regarding any periodic meetings relating to Amazon Marketplace and/or its competitors.

39. All Documents and Communications relating to Press Releases/Frequently Asked Questions regarding the Original Price Parity Provision, the Fair Pricing Policy, and/or the Minimum Margin Agreement.

40. All Documents and Communications relating to Amazon S-Team meeting minutes and presentation materials regarding Amazon Marketplace and/or competing Online Marketplaces.

41. Documents and Communications relating to Amazon's antitrust policies and training.

42. Documents and Communications relating to Amazon’s policies to avoid using certain words and phrases in the ordinary course of business, including in written materials and emails, including, *e.g.*, “market,” “market share,” “platform,” “dominating,” and “competition”.

DATED: September 14, 2021

Respectfully submitted,

KARL A. RACINE
Attorney General for the District of Columbia

KATHLEEN KONOPKA
Deputy Attorney General
Public Advocacy Division

/s/ Kathleen Konopka
Kathleen Konopka [D.C. Bar 495257]
kathleen.konopka@dc.gov
Catherine A. Jackson
catherine.jackson@dc.gov
Jennifer C. Jones
jen.jones@dc.gov
David Brunfeld
david.brunfeld@dc.gov
Public Advocacy Division
Office of the Attorney General for the District of Columbia
400 6th Street, N.W., 10th Floor
Washington, D.C. 20001
Tel: (202) 442-9853

/s/ Swathi Bojedla
Paul T. Gallagher [D.C. Bar 439701]
pgallagher@hausfeld.com
Hilary K. Scherrer [D.C. Bar 481465]
hscherrer@hausfeld.com
Swathi Bojedla [D.C. Bar 1016411]
sbojedla@hausfeld.com
Leland Shelton
lshelton@hausfeld.com
Theodore F. DiSalvo [D.C. Bar 1655516]
tdisalvo@hausfeld.com
Halli Spraggins [D.C. Bar 1671093]

hspraggins@hausfeld.com
HAUSFELD LLP
888 16th Street, NW, Suite 300
Washington, D.C. 20006
Tel: (202) 540-7375

Attorneys for Plaintiff District of Columbia

CERTIFICATE OF SERVICE

The undersigned certifies that on September 14, 2021 a copy of the foregoing Request for Production of Documents was served on counsel via electronic mail.

/s/ Swathi Bojedla

EXHIBIT C

Current on Bloomberg Law as of 2021-07-16 15:42:17

U.S. District Court
United States District Court for the Western District of Washington (Seattle)
CIVIL DOCKET FOR CASE #: 2:20-cv-00424-RAJ

Frame-Wilson et al v. Amazon.com Inc

Date Filed: Mar 19, 2020
Nature of suit: 410 Anti-Trust
Assigned to: Judge Richard A. Jones
Cause: 15:1 Antitrust Litigation
Jurisdiction: Federal Question
Jury demand: Plaintiff

Parties and Attorneys

Plaintiff

Deborah Frame-Wilson

Representation

Adam Wolfson

*QUINN EMANUEL URQUHART
& SULLIVAN LLP (LA)*
865 S FIGUEROA ST, 10TH
FLOOR
LOS ANGELES, CA 90017
(213) 443-3000
adamwolfson@quinnemanuel.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Albert Young Pak

KELLER LENKNER LLC
1300 I ST NW STE 400E
WASHINGTON, DC 20005
(202) 918-1835
albert.pak@kellerlenkner.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Barbara Mahoney

*HAGENS BERMAN SOBOL
SHAPIRO LLP (WA)*

Derek W Loeser

KELLER ROHRBACK LLP (WA)
1201 3RD AVE

1301 2ND AVENUE
STE 2000
SEATTLE, WA 98101
(206) 623-7292
Fax: (206) 623-0594
barbaram@hbsslaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

STE 3200
SEATTLE, WA 98101-3052
(206) 623-1900
dloeser@kellerrohrback.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Steig David Olson
*QUINN EMANUEL URQUHART
& SULLIVAN, LLP (NY)*
51 MADISON AVE
22ND FLOOR
NEW YORK, NY 10010
(212) 849-7152
steigolson@quinnemanuel.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Warren D Postman
KELLER LENKNER LLC
1300 I STREET NW STE 400E
WASHINGTON, DC 20005
(202) 749-8334
wdp@kellerlenkner.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash
KELLER LENKNER LLC (TX)
501 CONGRESS AVE STE 150
AUSTIN, TX 78701
(956) 345-9462
zina.bash@kellerlenkner.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb
*QUINN EMANUEL URQUHART
& SULLIVAN LLP (WA)*
1109 FIRST AVE
STE 210
SEATTLE, WA 98101
(206) 905-7000
Fax: (206) 905-7100
aliciacobb@quinnemanuel.com
ATTORNEY TO BE NOTICED

Steve W. Berman
*HAGENS BERMAN SOBOL
SHAPIRO LLP (WA)*
1301 2ND AVENUE
STE 2000
SEATTLE, WA 98101
(206) 623-7292

Fax: (206) 623-0594
steve@hbsslaw.com
ATTORNEY TO BE NOTICED

Plaintiff

Christian Sabol

Representation

Adam Wolfson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)
ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Gail Murphy

Representation

Adam Wolfson

(See above for address)
LEAD ATTORNEY

Albert Young Pak

(See above for address)
LEAD ATTORNEY

PRO HAC VICE
ATTORNEY TO BE NOTICED

Derek W Loeser
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Warren D Postman
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb
(See above for address)
ATTORNEY TO BE NOTICED

Steve W. Berman
(See above for address)
ATTORNEY TO BE NOTICED

PRO HAC VICE
ATTORNEY TO BE NOTICED

Steig David Olson
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Barbara Mahoney
(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Chaunda Lewis

Representation

Adam Wolfson
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Derek W Loeser
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Warren D Postman
(See above for address)

Albert Young Pak
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Steig David Olson
(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash
(See above for address)

LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)
ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)
ATTORNEY TO BE NOTICED

LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Nathan Chaney

Representation

Adam Wolfson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)
ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)
ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Adrian Hennen

Representation

Adam Wolfson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)

ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)

ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)

ATTORNEY TO BE NOTICED

Plaintiff

Stacy Dutil

Representation

Adam Wolfson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)

LEAD ATTORNEY

Steig David Olson

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

PRO HAC VICE

ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)

ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)

ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)

ATTORNEY TO BE NOTICED

Plaintiff

Gerry Kochendorfer

Representation

Adam Wolfson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)

Barbara Mahoney

(See above for address)

ATTORNEY TO BE NOTICED

ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)

ATTORNEY TO BE NOTICED

Plaintiff

Phyllis Huster

Representation

Adam Wolfson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)

ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)

ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)

ATTORNEY TO BE NOTICED

Plaintiff

Chris Gulley

Representation

Adam Wolfson

(See above for address)

Albert Young Pak

(See above for address)

LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)
ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)
ATTORNEY TO BE NOTICED

LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Heather Geesey

Representation

Adam Wolfson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Warren D Postman

Albert Young Pak

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)
ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)
ATTORNEY TO BE NOTICED

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Lionel Keros

Representation

Adam Wolfson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)
ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)
ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)

ATTORNEY TO BE NOTICED

Plaintiff

Sheryl Taylor-Holly

Representation

Adam Wolfson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)

ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)

ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)

ATTORNEY TO BE NOTICED

Plaintiff

Mary Elliot

Representation

Adam Wolfson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)
ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)
ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Sarah Arrington

Representation

Adam Wolfson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)

ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)

ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)

ATTORNEY TO BE NOTICED

Plaintiff

Samanthia Russell

Representation

Adam Wolfson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)

ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)

ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)

ATTORNEY TO BE NOTICED

Plaintiff

Steve Mortillaro

Representation

Adam Wolfson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)
ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)
ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Dave Westrope

Representation

Adam Wolfson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)

ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)

ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)

ATTORNEY TO BE NOTICED

Plaintiff

Arthur Scharein

Representation

Adam Wolfson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)

LEAD ATTORNEY

PRO HAC VICE

ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)

ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)

ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Anthony Courtney

Representation

Adam Wolfson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)
ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)
ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)
ATTORNEY TO BE NOTICED

Plaintiff

Glenda R. Hill

Representation

Adam Wolfson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Albert Young Pak

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Derek W Loeser

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Steig David Olson

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Warren D Postman

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Zina Bash

(See above for address)
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Alicia Cobb

(See above for address)
ATTORNEY TO BE NOTICED

Barbara Mahoney

(See above for address)
ATTORNEY TO BE NOTICED

Steve W. Berman

(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Amazon.com Inc

Representation

Amy J Mauser

*PAUL WEISS RIFKIND
WHARTON & GARRISON LLP
(DC)
2001 K ST NW
WASHINGTON, DC 20006
(202) 223-7371
amauser@paulweiss.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED*

Douglas Litvack

*DAVIS WRIGHT TREMAINE
LLP (DC)
1301 K ST NW
STE 500 EAST
WASHINGTON, DC 20005
(202) 973-4200
Fax: (202) 973-4499
douglaslitvack@dwt.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED*

Karen L Dunn

*PAUL WEISS RIFKIND
WHARTON & GARRISON LLP
(DC)*

Martha Goodman

*PAUL WEISS RIFKIND
WHARTON & GARRISON LLP
(DC)*

2001 K ST NW
WASHINGTON, DC 20006
(202) 223-7300
kdunn@paulweiss.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

William A Isaacson
PAUL WEISS RIFKIND
WHARTON & GARRISON LLP
(DC)
2001 K ST NW
WASHINGTON, DC 20006
(202) 223-7300
wisaacson@paulweiss.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Stephen M Rummage
DAVIS WRIGHT TREMAINE
(SEA)
920 FIFTH AVE
STE 3300
SEATTLE, WA 98104-1610
(206) 622-3150
Fax: (206) 757-7700
steверummage@dwt.com
ATTORNEY TO BE NOTICED

2001 K ST NW
WASHINGTON, DC 20006
(202) 223-7300
mgoodman@paulweiss.com
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

MaryAnn T Almeida
DAVIS WRIGHT TREMAINE
(SEA)
920 FIFTH AVE
STE 3300
SEATTLE, WA 98104-1610
(206) 757-8187
maryannalmeida@dwt.com
ATTORNEY TO BE NOTICED

Docket Entries

Numbers shown are court assigned numbers.

Entry #	Filing Date	Description
1	Mar 19, 2020	COMPLAINT against defendant(s) Amazon.com, Inc. with JURY DEMAND (Receipt # AWAADC-6220927) Attorney Steve W. Berman added to party Deborah Frame-Wilson(pty:pla), Attorney Steve W. Berman added to party Christian Sabol(pty:pla),

Entry #	Filing Date	Description
		filed by Christian Sabol, Deborah Frame-Wilson. (Attachments: # 1 Civil Cover Sheet, # 2 Summons)(Berman, Steve) (Entered: 03/19/2020)
	Mar 20, 2020	Judge Richard A. Jones added. (SG) (Entered: 03/20/2020)
2	Mar 20, 2020	Summons Electronically Issued as to defendant(s) Amazon.com, Inc. (SG) (Entered: 03/20/2020)
3	Mar 26, 2020	STANDING ORDER for Civil Cases Assigned to Judge Richard A. Jones. (VE) (Entered: 03/26/2020)
4	Apr 1, 2020	AFFIDAVIT of Service of Summons and Complaint on Amazon.com, Inc. on 3/24/2020, filed by Plaintiffs Deborah Frame-Wilson, Christian Sabol. (Berman, Steve) (Entered: 04/01/2020)
5	Apr 16, 2020	STIPULATION (1) Extending Time to Answer or Otherwise Respond and (2) Requesting Deferral of Order Re Initial Disclosures by parties (Rummage, Stephen) (Entered: 04/16/2020)
6	Apr 17, 2020	CERTIFICATE OF SERVICE by Plaintiffs Deborah Frame-Wilson, Christian Sabol re 3 RAJ-Standing Order (Berman, Steve) (Entered: 04/17/2020)
7	Apr 17, 2020	NOTICE of Appearance by attorney Stephen M. Rummage on behalf of Defendant Amazon.com Inc. (Rummage, Stephen) (Entered: 04/17/2020)
8	Apr 17, 2020	APPLICATION OF ATTORNEY Douglas E. Litvack FOR LEAVE TO APPEAR PRO HAC VICE for Defendant Amazon.com Inc (Fee Paid) Receipt No. AWAADC-6279538 (Rummage, Stephen) (Entered: 04/17/2020)
	Apr 17, 2020	Attorney MaryAnn Almeida added for Amazon.com Inc, per 7 Notice of Appearance. (MW) (Entered: 04/20/2020)
	Apr 20, 2020	Reset Deadline: Having considered the parties' 5 STIPULATION (1) Extending Time to Answer or Otherwise Respond and (2) Requesting Deferral of Order Re Initial Disclosures the Court adopts the Stipulation in part. The deadline for Defendant Amazon to answer or otherwise respond to Plaintiffs' complaint is extended to 7/13/2020. Rather than defer issuance of the Court's Order Regarding Initial Disclosures and Joint Status Report, the Court will enter its initial case scheduling order with deadlines set to occur after the extended answer deadline. (VE) (Entered: 04/20/2020)
9	Apr 20, 2020	ORDER REGARDING FRCP 26(f) CONFERENCE, INITIAL DISCLOSURES, AND JOINT STATUS REPORT. FRCP 26(f) Conference Deadline is 7/20/2020, Initial Disclosure Deadline is 7/27/2020, Joint Status Report due by 8/3/2020, by Judge Richard A. Jones. (VE) (Entered: 04/20/2020)
10	Apr 27, 2020	ORDER re 8 Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney Defendant Douglas Litvack for Amazon.com Inc, by Clerk William M McCool. No document associated with this docket entry, text only.NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d).(DS) (Entered: 04/27/2020)
11	Jul 13, 2020	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM , filed by Defendant Amazon.com Inc. (Attachments: # 1 Proposed Order) Noting Date 8/7/2020, (Rummage, Stephen) (Entered: 07/13/2020)

