PUBLIC

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

)
In the Matter of)
Microsoft Corp.,)
<u>=</u>)
a corporation, and	
1 /) Docket No. 9412
Activision Blizzard, Inc.,)
a corporation,)
)
Respondents.)
)

ORDER GRANTING JOINT MOTION FOR THIRD REVISED SCHEDULING ORDER

I.

On December 14, 2023, Complaint Counsel and Respondents Microsoft Corporation and Activision Blizzard, Inc. ("Respondents") filed a Motion for Third Revised Scheduling Order ("Joint Motion"). The scheduling order was first issued in this case on January 4, 2023 and later revised on May 12, 2023 and June 29, 2023 (collectively, "Scheduling Order"). For the reasons set forth below, the Joint Motion is GRANTED.

II.

On September 26, 2023, the Commission issued an order returning this matter to adjudication and setting the hearing to commence twenty-one days after the United States Court of Appeals for the Ninth Circuit rules on Complaint Counsel's appeal from the United States District Court for the Northern District of California's ruling denying a preliminary injunction. *See* Order Returning Matter to Adjudication, *In re Microsoft Corp. & Activision Blizzard, Inc.*, No. 9412 (Sept. 26, 2023). On October 26, this Court reopened limited fact discovery for eight weeks after entry of the order, ending on December 21, 2023. *In re Microsoft Corp. & Activision Blizzard, Inc.*, No. 9412 (Oct. 26, 2023). On November 20, 2023, Respondents filed before the Commission a Motion to Modify Order Setting Hearing Date, seeking to set the evidentiary hearing for May 6, 2024, or 21 days from the Ninth Circuit's decision on Complaint Counsel's appeal, whichever comes later.

In their Joint Motion, the parties state that because the motion to modify the hearing date is pending before the Commission, setting certain scheduling deadlines now would avoid uncertainty and potential prejudice.

PUBLIC

III.

Good cause exists to amend the schedule set forth in the Scheduling Order. Accordingly, the Joint Motion is GRANTED, with slight modifications to the proposed schedule. The Scheduling Order is hereby revised as follows:

December 21, 2023	-	Close of Supplemental Discovery. <i>See</i> October 26, 2023 Order reopening limited discovery.
January 12, 2024	-	Deadline for both parties' Supplemental Exhibits, limited to documents produced in supplemental discovery or admitted as exhibits in <i>FTC v. Microsoft Corp.</i> , 3:23-cv-2880 (N.D. Cal.).
January 19, 2024	-	Parties that intend to offer confidential materials of an opposing party as evidence at the hearing must provide renewed notice to the opposing party, pursuant to 16 C.F.R.§ 3.45(b), as well as a copy of this Scheduling Order.
January 26, 2024	-	Exchange and serve courtesy copy on ALJ objections to final proposed witness lists and exhibit lists. The Parties are directed to review the Commission's Rules on admissibility of evidence before filing objections to exhibits and raise only objections that are necessary and valid.
January 29, 2024	-	Parties that intend to offer confidential materials of a non-party as evidence at the hearing must provide renewed notice to the non-party, pursuant to 16 C.F.R. § 3.45(b), as well as a copy of this Scheduling Order.
February 2, 2024	-	Deadline for filing motions <i>in limine</i> to preclude admission of evidence.
February 12, 2024	-	Deadline for filing responses to motions <i>in limine</i> to preclude admission of evidence.
1 week after the issuance of the Ninth Circuit's opinion on the Commission's appeal of the district court decision in FTC v. Microsoft Corp.	-	Deadline for filing motions for <i>in camera</i> treatment of proposed trial exhibits.
4 business days after the deadline for filing motions for <i>in</i>	-	Deadline for filing responses to motions for <i>in camera</i> treatment.

camera treatment

PUBLIC

2 weeks after the issuance of the Ninth Circuit's opinion on the Commission's appeal of the district court decision in *FTC v. Microsoft Corp.*

Respondents file pretrial briefs supported by legal authority.

2 weeks after the issuance of the Ninth Circuit's opinion on the Commission's appeal of the district court decision in *FTC* v. Microsoft Corp.

Exchange proposed stipulations of law, facts, and authenticity.

1 day before commencement of the evidentiary hearing Final prehearing conference to begin at 1:00 p.m. ET.

By Order of the Commission, 21 days after the issuance of the Ninth Circuit's opinion on the Commission's appeal of the district court decision in *FTC* v. Microsoft Corp.

Commencement of Hearing, to begin at 10:00 a.m. ET.

All other Additional Provisions in the Scheduling Order remain in place.

ORDERED:

D. Michael Chappell

Chief Administrative Law Judge

DM Chappell

Date: December 15, 2023