Entry #	Filing Date	Description
12	Jul 13, 2020	CORPORATE DISCLOSURE STATEMENT indicating no Corporate Parents and/or Affiliates. Filed pursuant to Fed.R.Civ.P 7.1. Filed by Amazon.com Inc (Rummage, Stephen) (Entered: 07/13/2020)
	Jul 14, 2020	***Deadlines terminated. The Court notifies the parties that the deadlines contained in the 9 ORDER REGARDING FRCP 26(f) CONFERENCE, INITIAL DISCLOSURES, AND JOINT STATUS REPORT are suspended pending the Court's ruling on Defendant's 11 MOTION to Dismiss for Failure to State a Claim. (VE) (Entered: 07/14/2020)
13	Jul 24, 2020	Stipulated MOTION To Defer the Deadline To File A Class Certification Motion, filed by Plaintiffs Deborah Frame-Wilson, Christian Sabol. Noting Date 7/24/2020, (Berman, Steve) (Entered: 07/24/2020)
14	Jul 24, 2020	MINUTE ORDER (text only) entered upon the authority of Judge Richard A. Jones. The parties' 13 Stipulated MOTION To Defer the Deadline To File A Class Certification Motion is granted. The Court vacates the 9/15/2020 deadline for Plaintiffs to file their motion for class certification. The parties shall propose a class certification briefing schedule promptly following disposition of Amazon's motion to dismiss Plaintiffs' forthcoming amended complaint, should the Court deny that motion. (VE) (Entered: 07/24/2020)
15	Aug 3, 2020	AMENDED COMPLAINT First Amended Class Action Complaint against defendant(s) Amazon.com Inc with JURY DEMAND Attorney Steve W. Berman added to party Samantha Russell(pty:pla), Attorney Steve W. Berman added to party Arthur Scharein(pty:pla), Attorney Steve W. Berman added to party Lionel Keros(pty:pla), Attorney Steve W. Berman added to party Nathan Chaney(pty:pla), Attorney Steve W. Berman added to party Chris Gulley(pty:pla), Attorney Steve W. Berman added to party Sheryl Taylor-Holly(pty:pla), Attorney Steve W. Berman added to party Anthony Courtney(pty:pla), Attorney Steve W. Berman added to party Dave Westrope(pty:pla), Attorney Steve W. Berman added to party Stacy Dutill(pty:pla), Attorney Steve W. Berman added to party Sarah Arrington(pty:pla), Attorney Steve W. Berman added to party Mary Elliot(pty:pla), Attorney Steve W. Berman added to party Heather Geesey(pty:pla), Attorney Steve W. Berman added to party Steve Mortillaro(pty:pla), Attorney Steve W. Berman added to party Chaunda Lewis(pty:pla), Attorney Steve W. Berman added to party Adrian Hennen(pty:pla), Attorney Steve W. Berman added to party Glenda R. Hill(pty:pla), Attorney Steve W. Berman added to party Gail Murphy(pty:pla), Attorney Steve W. Berman added to party Phyllis Huster(pty:pla), Attorney Steve W. Berman added to party Gerry Kochendorfer(pty:pla), filed by Deborah Frame-Wilson, Christian Sabol, Gail Murphy, Chaunda Lewis, Nathan Chaney, Adrian Hennen, Stacy Dutill, Gerry Kochendorfer, Phyllis Huster, Chris Gulley, Heather Geesey, Lionel Keros, Sheryl Taylor-Holly, Mary Elliot, Sarah Arrington, Samantha Russell, Steve Mortillaro, Dave Westrope, Arthur Scharein, Anthony Courtney, Glenda R. Hill.(Berman, Steve) (Entered: 08/03/2020)
	Aug 3, 2020	Attorney Barbara Mahoney,Derek W Loeser for Sarah Arrington,Barbara Mahoney, Derek W Loeser for Nathan Chaney,Barbara Mahoney,Derek W Loeser for Anthony Courtney,Barbara Mahoney,Derek W Loeser for Stacy Dutill,Barbara Mahoney,Derek W Loeser for Mary Elliot,Barbara Mahoney,Derek W Loeser for Heather Geesey, Barbara Mahoney,Derek W Loeser for Chris Gulley,Barbara Mahoney,Derek W Loeser for Adrian Hennen,Barbara Mahoney,Derek W Loeser for Glenda R. Hill,Barbara Mahoney,Derek W Loeser for Phyllis Huster,Barbara Mahoney,Derek W Loeser for Lionel Keros,Barbara Mahoney,Derek W Loeser for Gerry Kochendorfer,Barbara

Entry #	Filing Date	Description
		Mahoney,Derek W Loeser for Chaunda Lewis,Barbara Mahoney,Derek W Loeser for Steve Mortillaro,Barbara Mahoney,Derek W Loeser for Gail Murphy,Barbara Mahoney, Derek W Loeser for Samantha Russell,Barbara Mahoney,Derek W Loeser for Arthur Scharein,Barbara Mahoney,Derek W Loeser for Sheryl Taylor-Holly,Barbara Mahoney, Derek W Loeser for Dave Westrope added; per 15 Amended Complaint,,,,,, (LH) (Entered: 08/04/2020)
	Aug 4, 2020	***Motion terminated: 11 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM filed by Amazon.com Inc. Plaintiffs have filed an 15 Amended Complaint. Pursuant to the parties' 13 Stipulated MOTION, the Court has been notified Defendant intends to file a Motion to Dismiss Plaintiffs' Amended Complaint. (VE) (Entered: 08/04/2020)
16	Aug 12, 2020	STIPULATION AND PROPOSED ORDER (1) Extending Time to Respond to Amended Complaint and (2) Establishing Schedule for Motion to Dismiss by parties (Rummage, Stephen) (Entered: 08/12/2020)
	Aug 13, 2020	Reset Deadlines: Having considered the parties' 16 STIPULATION (1) Extending Time to Respond to Amended Complaint and (2) Establishing Schedule for Motion to Dismiss, and finding good cause, the Court adopts the parties' proposed briefing schedule as follows: Defendant Amazon may have 30 days to file its Motion to Dismiss in response to the operative pleading. Defendant's forthcoming Motion to Dismiss due 9/2/2020, Plaintiffs' Opposition to Motion to Dismiss due 10/2/2020, Defendant's Reply in Support of Motion to Dismiss due 11/2/2020, and the motion shall be noted for 11/6/2020. (VE) (Entered: 08/13/2020)
17	Sep 2, 2020	NOTICE of Change of Address/Change of Name of Attorney Douglas Litvack. Filed by Defendant Amazon.com Inc. (Litvack, Douglas) (Entered: 09/02/2020)
18	Sep 2, 2020	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM re First Amended Complaint, filed by Defendant Amazon.com Inc. Oral Argument Requested. (Attachments: # 1 Proposed Order) Noting Date 11/6/2020, (Rummage, Stephen) (Entered: 09/02/2020)
19	Oct 2, 2020	RESPONSE, by Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutil, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, Dave Westrope, to 18 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM re First Amended Complaint. (Attachments: # 1 Exhibit A)(Berman, Steve) (Entered: 10/02/2020)
20	Oct 6, 2020	PRAECIPE re 19 Response to Motion,, Plaintiffs' Praecipe Re: Their Opposition (Dkt. No. 19) to Amazon.com, Inc.'s Motion to Dismiss by Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutil, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, Dave Westrope (Attachments: # 1 Plaintiffs' Opposition to Amazon.com, Inc.'s Motion to Dismiss (Corrected))(Berman, Steve) (Entered: 10/06/2020)
21	Oct 21, 2020	APPLICATION OF ATTORNEY Karen L. Dunn FOR LEAVE TO APPEAR PRO HAC VICE for Defendant Amazon.com Inc (Fee Paid) Receipt No. AWAUDC-6681288 (Rummage, Stephen) (Entered: 10/21/2020)

Entry #	Filing Date	Description
22	Oct 21, 2020	APPLICATION OF ATTORNEY Martha L. Goodman FOR LEAVE TO APPEAR PRO HAC VICE for Defendant Amazon.com Inc (Fee Paid) Receipt No. AWAADC-6681299 (Rummage, Stephen) (Entered: 10/21/2020)
23	Oct 21, 2020	APPLICATION OF ATTORNEY William A. Issacson FOR LEAVE TO APPEAR PRO HAC VICE for Defendant Amazon.com Inc (Fee Paid) Receipt No. AWAADC-6681302 (Rummage, Stephen) (Entered: 10/21/2020)
24	Oct 21, 2020	APPLICATION OF ATTORNEY Amy J. Mauser FOR LEAVE TO APPEAR PRO HAC VICE for Defendant Amazon.com Inc (Fee Paid) Receipt No. AWAADC-6681308 (Rummage, Stephen) (Entered: 10/21/2020)
25	Oct 21, 2020	ORDER re 22 Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney Martha Goodman for Defendant Amazon.com Inc, by Clerk William M McCool. No document associated with this docket entry, text only.NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d).(DS) (Entered: 10/21/2020)
26	Oct 21, 2020	ORDER re 21 Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney Karen L Dunn for Defendant Amazon.com Inc, by Clerk William M McCool. No document associated with this docket entry, text only.NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d).(DS) (Entered: 10/21/2020)
27	Oct 21, 2020	ORDER re 23 Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney William A Isaacson for Defendant Amazon.com Inc, by Clerk William M McCool. No document associated with this docket entry, text only.NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d).(DS) (Entered: 10/21/2020)
28	Oct 21, 2020	ORDER re 24 Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney Amy J Mauser for Defendant Amazon.com Inc, D by Clerk William M McCool. No document associated with this docket entry, text only.NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d).(DS) (Entered: 10/21/2020)
29	Nov 2, 2020	REPLY, filed by Defendant Amazon.com Inc, TO RESPONSE to 18 MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM re First Amended Complaint (Rummage, Stephen) (Entered: 11/02/2020)
30	Jun 1, 2021	NOTICE of Pendency of Other Action in Superior Court of the District of Columbia, case number(s) in other court 2021 CA 001775 B ; filed by Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutill, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, Dave Westrope. (Attachments: # 1 Exhibit A)(Berman, Steve) (Entered: 06/01/2021)
31	Jun 28, 2021	APPLICATION OF ATTORNEY Zina Bash FOR LEAVE TO APPEAR PRO HAC VICE for Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutill, Mary

Entry #	Filing Date	Description
		Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, Dave Westrope (Fee Paid) Receipt No. AWAADC-7142798 (Berman, Steve) (Entered: 06/28/2021)
32	Jun 28, 2021	APPLICATION OF ATTORNEY Albert Y. Pak FOR LEAVE TO APPEAR PRO HAC VICE for Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutil, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, Dave Westrope (Fee Paid) Receipt No. AWAADC-7142812 (Berman, Steve) (Entered: 06/28/2021)
33	Jun 28, 2021	APPLICATION OF ATTORNEY Warren D. Postman FOR LEAVE TO APPEAR PRO HAC VICE for Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutil, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, Dave Westrope (Fee Paid) Receipt No. AWAADC-7142822 (Berman, Steve) (Entered: 06/28/2021)
34	Jun 28, 2021	ORDER re 31 Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney Zina Bash for Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutil, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, Dave Westrope by Clerk William M McCool. No document associated with this docket entry, text only.NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d).(DS) (Entered: 06/28/2021)
35	Jun 28, 2021	ORDER re 32 Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney Albert Young Pak for Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutil, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, Dave Westrope by Clerk William M McCool. No document associated with this docket entry, text only.NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d).(DS) (Entered: 06/28/2021)
36	Jun 28, 2021	ORDER re 33 Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney Warren D Postman for Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutil, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, Dave Westrope by Clerk William M McCool. No document associated with this docket entry, text only.NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on

Entry #	Filing Date	Description
		any date scheduled by the court, pursuant to LCR 83.1(d).(DS) (Entered: 06/28/2021)
37	Jun 29, 2021	NOTICE of Appearance by attorney Alicia Cobb on behalf of Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutill, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, Dave Westrope. (Cobb, Alicia) (Entered: 06/29/2021)
38	Jun 29, 2021	APPLICATION OF ATTORNEY Steig Olson FOR LEAVE TO APPEAR PRO HAC VICE for Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutill, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, Dave Westrope (Fee Paid) Receipt No. AWAADC-7145700 (Cobb, Alicia) (Entered: 06/29/2021)
39	Jun 29, 2021	APPLICATION OF ATTORNEY Adam Wolfson FOR LEAVE TO APPEAR PRO HAC VICE for Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutill, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, Dave Westrope (Fee Paid) Receipt No. AWAADC-7145701 (Cobb, Alicia) (Entered: 06/29/2021)
40	Jun 30, 2021	ORDER re 38 Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney Steig David Olson for for Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutill, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, and Dave Westrope by Clerk William M McCool. No document associated with this docket entry, text only.NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d).(DS) (Entered: 06/30/2021)
41	Jun 30, 2021	ORDER re 39 Application for Leave to Appear Pro Hac Vice. The Court ADMITS Attorney Adam Wolfson for for Plaintiffs Sarah Arrington, Nathan Chaney, Anthony Courtney, Stacy Dutill, Mary Elliot, Deborah Frame-Wilson, Heather Geesey, Chris Gulley, Adrian Hennen, Glenda R. Hill, Phyllis Huster, Lionel Keros, Gerry Kochendorfer, Chaunda Lewis, Steve Mortillaro, Gail Murphy, Samantha Russell, Christian Sabol, Arthur Scharein, Sheryl Taylor-Holly, and Dave Westrope by Clerk William M McCool. No document associated with this docket entry, text only.NOTE TO COUNSEL: Local counsel agrees to sign all filings and to be prepared to handle the matter, including the trial thereof, in the event the applicant is unable to be present on any date scheduled by the court, pursuant to LCR 83.1(d).(DS) (Entered: 06/30/2021)

EXHIBIT D

Jennifer Milici, D.C. Bar No. 987096
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
(202) 326-2912; (202) 326-3496 (fax)
jmilici@ftc.gov

Lin W. Kahn, Cal. Bar No. 261387
FEDERAL TRADE COMMISSION
901 Market Street, Suite 570
San Francisco, CA 94103
(415) 848-5115; (415) 848-5184 (fax)
lkahn@ftc.gov

Attorneys for Plaintiff Federal Trade Commission in Case No. 17-cv-00220-LHK-NMC

SUSMAN GODFREY L.L.P.
Kalpana Srinivasan (237460)
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067
(310) 789-3100; (310) 789-3006 (fax)
ksrinivasan@susmangodfrey.com

COTCHETT, PITRE & MCCARTHY
Steven N. Williams (175481)
840 Malcolm Road, Suite 200
Burlingame, CA 94010
(650) 697-6000; (650) 697-0577 (fax)
swilliams@cpmlegal.com

Plaintiffs' Interim Co-Lead Counsel in Case No. 17-md-02773-LHK-NMC

CRAVATH, SWAINE & MOORE LLP
Gary A. Bornstein (*pro hac vice*)
Yonatan Even (*pro hac vice*)
825 Eighth Avenue
New York, New York 10019-7475
(212) 474-1000; (212) 474-3700 (fax)
gbornstein@cravath.com
yeven@cravath.com

MORGAN, LEWIS & BOCKIUS LLP
Donn P. Pickett (SBN 72257)
Geoffrey T. Holtz (SBN 191370)
One Market, Spear Street Tower
San Francisco, CA 94105-1596
(415) 442-1000; (415) 442-1001 (fax)
donn.pickett@morganlewis.com
geoffrey.holtz@morganlewis.com

KEKER, VAN NEST & PETERS LLP
Robert A. Van Nest (SBN 84065)
633 Battery Street
San Francisco, CA 94111-1809
(415) 391-5400; (415) 397-7188 (fax)
rvannest@keker.com

Attorneys for Defendant Qualcomm Incorporated

Additional counsel listed on signature pages

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

QUALCOMM INCORPORATED, a
Delaware Corporation,

Defendant.

Case No. 17-cv-00220-LHK-NMC

IN RE: QUALCOMM ANTITRUST
LITIGATION

Case No. 17-md-02773-LHK-NMC

JOINT STIPULATION AND ~~PROPOSED~~ DISCOVERY COORDINATION ORDER

WHEREAS the Parties desire to minimize the burden and expense of duplicative discovery across cases;

WHEREAS the Parties agree that discovery in the above-captioned actions should be coordinated as provided herein; and

WHEREAS the Parties are continuing to meet and confer with each other and with Apple Inc. regarding the possibility of further coordination of discovery in the above-captioned actions with discovery in *Apple Inc. v. Qualcomm Incorporated*, Case No. 17-cv-00108-GPC (S.D. Cal.) and related cases;

THE PARTIES THEREFORE STIPULATE AND AGREE AS FOLLOWS:

1. For the purpose of this Order:
 - a. “Contact Attorneys” refers to counsel designated by each Party and identified on Schedule A.
 - b. “FTC” refers to the Federal Trade Commission.
 - c. “FTC Litigation” refers to *Federal Trade Commission v. Qualcomm Incorporated*, Case No. 17-cv-00220-LHK-NMC.
 - d. “MDL Litigation” refers to *In re Qualcomm Antitrust Litigation*, Case No. 17-md-02773-LHK-NMC, including all consolidated member cases (both current and any that may be transferred and consolidated in the future).
 - e. “MDL Plaintiffs” refers collectively to the plaintiffs named in any consolidated or member case in the MDL Litigation, including in any consolidated complaint that is filed in the MDL Litigation.
 - f. “Parties” refers collectively to the FTC, MDL Plaintiffs, and Qualcomm.

- g. “Party” refers to any of the FTC, MDL Plaintiffs, or Qualcomm.
- h. “Pending Cases” refers collectively to the FTC Litigation and MDL Litigation.
- i. “Protective Orders” refers to the Protective Order and Supplemental Protective Order in the FTC Litigation (ECF Nos. 81, 137) and the Protective Order in the MDL Litigation (ECF No. 46), in each case as may be supplemented and amended from time to time.
- j. “Qualcomm” refers to Qualcomm Incorporated.

2. Counsel for the Parties in each Pending Case shall be bound by this Order.

COORDINATION OF WRITTEN DISCOVERY

3. Any Party that serves or has served a written discovery request under Rule 31, 33, 34, or 36 on another Party in any of the Pending Cases shall provide a copy of the request to the Contact Attorneys in each Pending Case.

4. Any Party that responds or has responded to a written discovery request in any of the Pending Cases shall serve its response and produce any responsive materials to the Contact Attorneys in each Pending Case.

5. A Party (the “Issuing Party”) that serves, after issuance of this Order, a subpoena or other request (including any request for international judicial assistance) for the production of documents or other materials on a person or entity not a Party (“Non-Party”) to any Pending Case shall promptly (a) provide a copy of the subpoena or other request to all Contact Attorneys; (b) provide a copy of this Order and the Protective Orders in effect in each of the Pending Cases to the Non-Party; (c) notify the Non-Party that, pursuant to this Order, materials produced in response to such subpoena or other request will be produced in each Pending Case; and (d) request that the Non-Party simultaneously produce materials to the Contact Attorneys in each Pending Case. If, notwithstanding such request, the Non-Party does not produce the materials to the Contact Attorneys in each Pending Case, the issuing Party shall, as permitted by law, provide a copy of all materials produced pursuant to the subpoena or other request to the Contact Attorneys in each of the Pending Cases within five (5) calendar days after receipt of the materials from the Non-Party. If a Party has served a Non-Party subpoena or other document request prior to the issuance of this Order, the

1 Issuing Party will advise the Non-Party that the document production is to be shared across the
 2 Pending Cases and provide an opportunity of 10 (ten) days to object, and shall provide a copy of all
 3 materials produced pursuant to the subpoena or other request to the Contact Attorneys in each of the
 4 Pending Cases within five (5) calendar days after the later of (1) expiration of such ten (10) day
 5 period, or (2) the Party's receipt of materials from the Non-Party.¹ If a Party modifies or extends the
 6 time to respond to a Rule 45 document subpoena or other request in writing, it shall promptly inform
 7 Contact Attorneys in each Pending Case of that written extension or modification.

8 6. All written responses to discovery requests and subpoenas and materials provided in
 9 response to discovery requests and subpoenas in any Pending Case shall be treated as having been
 10 obtained through discovery in each Pending Case.

11 **COORDINATION OF DEPOSITIONS**

12 7. Pursuant to Fed. R. Civ. P. 30(a)(2)(A), leave is granted to all Parties to conduct in excess
 13 of ten (10) depositions per side.

14 8. A Party issuing a deposition notice or subpoena or seeking a request for international
 15 judicial assistance in obtaining testimony (the "Subpoenaing Party") shall provide at least five (5)
 16 days advance notice to Contact Attorneys in each Pending Case. Other Parties shall be entitled to
 17 join the Subpoenaing Party's notice, subpoena, or request by notice to Contact Attorneys in each
 18 Pending Case within such five (5) day period. The other Parties also will be entitled to add topics to
 19 any 30(b)(6) or similar subpoena or notice by issuing their own Rule 30(b)(6) notice. The Parties
 20 shall make reasonable good-faith efforts to coordinate the scheduling of the deposition with each
 21 other and with any Non-Party witness, provided, however, that no Party may unreasonably delay a
 22 deposition.

23 9. For Party depositions, prior to issuing a notice for a date certain, the noticing Party shall
 24 notify the Contact Attorneys for all Parties of its intent to depose a particular witness, and request

25 ¹ Pending the resolution of any such Non-Party objection to production across the Pending Cases,
 26 the Issuing Party shall nonetheless provide a copy of all materials to the other side within the
 27 Pending Case in which the subpoena or request was issued, in accordance with the applicable
 28 protective order, within five (5) calendar days after receipt of the materials from the Non-Party, to
 the extent the Non-Party has not already done so.

1 available dates for the witness from counsel for the Party whose witness's deposition is sought.
2 Within seven (7) business days of receiving the request, the Party to whom such a request is made
3 shall provide three (3) proposed deposition dates, provided, however, that this deadline shall be
4 extended to twelve (12) business days if a noticing Party has more than five deposition date requests
5 to another Party outstanding at the time such request is made. The noticing Party shall use its best
6 efforts to schedule the deposition on a proposed deposition date mutually agreeable to all Parties.
7 The Party whose witness's deposition is sought shall retain its right to formally object (by motion for
8 protective order or otherwise) to the taking of a particular deposition or to the timing or scope of
9 such deposition.

10 10. Counsel in any of the Pending Cases shall be entitled to attend depositions noticed in each
11 Pending Case, so long as they are bound by the Protective Order entered in one of the Pending Cases.
12 Non-noticing counsel may ask questions and raise objections at depositions to the extent allowed
13 under the Federal Rules of Civil Procedure. Any Party may avail itself of any objection to the form
14 of a question made by any other Party properly in attendance at a deposition without the need to be
15 in attendance or express its joinder in the objection.

16 11. The time limits on depositions established by Fed. R. Civ. P. 30(d)(2) shall apply to all
17 depositions, except that in the event that a deposition of a non-party is noticed by multiple Parties,
18 the Parties agree that, absent good cause, they will not oppose an extension of the time limit for that
19 deposition to up to fourteen (14) hours. In any deposition of Qualcomm or a current or former
20 Qualcomm employee noticed in his or her individual capacity by the FTC and the MDL Plaintiffs,
21 the FTC and the MDL Plaintiffs shall be entitled to no more than eleven (11) hours of questioning
22 time, except that the parties may modify this limit by agreement or leave of Court.

23 12. A Party that was provided prior notice of a deposition in any Pending Case may not,
24 absent leave of Court, notice a second deposition of the same witness in a Pending Case.

25 13. Depositions subpoenaed, noticed, and/or taken in any of the Pending Cases shall be
26 treated as if they were obtained through discovery in each Pending Case.
27
28

PLEADINGS AND MOTIONS

14. Any Party that serves or has served a pleading or motion on another Party in any Pending case shall serve an unredacted copy of the pleading or motion on the Contact Attorneys in each Pending Case, subject if necessary to the Protective Orders in that case.

PROTECTION OF CONFIDENTIAL INFORMATION

15. The Protective Order in effect in each Pending Case is hereby modified to permit the disclosure and production of Protected Material (as defined therein) to each Party hereto, and the use of such material by each Party hereto, as if they were a Party to the Protective Order in each Pending Case.

16. The Protective Order in effect in each Pending Case shall govern the handling by the Parties to such Pending Case of protected material produced hereunder, and, unless modified by the designating party, confidentiality designations applied in one Pending Case shall apply in all Pending Cases.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: September 20, 2017

By: /s/ Jennifer Milici
Jennifer Milici
J. Alexander Ansaldo
Joseph R. Baker
Daniel Matheson
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
(202) 326-2912; (202) 326-3496 (fax)
jmilici@ftc.gov
jansaldo@ftc.gov
jbaker1@ftc.gov
dmatheson@ftc.gov

Lin W. Kahn, Cal. Bar No. 261387
FEDERAL TRADE COMMISSION
901 Market Street, Suite 570
San Francisco, CA 94103
(415) 848-5115; (415) 848-5184 (fax)
lkahn@ftc.gov

***Attorneys for Plaintiff Federal Trade
Commission in Case No. 17-cv-00220***

Dated: September 20, 2017

By: /s/ Kalpana Srinivasan
Kalpana Srinivasan
Marc M. Seltzer
Steven G. Sklaver
Amanda Bonn
Oleg Elkhunovich
SUSMAN GODFREY L.L.P.
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067
Telephone: (310) 789-3100
Facsimile: (310) 789-3006
Email: ksrinivasan@susmangodfrey.com
Email: mseltzer@susmangodfrey.com
Email: ssklaver@susmangodfrey.com
Email: abonn@susmangodfrey.com
Email: oelkhunovich@susmangodfrey.com

Joseph Grinstein
SUSMAN GODFREY L.L.P.
1000 Louisiana Street # 5100
Houston, TX 77002
Telephone: (713) 651-9366
Facsimile: (713) 654-6666
Email: jgrinstein@susmangodfrey.com

Steven N. Williams
Mark F. Ram
Joyce M. Chang
Brian Danitz
COTCHETT, PITRE & McCARTHY, LLP
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Telephone: (650) 697-6000
Facsimile: (650) 697-0577
Email: swilliams@cpmlegal.com
Email: mram@cpmlegal.com
Email: jchang@cpmlegal.com
Email: bdanitz@cpmlegal.com

***Plaintiffs' Interim Co-Lead Counsel in
Case No. 17-md-02773***

Steve W. Berman
HAGENS BERMAN SOBOL SHAPIRO
LLP
1918 Eighth Avenue, Suite 3300
Seattle, WA 98101
Telephone: (206) 268-9320
Facsimile: (206) 623-0594
Email: steve@hbsslaw.com

Jeff D. Friedman (173886)
Rio S. Pierce (298297)
HAGENS BERMAN SOBOL SHAPIRO
LLP
715 Hearst Avenue, Suite 202
Berkeley, CA 94710
Telephone: (510) 725-3000
Facsimile: (510) 725-3001
Email: jefff@hbsslaw.com
Email: riop@hbsslaw.com

***Plaintiffs' Steering Committee in Case No.
17-md-02773***

Dated: September 20, 2017

By: /s/ Gary A. Bornstein

Gary A. Bornstein
Yonatan Even
CRAVATH, SWAINE & MOORE LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019
Tel: (212) 474-1000
Fax: (212) 474-3700
gbornstein@cravath.com
yeven@cravath.com

Robert A. Van Nest
Asim M. Bhansali
Eugene M. Paige
Justina Sessions
David W. Rizk
Alexander Dryer
KEKER, VAN NEST & PETERS LLP
633 Battery Street
San Francisco, CA 94111-1809
Telephone: (415) 391-5400
Facsimile: (415) 397-7188
rvannest@keker.com
abhansali@keker.com
epaige@keker.com
jsessions@keker.com
drizk@keker.com
adryer@keker.com

1 Richard S. Taffet
2 MORGAN, LEWIS & BOCKIUS LLP
3 101 Park Avenue
4 New York, NY 10178-0060
5 Tel: (212) 309-6000
6 Fax: (212) 309-6001
7 richard.taffet@morganlewis.com

8 Willard K. Tom
9 MORGAN, LEWIS & BOCKIUS LLP
10 1111 Pennsylvania Ave. NW
11 Washington, DC 20004-2541
12 Tel: (202) 739-3000
13 Fax: (202) 739 3001
14 willard.tom@morganlewis.com

15 Donn P. Pickett
16 Geoffrey T. Holtz
17 MORGAN, LEWIS & BOCKIUS LLP
18 One Market, Spear Street Tower
19 San Francisco, CA 94105-1126
20 Tel: (415) 442-1000
21 Fax: (415) 442-1001
22 donn.pickett@morganlewis.com
23 geoffrey.holtz@morganlewis.com

24 ***Attorneys for Defendant Qualcomm***
25 ***Incorporated***

FILER'S ATTESTATION

I, Jennifer Milici, am the ECF user whose identification and password are being used to file this Joint Case Management Conference Statement. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that the signatories on this document have concurred in this filing.

/s/ Jennifer Milici

~~PROPOSED~~ DISCOVERY COORDINATION ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: September 22, 2017

Lucy H. Koh

SCHEDULE A

Federal Trade Commission v. Qualcomm Incorporated, Case No. 17-cv-00220-LHK-NMC

Plaintiff Federal Trade Commission

Jennifer Milici, jmilici@ftc.gov
J. Alexander Ansaldo, jansaldo@ftc.gov
Joseph R. Baker, jrbaker1@ftc.gov
Daniel Matheson, dmatheson@ftc.gov
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Defendant Qualcomm Incorporated

Gary A. Bornstein, gbornstein@cravath.com
Yonatan Even, yeven@cravath.com
Nicole M. Peles, npeles@cravath.com
CRAVATH, SWAINE & MOORE LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019

Robert A. Van Nest, rvannest@keker.com
Asim M. Bhansali, abhansali@keker.com
Eugene M. Paige, epaige@keker.com
Justina Sessions, jsessions@keker.com
David W. Rizk, drizk@keker.com
Alexander Dryer, adryer@keker.com
KEKER, VAN NEST & PETERS LLP
633 Battery Street
San Francisco, CA 94111-1809

Richard S. Taffet, richard.taffet@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, NY 10178-0060

Willard K. Tom, willard.tom@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Ave. NW
Washington, DC 20004-2541

Donn P. Pickett, donn.pickett@morganlewis.com
Geoffrey T. Holtz, geoffrey.holtz@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1126

In re Qualcomm Antitrust Litigation, Case No. 17-md-02773-LHK-NMC

Plaintiffs' Interim Co-Lead Counsel

Kalpana Srinivasan, ksrinivasan@susmangodfrey.com
Marc M. Seltzer, mseltzer@susmangodfrey.com
Steven G. Sklaver, ssklaver@susmangodfrey.com
Amanda Bonn, abonnn@susmangodfrey.com
Oleg Elkhunovich, oelkhunovich@susmangodfrey.com
SUSMAN GODFREY L.L.P.
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067

Joseph Grinstein, jgrinstein@susmangodfrey.com
SUSMAN GODFREY L.L.P.
1000 Louisiana Street # 5100
Houston, TX 77002

Steven N. Williams, swilliams@cpmlegal.com
Mark F. Ram, mram@cpmlegal.com
Joyce M. Chang, jchang@cpmlegal.com
Brian Danitz, bdanitz@cpmlegal.com
COTCHETT, PITRE & McCARTHY, LLP
840 Malcolm Road, Suite 200
Burlingame, CA 94010

Plaintiffs' Steering Committee

Steve W. Berman, steve@hbsslaw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
1918 Eighth Avenue, Suite 3300
Seattle, WA 98101

Jeff D. Friedman (173886), jefff@hbsslaw.com
Rio S. Pierce (298297), riop@hbsslaw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 202
Berkeley, CA 94710
Telephone: (510) 725-3000
Facsimile: (510) 725-3001

Defendant Qualcomm Incorporated

Gary A. Bornstein, gbornstein@cravath.com
Yonatan Even, yeven@cravath.com
Nicole M. Peles, npeles@cravath.com
CRAVATH, SWAINE & MOORE LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019

Robert A. Van Nest, rvannest@keker.com

1 Asim M. Bhansali, abhansali@keker.com
2 Eugene M. Paige, epaige@keker.com
3 Justina Sessions, jsessions@keker.com
4 David W. Rizk, drizk@keker.com
5 Alexander Dryer, adryer@keker.com
6 KEKER, VAN NEST & PETERS LLP
7 633 Battery Street
8 San Francisco, CA 94111-1809

9 Richard S. Taffet, richard.taffet@morganlewis.com
10 MORGAN, LEWIS & BOCKIUS LLP
11 101 Park Avenue
12 New York, NY 10178-0060

13 Willard K. Tom, willard.tom@morganlewis.com
14 MORGAN, LEWIS & BOCKIUS LLP
15 1111 Pennsylvania Ave. NW
16 Washington, DC 20004-2541

17 Donn P. Pickett, donn.pickett@morganlewis.com
18 Geoffrey T. Holtz, geoffrey.holtz@morganlewis.com
19 MORGAN, LEWIS & BOCKIUS LLP
20 One Market, Spear Street Tower
21 San Francisco, CA 94105-1126

EXHIBIT E

Jennifer Milici, D.C. Bar No. 987096
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
(202) 326-2912; (202) 326-3496 (fax)
jmilici@ftc.gov

Lin W. Kahn, Cal. Bar No. 261387
FEDERAL TRADE COMMISSION
901 Market Street, Suite 570
San Francisco, CA 94103
(415) 848-5115; (415) 848-5184 (fax)
lkahn@ftc.gov

Attorneys for Plaintiff Federal Trade Commission in Case No. 17-cv-00220-LHK-NMC

SUSMAN GODFREY L.L.P.
Kalpana Srinivasan (237460)
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067
(310) 789-3100; (310) 789-3006 (fax)
ksrinivasan@susmangodfrey.com

COTCHETT, PITRE & MCCARTHY
Steven N. Williams (175481)
840 Malcolm Road, Suite 200
Burlingame, CA 94010
(650) 697-6000; (650) 697-0577 (fax)
swilliams@cpmlegal.com

Plaintiffs' Interim Co-Lead Counsel in Case No. 17-md-02773-LHK-NMC

CRAVATH, SWAINE & MOORE LLP
Gary A. Bornstein (*pro hac vice*)
Yonatan Even (*pro hac vice*)
825 Eighth Avenue
New York, New York 10019-7475
(212) 474-1000; (212) 474-3700 (fax)
gbornstein@cravath.com
yeven@cravath.com

MORGAN, LEWIS & BOCKIUS LLP
Donn P. Pickett (SBN 72257)
Geoffrey T. Holtz (SBN 191370)
One Market, Spear Street Tower
San Francisco, CA 94105-1596
(415) 442-1000; (415) 442-1001 (fax)
donn.pickett@morganlewis.com
geoffrey.holtz@morganlewis.com

KEKER, VAN NEST & PETERS LLP
Robert A. Van Nest (SBN 84065)
633 Battery Street
San Francisco, CA 94111-1809
(415) 391-5400; (415) 397-7188 (fax)
rvannest@keker.com

Attorneys for Defendant Qualcomm Incorporated

Additional counsel listed on signature pages

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

QUALCOMM INCORPORATED, a
Delaware Corporation,

Defendant.

Case No. 17-cv-00220-LHK-NMC

IN RE: QUALCOMM ANTITRUST
LITIGATION

Case No. 17-md-02773-LHK-NMC

JOINT STIPULATION AND ~~PROPOSED~~ DISCOVERY COORDINATION ORDER

WHEREAS the Parties desire to minimize the burden and expense of duplicative discovery across cases;

WHEREAS the Parties agree that discovery in the above-captioned actions should be coordinated as provided herein; and

WHEREAS the Parties are continuing to meet and confer with each other and with Apple Inc. regarding the possibility of further coordination of discovery in the above-captioned actions with discovery in *Apple Inc. v. Qualcomm Incorporated*, Case No. 17-cv-00108-GPC (S.D. Cal.) and related cases;

THE PARTIES THEREFORE STIPULATE AND AGREE AS FOLLOWS:

1. For the purpose of this Order:
 - a. “Contact Attorneys” refers to counsel designated by each Party and identified on Schedule A.
 - b. “FTC” refers to the Federal Trade Commission.
 - c. “FTC Litigation” refers to *Federal Trade Commission v. Qualcomm Incorporated*, Case No. 17-cv-00220-LHK-NMC.
 - d. “MDL Litigation” refers to *In re Qualcomm Antitrust Litigation*, Case No. 17-md-02773-LHK-NMC, including all consolidated member cases (both current and any that may be transferred and consolidated in the future).
 - e. “MDL Plaintiffs” refers collectively to the plaintiffs named in any consolidated or member case in the MDL Litigation, including in any consolidated complaint that is filed in the MDL Litigation.
 - f. “Parties” refers collectively to the FTC, MDL Plaintiffs, and Qualcomm.

- g. “Party” refers to any of the FTC, MDL Plaintiffs, or Qualcomm.
- h. “Pending Cases” refers collectively to the FTC Litigation and MDL Litigation.
- i. “Protective Orders” refers to the Protective Order and Supplemental Protective Order in the FTC Litigation (ECF Nos. 81, 137) and the Protective Order in the MDL Litigation (ECF No. 46), in each case as may be supplemented and amended from time to time.
- j. “Qualcomm” refers to Qualcomm Incorporated.

2. Counsel for the Parties in each Pending Case shall be bound by this Order.

COORDINATION OF WRITTEN DISCOVERY

3. Any Party that serves or has served a written discovery request under Rule 31, 33, 34, or 36 on another Party in any of the Pending Cases shall provide a copy of the request to the Contact Attorneys in each Pending Case.

4. Any Party that responds or has responded to a written discovery request in any of the Pending Cases shall serve its response and produce any responsive materials to the Contact Attorneys in each Pending Case.

5. A Party (the “Issuing Party”) that serves, after issuance of this Order, a subpoena or other request (including any request for international judicial assistance) for the production of documents or other materials on a person or entity not a Party (“Non-Party”) to any Pending Case shall promptly (a) provide a copy of the subpoena or other request to all Contact Attorneys; (b) provide a copy of this Order and the Protective Orders in effect in each of the Pending Cases to the Non-Party; (c) notify the Non-Party that, pursuant to this Order, materials produced in response to such subpoena or other request will be produced in each Pending Case; and (d) request that the Non-Party simultaneously produce materials to the Contact Attorneys in each Pending Case. If, notwithstanding such request, the Non-Party does not produce the materials to the Contact Attorneys in each Pending Case, the issuing Party shall, as permitted by law, provide a copy of all materials produced pursuant to the subpoena or other request to the Contact Attorneys in each of the Pending Cases within five (5) calendar days after receipt of the materials from the Non-Party. If a Party has served a Non-Party subpoena or other document request prior to the issuance of this Order, the

1 Issuing Party will advise the Non-Party that the document production is to be shared across the
 2 Pending Cases and provide an opportunity of 10 (ten) days to object, and shall provide a copy of all
 3 materials produced pursuant to the subpoena or other request to the Contact Attorneys in each of the
 4 Pending Cases within five (5) calendar days after the later of (1) expiration of such ten (10) day
 5 period, or (2) the Party's receipt of materials from the Non-Party.¹ If a Party modifies or extends the
 6 time to respond to a Rule 45 document subpoena or other request in writing, it shall promptly inform
 7 Contact Attorneys in each Pending Case of that written extension or modification.

8 6. All written responses to discovery requests and subpoenas and materials provided in
 9 response to discovery requests and subpoenas in any Pending Case shall be treated as having been
 10 obtained through discovery in each Pending Case.

11 **COORDINATION OF DEPOSITIONS**

12 7. Pursuant to Fed. R. Civ. P. 30(a)(2)(A), leave is granted to all Parties to conduct in excess
 13 of ten (10) depositions per side.

14 8. A Party issuing a deposition notice or subpoena or seeking a request for international
 15 judicial assistance in obtaining testimony (the "Subpoenaing Party") shall provide at least five (5)
 16 days advance notice to Contact Attorneys in each Pending Case. Other Parties shall be entitled to
 17 join the Subpoenaing Party's notice, subpoena, or request by notice to Contact Attorneys in each
 18 Pending Case within such five (5) day period. The other Parties also will be entitled to add topics to
 19 any 30(b)(6) or similar subpoena or notice by issuing their own Rule 30(b)(6) notice. The Parties
 20 shall make reasonable good-faith efforts to coordinate the scheduling of the deposition with each
 21 other and with any Non-Party witness, provided, however, that no Party may unreasonably delay a
 22 deposition.

23 9. For Party depositions, prior to issuing a notice for a date certain, the noticing Party shall
 24 notify the Contact Attorneys for all Parties of its intent to depose a particular witness, and request

25 ¹ Pending the resolution of any such Non-Party objection to production across the Pending Cases,
 26 the Issuing Party shall nonetheless provide a copy of all materials to the other side within the
 27 Pending Case in which the subpoena or request was issued, in accordance with the applicable
 28 protective order, within five (5) calendar days after receipt of the materials from the Non-Party, to
 the extent the Non-Party has not already done so.

1 available dates for the witness from counsel for the Party whose witness's deposition is sought.
2 Within seven (7) business days of receiving the request, the Party to whom such a request is made
3 shall provide three (3) proposed deposition dates, provided, however, that this deadline shall be
4 extended to twelve (12) business days if a noticing Party has more than five deposition date requests
5 to another Party outstanding at the time such request is made. The noticing Party shall use its best
6 efforts to schedule the deposition on a proposed deposition date mutually agreeable to all Parties.
7 The Party whose witness's deposition is sought shall retain its right to formally object (by motion for
8 protective order or otherwise) to the taking of a particular deposition or to the timing or scope of
9 such deposition.

10 10. Counsel in any of the Pending Cases shall be entitled to attend depositions noticed in each
11 Pending Case, so long as they are bound by the Protective Order entered in one of the Pending Cases.
12 Non-noticing counsel may ask questions and raise objections at depositions to the extent allowed
13 under the Federal Rules of Civil Procedure. Any Party may avail itself of any objection to the form
14 of a question made by any other Party properly in attendance at a deposition without the need to be
15 in attendance or express its joinder in the objection.

16 11. The time limits on depositions established by Fed. R. Civ. P. 30(d)(2) shall apply to all
17 depositions, except that in the event that a deposition of a non-party is noticed by multiple Parties,
18 the Parties agree that, absent good cause, they will not oppose an extension of the time limit for that
19 deposition to up to fourteen (14) hours. In any deposition of Qualcomm or a current or former
20 Qualcomm employee noticed in his or her individual capacity by the FTC and the MDL Plaintiffs,
21 the FTC and the MDL Plaintiffs shall be entitled to no more than eleven (11) hours of questioning
22 time, except that the parties may modify this limit by agreement or leave of Court.

23 12. A Party that was provided prior notice of a deposition in any Pending Case may not,
24 absent leave of Court, notice a second deposition of the same witness in a Pending Case.

25 13. Depositions subpoenaed, noticed, and/or taken in any of the Pending Cases shall be
26 treated as if they were obtained through discovery in each Pending Case.
27
28

PLEADINGS AND MOTIONS

14. Any Party that serves or has served a pleading or motion on another Party in any Pending case shall serve an unredacted copy of the pleading or motion on the Contact Attorneys in each Pending Case, subject if necessary to the Protective Orders in that case.

PROTECTION OF CONFIDENTIAL INFORMATION

15. The Protective Order in effect in each Pending Case is hereby modified to permit the disclosure and production of Protected Material (as defined therein) to each Party hereto, and the use of such material by each Party hereto, as if they were a Party to the Protective Order in each Pending Case.

16. The Protective Order in effect in each Pending Case shall govern the handling by the Parties to such Pending Case of protected material produced hereunder, and, unless modified by the designating party, confidentiality designations applied in one Pending Case shall apply in all Pending Cases.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: September 20, 2017

By: /s/ Jennifer Milici
Jennifer Milici
J. Alexander Ansaldo
Joseph R. Baker
Daniel Matheson
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
(202) 326-2912; (202) 326-3496 (fax)
jmilici@ftc.gov
jansaldo@ftc.gov
jbaker1@ftc.gov
dmatheson@ftc.gov

Lin W. Kahn, Cal. Bar No. 261387
FEDERAL TRADE COMMISSION
901 Market Street, Suite 570
San Francisco, CA 94103
(415) 848-5115; (415) 848-5184 (fax)
lkahn@ftc.gov

***Attorneys for Plaintiff Federal Trade
Commission in Case No. 17-cv-00220***

Dated: September 20, 2017

By: /s/ Kalpana Srinivasan
Kalpana Srinivasan
Marc M. Seltzer
Steven G. Sklaver
Amanda Bonn
Oleg Elkhunovich
SUSMAN GODFREY L.L.P.
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067
Telephone: (310) 789-3100
Facsimile: (310) 789-3006
Email: ksrinivasan@susmangodfrey.com
Email: mseltzer@susmangodfrey.com
Email: ssklaver@susmangodfrey.com
Email: abonn@susmangodfrey.com
Email: oelkhunovich@susmangodfrey.com

Joseph Grinstein
SUSMAN GODFREY L.L.P.
1000 Louisiana Street # 5100
Houston, TX 77002
Telephone: (713) 651-9366
Facsimile: (713) 654-6666
Email: jgrinstein@susmangodfrey.com

Steven N. Williams
Mark F. Ram
Joyce M. Chang
Brian Danitz
COTCHETT, PITRE & McCARTHY, LLP
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Telephone: (650) 697-6000
Facsimile: (650) 697-0577
Email: swilliams@cpmlegal.com
Email: mram@cpmlegal.com
Email: jchang@cpmlegal.com
Email: bdanitz@cpmlegal.com

***Plaintiffs' Interim Co-Lead Counsel in
Case No. 17-md-02773***

Steve W. Berman
HAGENS BERMAN SOBOL SHAPIRO
LLP
1918 Eighth Avenue, Suite 3300
Seattle, WA 98101
Telephone: (206) 268-9320
Facsimile: (206) 623-0594
Email: steve@hbsslaw.com

Jeff D. Friedman (173886)
Rio S. Pierce (298297)
HAGENS BERMAN SOBOL SHAPIRO
LLP
715 Hearst Avenue, Suite 202
Berkeley, CA 94710
Telephone: (510) 725-3000
Facsimile: (510) 725-3001
Email: jefff@hbsslaw.com
Email: riop@hbsslaw.com

***Plaintiffs' Steering Committee in Case No.
17-md-02773***

Dated: September 20, 2017

By: /s/ Gary A. Bornstein

Gary A. Bornstein
Yonatan Even
CRAVATH, SWAINE & MOORE LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019
Tel: (212) 474-1000
Fax: (212) 474-3700
gbornstein@cravath.com
yeven@cravath.com

Robert A. Van Nest
Asim M. Bhansali
Eugene M. Paige
Justina Sessions
David W. Rizk
Alexander Dryer
KEKER, VAN NEST & PETERS LLP
633 Battery Street
San Francisco, CA 94111-1809
Telephone: (415) 391-5400
Facsimile: (415) 397-7188
rvannest@keker.com
abhansali@keker.com
epaige@keker.com
jsessions@keker.com
drizk@keker.com
adryer@keker.com

1 Richard S. Taffet
2 MORGAN, LEWIS & BOCKIUS LLP
3 101 Park Avenue
4 New York, NY 10178-0060
5 Tel: (212) 309-6000
6 Fax: (212) 309-6001
7 richard.taffet@morganlewis.com

8 Willard K. Tom
9 MORGAN, LEWIS & BOCKIUS LLP
10 1111 Pennsylvania Ave. NW
11 Washington, DC 20004-2541
12 Tel: (202) 739-3000
13 Fax: (202) 739 3001
14 willard.tom@morganlewis.com

15 Donn P. Pickett
16 Geoffrey T. Holtz
17 MORGAN, LEWIS & BOCKIUS LLP
18 One Market, Spear Street Tower
19 San Francisco, CA 94105-1126
20 Tel: (415) 442-1000
21 Fax: (415) 442-1001
22 donn.pickett@morganlewis.com
23 geoffrey.holtz@morganlewis.com

24 ***Attorneys for Defendant Qualcomm***
25 ***Incorporated***
26
27
28

FILER'S ATTESTATION

I, Jennifer Milici, am the ECF user whose identification and password are being used to file this Joint Case Management Conference Statement. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that the signatories on this document have concurred in this filing.

/s/ Jennifer Milici

~~PROPOSED~~ DISCOVERY COORDINATION ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: September 22, 2017

Lucy H. Koh

SCHEDULE A

Federal Trade Commission v. Qualcomm Incorporated, Case No. 17-cv-00220-LHK-NMC

Plaintiff Federal Trade Commission

Jennifer Milici, jmilici@ftc.gov
J. Alexander Ansaldo, jansaldo@ftc.gov
Joseph R. Baker, jbaker1@ftc.gov
Daniel Matheson, dmatheson@ftc.gov
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Defendant Qualcomm Incorporated

Gary A. Bornstein, gbornstein@cravath.com
Yonatan Even, yeven@cravath.com
Nicole M. Peles, npeles@cravath.com
CRAVATH, SWAINE & MOORE LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019

Robert A. Van Nest, rvannest@keker.com
Asim M. Bhansali, abhansali@keker.com
Eugene M. Paige, epaige@keker.com
Justina Sessions, jsessions@keker.com
David W. Rizk, drizk@keker.com
Alexander Dryer, adryer@keker.com
KEKER, VAN NEST & PETERS LLP
633 Battery Street
San Francisco, CA 94111-1809

Richard S. Taffet, richard.taffet@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, NY 10178-0060

Willard K. Tom, willard.tom@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Ave. NW
Washington, DC 20004-2541

Donn P. Pickett, donn.pickett@morganlewis.com
Geoffrey T. Holtz, geoffrey.holtz@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1126

In re Qualcomm Antitrust Litigation, Case No. 17-md-02773-LHK-NMC

Plaintiffs' Interim Co-Lead Counsel

Kalpana Srinivasan, ksrinivasan@susmangodfrey.com
Marc M. Seltzer, mseltzer@susmangodfrey.com
Steven G. Sklaver, ssklaver@susmangodfrey.com
Amanda Bonn, abonnn@susmangodfrey.com
Oleg Elkhunovich, oelkhunovich@susmangodfrey.com
SUSMAN GODFREY L.L.P.
1901 Avenue of the Stars, Suite 950
Los Angeles, CA 90067

Joseph Grinstein, jgrinstein@susmangodfrey.com
SUSMAN GODFREY L.L.P.
1000 Louisiana Street # 5100
Houston, TX 77002

Steven N. Williams, swilliams@cpmlegal.com
Mark F. Ram, mram@cpmlegal.com
Joyce M. Chang, jchang@cpmlegal.com
Brian Danitz, bdanitz@cpmlegal.com
COTCHETT, PITRE & McCARTHY, LLP
840 Malcolm Road, Suite 200
Burlingame, CA 94010

Plaintiffs' Steering Committee

Steve W. Berman, steve@hbsslaw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
1918 Eighth Avenue, Suite 3300
Seattle, WA 98101

Jeff D. Friedman (173886), jefff@hbsslaw.com
Rio S. Pierce (298297), riop@hbsslaw.com
HAGENS BERMAN SOBOL SHAPIRO LLP
715 Hearst Avenue, Suite 202
Berkeley, CA 94710
Telephone: (510) 725-3000
Facsimile: (510) 725-3001

Defendant Qualcomm Incorporated

Gary A. Bornstein, gbornstein@cravath.com
Yonatan Even, yeven@cravath.com
Nicole M. Peles, npeles@cravath.com
CRAVATH, SWAINE & MOORE LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019

Robert A. Van Nest, rvannest@keker.com

1 Asim M. Bhansali, abhansali@keker.com
Eugene M. Paige, epaige@keker.com
2 Justina Sessions, jsessions@keker.com
David W. Rizk, drizk@keker.com
3 Alexander Dryer, adryer@keker.com
KEKER, VAN NEST & PETERS LLP
633 Battery Street
4 San Francisco, CA 94111-1809

5 Richard S. Taffet, richard.taffet@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
6 101 Park Avenue
New York, NY 10178-0060
7

8 Willard K. Tom, willard.tom@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Ave. NW
9 Washington, DC 20004-2541

10 Donn P. Pickett, donn.pickett@morganlewis.com
Geoffrey T. Holtz, geoffrey.holtz@morganlewis.com
11 MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
12 San Francisco, CA 94105-1126
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT F

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

QUALCOMM INCORPORATED, a
Delaware Corporation,

Defendant.

Case No. 17-cv-00220-LHK-NMC

IN RE: QUALCOMM ANTITRUST
LITIGATION

Case No. 17-md-02773-LHK-NMC

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

IN RE: QUALCOMM LITIGATION

Case No. 3:17-cv-00108-GPC-MDD

JOINT STIPULATION AND DISCOVERY COORDINATION ORDER

WHEREAS the Parties desire to minimize the burden and expense of duplicative fact discovery across cases (without limiting or otherwise modifying the appropriate topics of discovery in each case); and

WHEREAS the Parties agree that fact discovery in the above-captioned actions should be coordinated as provided herein;

THE PARTIES THEREFORE STIPULATE AND AGREE AS FOLLOWS:

1. For the purpose of this Order:

- a. “Apple” refers to Apple Inc.
- b. “CMs” refers to Compal Electronics, Inc., FIH Mobile Ltd., Hon Hai Precision Industry Co., Ltd., Pegatron Corporation, and Wistron Corporation.
- c. “Contact Attorneys” refers to counsel designated by each Party and identified on Schedule A.
- d. “FTC” refers to the Federal Trade Commission.
- e. “FTC Litigation” refers to *Federal Trade Commission v. Qualcomm Incorporated*, Case No. 17-cv-00220-LHK (N.D. Cal.).
- f. “MDL Litigation” refers to *In re Qualcomm Antitrust Litigation*, Case No. 17-md-02773-LHK (N.D. Cal.), including all consolidated member cases (both current and any that may be transferred and consolidated in the future).
- g. “MDL Plaintiffs” refers collectively to the plaintiffs named in any consolidated or member case in the MDL Litigation, including in any consolidated complaint that is filed in the MDL Litigation.
- h. “ND Cal Litigation” refers collectively to the FTC Litigation and MDL Litigation.
- i. “Patents-In-Suit” means “Original Patents-in-Suit” as defined in the First Amended Complaint in the SD Cal Litigation (ECF No. 83).
- j. “Parties” or “Party” refers to the FTC, MDL Plaintiffs, Apple, the CMs, and Qualcomm.
- k. “Pending Cases” refers collectively to the FTC Litigation, the MDL Litigation, and the SD Cal Litigation.
- l. “Protective Orders” refers to the Protective Order and Supplemental Protective Orders in the FTC Litigation (ECF Nos. 81, 137, 205, 220, 230, 306, 324, 371, 374, 384, 388, 392, 393, 410, 420, 430 and 447), the Protective Order and Supplemental Protective Orders in the MDL Litigation (ECF Nos. 46, 86, 148, 149, 182, 197, 211, 213, 216, 218, 221, 244, 249 and 259), and the Protective Order in the SD Cal Litigation (ECF No. 163), in each case as may be supplemented and amended from time to time.

m. “Qualcomm” refers to Qualcomm Incorporated.

n. “SD Cal Litigation” refers to the consolidated cases *Apple Inc. v. Qualcomm Incorporated*, Case No. 17-cv-00108-GPC (S.D. Cal.) and *Qualcomm Incorporated v. Compal Electronics, Inc., FIH Mobile Ltd., Hon Hai Precision Industry Co., Ltd., Pegatron Corporation, and Wistron Corporation*, Case No. 17-cv-01010-GPC (S.D. Cal.).

2. Counsel for the Parties in each Pending Case shall be bound by this Order.

COORDINATION OF WRITTEN DISCOVERY

3. Any Party that serves or has served a written discovery request under Rule 31, 33, 34, or 36 on another Party in any of the Pending Cases shall provide a copy of the request to the Contact Attorneys in each Pending Case, except insofar as such requests are served in the SD Cal Litigation and relate solely to claims concerning the Patents-In-Suit in the SD Cal Litigation.
4. Any Party that responds or has responded to a written discovery request in any of the Pending Cases shall serve its response and produce any responsive materials to the Contact Attorneys in each Pending Case, except insofar as such requests are served in the SD Cal Litigation and relate solely to claims concerning the Patents-In-Suit in the SD Cal Litigation.
5. A Party (the “Issuing Party”) that serves, after issuance of this Order, a subpoena or other request (including any request for international judicial assistance) for the production of documents or other materials on a person or entity not a Party (“Non-Party”) to any Pending Case shall promptly (a) provide a copy of the subpoena or other request to all Contact Attorneys; (b) provide a copy of this Order and the Protective Orders in effect in each of the Pending Cases to the Non-Party; (c) notify the Non-Party that, pursuant to this Order, materials produced in response to such subpoena or other request will be produced in each Pending Case, and (d) request that the Non-Party simultaneously produce materials to the Contact Attorneys in each Pending Case. If, notwithstanding such request, the Non-Party does not produce the materials to the Contact Attorneys in each Pending Case, the issuing

Party shall, as permitted by law, provide a copy of all materials produced pursuant to the subpoena or other request to the Contact Attorneys in each of the Pending Cases within five (5) calendar days after receipt of the materials from the Non-Party. If a Party has served a Non-Party subpoena or other document request prior to the issuance of this Order, the Issuing Party will provide a copy of the subpoena or other request to all Contact Attorneys, advise the Non-Party that the document production is to be shared across the Pending Cases and provide an opportunity of ten (10) days to object, and shall provide a copy of all materials produced pursuant to the subpoena or other request to the Contact Attorneys in each of the Pending Cases within five (5) calendar days after the later of (1) expiration of such ten (10) day period, or (2) the Party's receipt of materials from the Non-Party. If a Party modifies or extends the time to respond to a Rule 45 document subpoena in writing, it shall promptly inform Contact Attorneys in each Pending Case of that written extension or modification. This paragraph shall not apply to a subpoena or other request served in the SD Cal Litigation that relates solely to claims concerning the Patents-In-Suit in the SD Cal Litigation.

6. All written responses to discovery requests and subpoenas and materials provided in response to discovery requests and subpoenas in any Pending Case shall be treated as having been obtained through discovery in each Pending Case, except insofar as such responses and materials relate solely to claims concerning the Patents-In-Suit in the SD Cal Litigation. Any such materials shall be clearly designated "SD Cal Litigation Only."

COORDINATION OF DEPOSITIONS

7. Pursuant to Fed. R. Civ. P. 30(a)(2)(A), leave is granted to all Parties to conduct in excess of ten (10) depositions per side, provided that nothing in this Order shall prevent the FTC and Qualcomm from entry into an agreement limiting the number of depositions to be noticed or deemed taken in the FTC Litigation, or from seeking a court order imposing such a limitation. For avoidance of doubt, this order supplants the deposition hours limitations set forth in the September 11, 2017 Order Granting Joint Motion for Approval of Stipulation Regarding Scheduling and Discovery Matters in the SD Cal Litigation ("September 11, 2017

Order”), except insofar as a deposition relates solely to claims concerning the Patents-In-Suit in the SD Cal Litigation, in which case the party noticing the deposition shall so indicate in such notice and the September 11, 2017 Order will apply.

8. Depositions subpoenaed, noticed, and/or taken in any of the Pending Cases shall be treated as if they were noticed and taken in each Pending Case (to the extent, absent agreement of the parties or leave of court, the deposition is taken during the court-ordered discovery period for the particular Pending Case), except insofar as a deposition relates solely to claims concerning the Patents-in-Suit in the SD Cal Litigation, in which case the party noticing the deposition shall indicate in such notice and/or during such deposition; provided that, absent a Court order or agreement of the FTC and Qualcomm to the contrary, only depositions noticed in the FTC Litigation shall be treated as having been noticed and taken in the FTC Litigation.
9. A Party issuing a deposition notice or subpoena or seeking a request for international judicial assistance in obtaining testimony of any non-Party witness (the “Subpoenaing Party”) shall provide at least five (5) days advance notice to Contact Attorneys in each Pending Case. Other Parties shall be entitled to join the Subpoenaing Party’s notice, subpoena, or request by notice to Contact Attorneys in each Pending Case within such five (5) day period. The Parties also will preserve the right to add topics to any 30(b)(6) or similar subpoena or notice. The Parties shall make reasonable good-faith efforts to coordinate the scheduling of the deposition with each other and with any Non-Party witness, provided, however, that no Party may unreasonably delay a deposition.
10. For Party depositions, prior to issuing a notice for a date certain, the noticing Party shall notify the Contact Attorneys for all Parties of its intent to depose a particular witness, and request available dates for the witness from counsel for the Party whose witness’s deposition is sought. Within seven (7) days of receiving the request, the Party to whom such a request is made shall provide at least one (1) proposed deposition date (*i.e.*, one (1) set of two (2) days for a fourteen (14) hour deposition) and use good faith efforts to provide two (2) proposed deposition dates. For depositions of witnesses requested after entry of this Order, if any Party

proposes only one (1) deposition date for a particular witness, it shall not propose any date that would require more than one (1) of its other witnesses to be deposed on the same date, absent agreement of all Parties. If other Parties intend to depose the same witness, they must provide notice to the Contact Attorneys for all Parties of such intent within seven (7) days of being notified that such witness's deposition is being sought.¹ If the Party whose witness is being sought for deposition is informed that multiple Parties intend to depose that witness, that Party shall provide deposition dates with sufficient time for questioning by multiple Parties. The noticing Party or Parties shall use their best efforts to schedule the deposition on a proposed deposition date mutually agreeable to all Parties. The Party whose witness's deposition is sought shall retain its right to formally object (by motion for protective order or otherwise) to the taking of a particular deposition or to the timing or scope of such deposition.

11. Counsel in any of the Pending Cases shall be entitled to attend depositions noticed in each Pending Case, so long as they agree to be bound by the Protective Order entered in one of the Pending Cases, except insofar as such depositions relate solely to claims concerning the Patents-In-Suit in the SD Cal Litigation, in which case only counsel for Parties to the SD Cal Litigation may attend. A Party's in-house counsel bound by a protective order may attend depositions of its current or former employees, and if the examining party intends to ask questions about information produced in discovery that has been designated for outside counsel only, the examining party shall indicate that it intends to ask about information so designated, allowing the in-house counsel to excuse himself or herself for that portion of the examination. Non-noticing counsel may ask questions and raise objections at depositions to the extent allowed under the Federal Rules of Civil Procedure. The Parties shall meet and confer in advance of each deposition to allocate deposition time, if necessary, and attempt to coordinate a single Party to make objections. Any Party may avail itself of any objection to

¹ Note, for any deposition notice issued prior to the filing of this Proposed Order, the seven day notice period starts from the filing of this Proposed Order.

the form of a question made by any other Party properly in attendance at a deposition without the need to be in attendance or express its joinder in the objection.

12. The time limits on depositions established by Fed. R. Civ. P. 30(d)(1) shall apply to all depositions, except that in the event that a deposition of a Non-Party is noticed in both the ND Cal Litigation and the SD Cal Litigation, the Parties agree that, absent good cause, they will not oppose an extension of the time limit for that deposition to up to fourteen (14) hours of on-the-record questioning time. In any deposition of Qualcomm or a current or former Qualcomm employee in his or her individual capacity noticed in both the ND Cal Litigation and the SD Cal Litigation, the deposition time limit shall be extended to up to fourteen (14) hours of on-the-record questioning time in total. In any deposition of Apple or a current or former Apple employee in his or her individual capacity, or in any deposition of a CM or a current or a former CM employee in his or her individual capacity noticed in both the ND Cal Litigation and the SD Cal Litigation, the deposition time limit shall be extended to up to fourteen (14) hours of on-the-record time in total.

13. A Party that was provided prior notice of a deposition (other than a deposition pursuant to Fed. R. Civ. P. 30(b)(6)) in any Pending Case and did not make a contemporaneous request to depose the witness may not, absent leave of Court, notice a second deposition of the same witness in a Pending Case.

14. Notwithstanding the foregoing, to the extent documents relating to a Party's witness are produced by that Party either within the two week period prior to the commencement of a witness's deposition or after the commencement or completion of such witness's deposition, and such documents are material and non-cumulative of documents previously produced, the parties shall as soon as practicable meet and confer to discuss whether to reschedule the deposition, or re-open the deposition (to the extent it has already occurred). If the parties are unable to agree, they shall jointly present the issue to the Court for resolution. With respect to depositions of Apple or CM witnesses, this Paragraph supersedes the fourth sentence of

Paragraph 8(b) of the Stipulated Order Re: Discovery of Electronically Stored Information and Related Discovery Matters in the FTC Litigation (ECF No. 142).

PLEADINGS AND MOTIONS

15. Any Party that serves or has served a pleading or motion on another Party in any Pending case shall serve an unredacted copy of the pleading or motion on the Contact Attorneys in each Pending Case, subject if necessary to the Protective Orders in those cases. This paragraph shall not apply to pleadings or motions served in the SD Cal Litigation that relate solely to claims concerning the Patents-In-Suit in the SD Cal Litigation.

PROTECTION OF CONFIDENTIAL INFORMATION

16. The Protective Order in effect in each Pending Case is hereby modified to permit the disclosure and production of Protected Material (as defined therein) to the Contact Attorneys in each Pending Case, and the further use and disclosure of such material by each Party hereto in accordance with the Protective Order(s), including any Supplemental Protective Order(s), in each Pending Case to which it is a Party.

17. The Protective Order or Supplemental Protective Order(s) in effect in each Pending Case shall govern the handling by the Parties to such Pending Case of protected material produced hereunder, and, unless modified by the designating party, confidentiality designations applied in one Pending Case shall apply in all Pending Cases. To the extent there are conflicts among the Protective Orders or Supplemental Protective Order(s) regarding the individual employees of a Party who may access Protected Material, the Protective Order or Supplemental Protective Order that applied to the original production of a particular document designated as Protected Material shall control.

18. Effective upon its entry in all of the Pending Cases, this Order shall supersede in its entirety the Joint Stipulation and Discovery Coordination Order currently in effect in the FTC Litigation (ECF No. 207) and the MDL Litigation (ECF No. 131).

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

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3
4 Dated: January 22, 2018

5 By: /s/ Jennifer Milici
6 Jennifer Milici, D.C. Bar No. 987096
7 Federal Trade Commission
8 600 Pennsylvania Avenue, N.W.
9 Washington, D.C. 20580
(202) 326-2912; (202) 326-3496 (fax)
jmilici@ftc.gov

10
11 ***Attorney for Plaintiff FEDERAL TRADE***
12 ***COMMISSION***

13 Dated: January 22, 2018

14
15 By: /s/ Kalpana Srinivasan
16 Kalpana Srinivasan
17 Marc M. Seltzer
18 Steven G. Sklaver
19 Amanda Bonn
20 Oleg Elkhunovich
21 Krysta Kauble Pachman
22 SUSMAN GODFREY L.L.P.
1900 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067
Telephone: (310) 789-3100
Facsimile: (310) 789-3006
Email: ksrinivasan@susmangodfrey.com
Email: mmseltzer@susmangodfrey.com
Email: ssklaver@susmangodfrey.com
Email: abonn@susmangodfrey.com
Email: oelkhunovich@susmangodfrey.com
Email: kpachman@susmangodfrey.com

23
24
25 Joseph Grinstein
26 SUSMAN GODFREY L.L.P.
1000 Louisiana Street # 5100
Houston, TX 77002
27 Telephone: (713) 651-9366
Facsimile: (713) 654-6666
28 Email: jgrinstein@susmangodfrey.com

1 Joseph W. Cotchett
2 Adam J. Zapala
3 Brian Danitz
4 Mark F. Ram
5 Michael A. Montano
6 Toriana S. Holmes
7 COTCHETT, PITRE & MCCARTHY
8 840 Malcolm Road, Suite 200
9 Burlingame, CA 94010
10 Telephone: (650) 697-6000
11 Facsimile: (650) 697-0577
12 Email: jcotchett@cpmlegal.com
13 Email: azapala@cpmlegal.com
14 Email: bdanitz@cpmlegal.com
15 Email: mram@cpmlegal.com
16 Email: mmontano@cpmlegal.com
17 Email: tholmes@cpmlegal.com

18 ***Plaintiffs' Co-Lead Counsel***

19 Steve W. Berman
20 Jeff Friedman
21 Rio Pierce
22 HAGENS BERMAN SOBOL SHAPIRO
23 LLP
24 1918 Eighth Avenue, Suite 3300
25 Seattle, WA 98101
26 Telephone: (206) 268-9320
27 Facsimile: (206) 623-0594
28 Email: steve@hbsslaw.com
Email: jefff@hbsslaw.com
Email: riop@hbsslaw.com

Plaintiffs' Steering Committee

29 Dated: January 22, 2018

30 By: /s/ Seth M. Sproul

31 Juanita R. Brooks (SBN 75934)
32 Seth M. Sproul (SBN 217711)
33 FISH & RICHARDSON P.C.
34 12390 El Caamino Real
35 San Diego, CA 92130
36 Telephone: 858-678-5070
37 Facsimile: 858-678-5099
38 Email: brooks@fr.com
Email: sproul@fr.com

Ruffin B. Cordell (admitted *pro hac vice*)
Lauren A. Degnam (admitted *pro hac vice*)
FISH & RICHARDSON P.C.
The McPherson Building
901 15th Street, N.W., 7th Floor
Washington, D.C. 20005
Telephone: 202-783-5070
Facsimile: 202-783-2331
Email: cordell@fr.com
Email: degnan@fr.com

William A. Isaacson (admitted *pro hac vice*)
Karen L. Dunn (admitted *pro hac vice*)
Amy J. Mauser (admitted *pro hac vice*)
BOIES SCHILLER FLEXNER LLP
1401 New York Avenue, N.W.
Washington, D.C. 20005
Telephone: 202-237-2727
Facsimile: 202-237-6131
Email: wisaacson@bsflp.com
Email: kdunn@bsflp.com
Email: amauser@bsflp.com

Attorneys for APPLE INC.

Dated: January 22, 2018

By: /s/ Jason C. Lo

Theodore J. Boutrous, Jr. (SBN 132099)
Daniel G. Swanson (SBN 116556)
Jason C. Lo (SBN 219030)
Jennifer J. Rho (SBN 254312)
Melissa Phan (SBN 266880)
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071
Telephone: (213) 229-7000
Facsimile: (213) 229-7520
Email: tboutrous@gibsondunn.com
Email: dswanson@gibsondunn.com
Email: jlo@gibsondunn.com
Email: jrho@gibsondunn.com
Email: mphan@gibsondunn.com

Cynthia E. Richman (admitted *pro hac vice*)
GIBSON, DUNN & CRUTCHER LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Telephone: (202) 955-8500
Facsimile: (202) 467-0539

Email: crichman@gibsondunn.com

***Attorneys for COMPAL ELECTRONICS,
INC., FIH MOBILE LTD., HON HAI
PRECISION INDUSTRY CO., LTD.,
PEGATRON CORPORATION, and
WISTRON CORPORATION***

Hugh F. Bangasser (admitted *pro hac vice*)
Christopher M. Wyatt (admitted *pro hac*
vice)

J. Timothy Hobbs (admitted *pro hac vice*)

K&L GATES LLP

925 Fourth Avenue, Suite 2900

Seattle, WA 98104

Telephone: 206-623-7580

Facsimile: 206-370-6371

Email: hugh.bangasser@klgates.com

Email: tim.hobbs@klgates.com

Attorneys for WISTRON CORPORATION

Dated: January 22, 2018

By: /s/ Evan R. Chesler

Evan R. Chesler

Richard J. Stark

Antony L. Ryan

Gary A. Bornstein

J. Wesley Earnhardt

Yonatan Even

Vanessa A. Lavelly

CRAVATH, SWAINE & MOORE LLP

Worldwide Plaza

825 Eighth Avenue

New York, NY 10019

Tel: (212) 474-1000

Fax: (212) 474-3700

echesler@cravath.com

rstark@cravath.com

aryan@cravath.com

gbornstein@cravath.com

wearnhardt@cravath.com

yeven@cravath.com

vlavelly@cravath.com

Karen P. Hewitt

Randall E. Kay

Kelly V. O'Donnell

JONES DAY
4655 Executive Drive, Suite 1500
San Diego, California 92121
Tel: (858) 314-1200
Fax: (844) 345-3178
kphewitt@jonesday.com
rekay@jonesday.com
kodonnell@jonesday.com

Robert A. Van Nest
Asim M. Bhansali
Eugene M. Paige
Matan Shacham
Justina Sessions
David W. Rizk
Alexander Dryer
KEKER, VAN NEST & PETERS LLP
633 Battery Street
San Francisco, CA 94111
Tel: (415) 391-5400
Fax: (415) 397-7188
rvannest@keker.com
abhansali@keker.com
epaige@keker.com
mshacham@keker.com
jsessions@keker.com
drizk@keker.com
adryer@keker.com

Richard S. Taffet
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, NY 10178-0060
Tel: (212) 309-6000
Fax: (212) 309-6001
richard.taffet@morganlewis.com

Willard K. Tom
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Ave. NW
Washington, DC 20004-2541
Tel: (202) 739-3000
Fax: (202) 739 3001
willard.tom@morganlewis.com

Donn P. Pickett
Geoffrey T. Holtz
MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1126
Tel: (415) 442-1000
Fax: (415) 442-1001
donn.pickett@morganlewis.com
geoffrey.holtz@morganlewis.com

Richard S. Zembek
Daniel S. Leventhal
Talbot Hansum
Eric B. Hall
NORTON ROSE FULBRIGHT US LLP
1301 McKinney, Suite 5100
Houston, Texas 77010
Tel: (713) 651-5151
richard.zembek@nortonrosefulbright.com
daniel.leventhal@nortonrosefulbright.com
talbot.hansum@nortonrosefulbright.com
eric.hall@nortonrosefulbright.com

David A. Nelson
Stephen Swedlow
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
500 West Madison St., Suite 2450
Chicago, Illinois 60661
Tel: (312) 705-7400
Fax: (312) 705-7401
davenelson@quinnemanuel.com
stephenswedlow@quinnemanuel.com

Alexander Rudis
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
51 Madison Ave., 22nd Floor
New York, NY 10010
Tel: (212) 849-7000
Fax: (212) 849-7100
alexanderrudis@quinnemanuel.com

Sean S. Pak
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
50 California St., 22nd Floor
San Francisco, California 94111
Tel: (415) 875-6600
Fax: (415) 875-6700
seanpak@quinnemanuel.com

**Attorneys for QUALCOMM
INCORPORATED**

1 PURSUANT TO STIPULATION, IT IS SO ORDERED.

2
3 DATED:

1/24/18

Lucy H. Koh

Honorable Lucy H. Koh
United States District Judge

4
5
6
7
8 DATED:

01/24/18

Gonzalo P. Curiel

Honorable Gonzalo P. Curiel
United States District Judge

SCHEDULE A

Federal Trade Commission v. Qualcomm Incorporated, Case No. 17-cv-00220-LHK (N.D. Cal.)

Plaintiff Federal Trade Commission

Jennifer Milici, jmilici@ftc.gov
J. Alexander Ansaldo, jansaldo@ftc.gov
Joseph R. Baker, jbaker1@ftc.gov
Wesley G. Carson, wcarson@ftc.gov
Elizabeth A. Gillen, egillen@ftc.gov
Daniel Matheson, dmatheson@ftc.gov
FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Defendant Qualcomm Incorporated

Gary A. Bornstein, gbornstein@cravath.com
J. Wesley Earnhardt, wearnhardt@cravath.com
Yonatan Even, yeven@cravath.com
Vanessa A. Lavelly, vlavelly@cravath.com
Stefan H. Atkinson, satkinson@cravath.com
James W. Carlson, jcarlson@cravath.com
CRAVATH, SWAINE & MOORE LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019

Robert A. Van Nest, rvannest@keker.com
Asim M. Bhansali, abhansali@keker.com
Eugene M. Paige, epaige@keker.com
Matan Shacham, mshacham@keker.com
Justina Sessions, jsessions@keker.com
David W. Rizk, drizk@keker.com
Alexander Dryer, adryer@keker.com
KEKER, VAN NEST, & PETERS LLP
633 Battery Street
San Francisco, CA 94111-1809

Richard S. Taffet, richard.taffet@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
101 Park Avenue
New York, NY 10178-0060

Willard K. Tom, willard.tom@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Ave. NW
Washington, DC 20004-2541

Donn P. Pickett, donn.pickett@morganlewis.com
Geoffrey T. Holtz, geoffrey.holtz@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1126

Richard S. Zembek, richard.zembek@nortonrosefulbright.com
Daniel S. Leventhal, daniel.leventhal@nortonrosefulbright.com
Talbot Hansum, talbot.hansum@nortonrosefulbright.com
Eric B. Hall, eric.hall@nortonrosefulbright.com
NORTON ROSE FULBRIGHT
1301 McKinney, Suite 5100
Houston, Texas 77010

In re Qualcomm Antitrust Litigation, Case No. 17-md-02773-LHK (N.D. Cal.)

Plaintiffs' Interim Co-Lead Counsel

Kalpana Srinivasan
Marc M. Seltzer
Steven G. Sklaver
Amanda Bonn
Oleg Elkhunovich
Krysta Kauble Pachman
SUSMAN GODFREY L.L.P.
1900 Avenue of the Stars, Suite 1400
Los Angeles, CA 90067
Telephone: (310) 789-3100
Facsimile: (310) 789-3150
Email: ksrinivasan@susmangodfrey.com
Email: mseltzer@susmangodfrey.com
Email: ssklaver@susmangodfrey.com
Email: abonnn@susmangodfrey.com
Email: oelkhunovich@susmangodfrey.com
Email: kpachman@susmangodfrey.com

Joseph Grinstein
SUSMAN GODFREY L.L.P.
1000 Louisiana Street, Suite 5100
Houston, TX 77002
Telephone: (713) 651-9366
Facsimile: (713) 654-6666
Email: jgrinstein@susmangodfrey.com

1 Joseph W. Cotchett
Adam J. Zapala
2 Brian Danitz
Mark F. Ram
3 Michael A. Montano
Toriana S. Holmes
4 COTCHETT, PITRE & MCCARTHY
840 Malcolm Road, Suite 200
5 Burlingame, CA 94010
Telephone: (650) 697-6000
6 Facsimile: (650) 697-0577
Email: jcotchett@cpmlegal.com
7 Email: azapala@cpmlegal.com
Email: bdanitz@cpmlegal.com
8 Email: mram@cpmlegal.com
Email: mmontano@cpmlegal.com
9 Email: tholmes@cpmlegal.com

10 Plaintiffs' Steering Committee

11 Steve W. Berman
Jeff Friedman
12 Rio Pierce
HAGENS BERMAN SOBOL SHAPIRO LLP
13 1918 Eighth Avenue, Suite 3300
Seattle, WA 98101
14 Telephone: (206) 268-9320
Facsimile: (206) 623-0594
15 Email: steve@hbsslaw.com
Email: jefff@hbsslaw.com
16 Email: riop@hbsslaw.com

17 Defendant Qualcomm Incorporated

18 Gary A. Bornstein, gbornstein@cravath.com
J. Wesley Earnhardt, wearnhardt@cravath.com
19 Yonatan Even, yeven@cravath.com
Vanessa A. Lavelly, vlavelly@cravath.com
20 Stefan H. Atkinson, satkinson@cravath.com
James W. Carlson, jcarlson@cravath.com
21 CRAVATH, SWAINE & MOORE LLP
Worldwide Plaza
22 825 Eighth Avenue
23 New York, NY 10019

24 Robert A. Van Nest, rvannest@keker.com
25 Asim M. Bhansali, abhansali@keker.com
Eugene M. Paige, epaige@keker.com
26 Justina Sessions, jsessions@keker.com
David W. Rizk, drizk@keker.com
27 Alexander Dryer, adryer@keker.com

1 KEKER, VAN NEST, & PETERS LLP
2 633 Battery Street
3 San Francisco, CA 94111-1809

4 Richard S. Taffet, richard.taffet@morganlewis.com
5 MORGAN, LEWIS & BOCKIUS LLP
6 101 Park Avenue
7 New York, NY 10178-0060

8 Willard K. Tom, willard.tom@morganlewis.com
9 MORGAN, LEWIS & BOCKIUS LLP
10 1111 Pennsylvania Ave. NW
11 Washington, DC 20004-2541

12 *Apple Inc. v. Qualcomm Incorporated*, Case No. 17-cv-00108-GPC (S.D. Cal.) and *Qualcomm Incorporated v. Compal Electronics, Inc., FIH Mobile Ltd., Hon Hai Precision Industry Co., Ltd., Pegatron Corporation, and Wistron Corporation*, Case No. 17-cv-01010-GPC (S.D. Cal.)

13 Plaintiff and Counterclaim Defendant Apple Inc.

14 Amy J. Mauser
15 BOIES SCHILLER FLEXNER LLP
16 1401 New York Avenue, N.W.
17 Washington, D.C. 20005
18 Phone: 202-237-2727
19 Email: amauser@bsfllp.com

20 Benjamin C. Elacqua
21 FISH & RICHARDSON LLP
22 1221 McKinney Street, Suite 2800
23 Houston, TX 77010
24 Phone: 713-654-5300
25 Email: Elacqua@fr.com

26 Apple_Qualcomm_Service@bsfllp.com
27 Apple/QualcommFRService@fr.com

28 Defendants and Counterclaim Plaintiffs Compal Electronics, Inc., FIH Mobile Ltd., Hon Hai Precision Industry Co., Ltd., Pegatron Corporation, and Wistron Corporation

Jason Lo, jlo@gibsondunn.com
Jennifer Rho, jrho@gibsondunn.com
Ryan Iwahashi, riwahashi@gibsondunn.com
CHPW-1010@gibsondunn.com

Defendant and Counterclaim Plaintiff Qualcomm Incorporated

Gary A. Bornstein, gbornstein@cravath.com
J. Wesley Earnhardt, wearnhardt@cravath.com
Yonatan Even, yeven@cravath.com
Vanessa A. Lavelly, vlavelly@cravath.com
Stefan H. Atkinson, satkinson@cravath.com
James W. Carlson, jcarlson@cravath.com
CRAVATH, SWAINE & MOORE LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019

David A. Nelson, davenelson@quinnemanuel.com
Stephen Swedlow, stephenswedlow@quinnemanuel.com
Marc L. Kaplan, marckaplan@quinnemanuel.com
QUINN EMANUEL URQUHART & SULLIVAN, LLP
500 West Madison St., Suite 2450
Chicago, Illinois 60661

Michael L. Fazio, michaelfazio@quinnemanuel.com
Joseph C. Sarles, josephsarles@quinnemanuel.com
QUINN EMANUEL URQUHART & SULLIVAN, LLP
865 S. Figueroa St., 10th Floor
Los Angeles, CA 90017

Alexander Rudis, alexanderrudis@quinnemanuel.com
QUINN EMANUEL URQUHART & SULLIVAN, LLP
51 Madison Ave., 22nd Floor
New York, NY 10010

Sean S. Pak, seanpak@quinnemanuel.com
QUINN EMANUEL URQUHART & SULLIVAN, LLP
50 California St., 22nd Floor
San Francisco, California 94111

Karen P. Hewitt, kphewitt@jonesday.com
Randall E. Kay, rekay@jonesday.com
Kelly V. O'Donnell, kodonnell@jonesday.com
JONES DAY
4655 Executive Drive, Suite 1500
San Diego, California 92121

Richard S. Zembek, richard.zembek@nortonrosefulbright.com
Daniel S. Leventhal, daniel.leventhal@nortonrosefulbright.com
Talbot Hansum, talbot.hansum@nortonrosefulbright.com
Eric B. Hall, eric.hall@nortonrosefulbright.com
NORTON ROSE FULBRIGHT
1301 McKinney, Suite 5100
Houston, Texas 77010

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Civil Division

DISTRICT OF COLUMBIA,

Plaintiff,

v.

AMAZON.COM, INC.,

Defendant.

CASE NO: 2021 CA 001775 B

JUDGE: Hiram Puig-Lugo

NEXT EVENT: October 29, 2021 at
10:00 AM

EVENT: Initial Scheduling Conference

**[Proposed] Order Granting Defendant's Motion for a Protective Order and to Stay
Discovery**

This matter is before the Court on Defendant Amazon.com, Inc.'s Opposed and Expedited Motion for a Protective Order and to Stay Discovery. Upon consideration of the motion and the supporting and opposing memoranda, the Court grants Amazon's motion.

Therefore, on this ___ day of _____ 2021, it is

ORDERED that Defendant's Opposed Motion to Stay Discovery is **GRANTED** and all discovery is hereby **STAYED**.

Judge Hiram Puig-Lugo

Copies served to all counsel listed in CaseFileXpress.