

**UNITED STATES OF AMERICA
CONSUMER PRODUCT SAFETY COMMISSION**

In the Matter of Amazon.com, Inc., Respondent.

CPSC Docket No. 21-2

Hon. James E. Grimes
Presiding Officer

JOINT LETTER IN RESPONSE TO OCTOBER 19, 2021 ORDER

Pursuant to the Order entered October 19, 2021 (Doc. No. 12) (the “Order”), Complaint Counsel and Respondent Amazon.com, Inc. (“Amazon”) have met and conferred to discuss the issues identified in the Order. The parties provide their joint statements on each point below.

December 16, 2021 Hearing

In the Order, the Presiding Officer set December 16, 2021 for oral argument on Complaint Counsel’s motion for partial summary decision (Doc. No. 8) and Amazon’s motion to dismiss or, in the alternative, cross-motion for summary judgment (Doc. No. 14) (together, the “pending dispositive motions”).

The parties propose that oral argument occur in person. If unforeseen changes in COVID-19 protocols render in-person proceedings impracticable, the parties will file a joint letter proposing to change the scheduled hearing to be held via teleconference.

Rules Governing Discovery

The parties propose that, in this action, except to the extent ordered otherwise by the Presiding Officer, (i) Fed. R. Civ. P. 30 governs depositions by oral examination; (ii) Fed. R. Civ. P. 31 governs depositions by written questions; (iii) Fed. R. Civ. P. 33 governs interrogatories; and (iv) Fed. R. Civ. P. 26 governs expert discovery and trial preparation (Fed. R. Civ. P. 26 (a)(2), (b)(4), and (e)(2)) and scope of discovery (Fed. R. Civ. P. 26 (b)), except that the schedule below shall govern as to timing.

Discovery and Hearing Schedule

Pursuant to the Order, discovery is deferred pending resolution of the pending dispositive motions. Should discovery become necessary following the pending dispositive motions, the parties propose the following discovery schedule.

In this proposed schedule, “D” indicates the date that the Presiding Officer issues an order resolving all pending dispositive motions, and “S” indicates the date that the Presiding Officer issues an order resolving any post-discovery motions for summary decision.

Event	Deadline
Date Presiding Officer issues decision on pending dispositive motions	D
Deadline for parties to submit proposed confidentiality order	D+15 days
Deadline to serve party discovery requests	D+25 days
Deadline to serve Fed. R. Civ. P. 26(a) initial disclosures	D+25 days
Deadline to file application for issuance of third-party subpoenas pursuant to 16 C.F.R. § 1025.38(c)	D+45 days
Target date for substantial completion of document productions	D+100 days
Deadline for principal expert disclosures	D+110 days
Deadline for expert rebuttal disclosures	D+130 days
Discovery cutoff	D+150 days
Deadline to file motions for summary decision	D+180 days
Deadline to file oppositions to motions for summary decision	D+200 days
Deadline to file replies in support of motions for summary decision	D+220 days
Date Presiding Officer issues order resolving motions for summary decision	S
Deadline to file pre-hearing evidentiary disclosures	S+20 days
Pre-hearing conference	S+30 days
Deadline to file pre-hearing briefs pursuant to 16 C.F.R. § 1025.22	S+50 days
Hearing	S+60 days

The proposed schedule incorporates the computation-of-time rules set forth in 16 C.F.R. § 1025.15(a), such that if the last day of the period computed is “a Saturday, a Sunday, or a legal holiday,” the period will run “until the end of the next day which is not a Saturday, a Sunday, or a legal holiday.”

Dated: November 12, 2021

Respectfully submitted,

s/ John C. Eustice

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Counsel for Respondent

CERTIFICATE OF SERVICE

Pursuant to the Order entered by the Presiding Officer on October 19, 2021, I hereby certify that on November 12, 2021, a true and correct copy of the foregoing document was:

- filed by email to the Secretary of the U.S. Consumer Product Safety Commission, Alberta Mills, at amills@cpsc.gov, with a copy to the Presiding Officer at alj@sec.gov and to all counsel of record; and
- served to Complaint Counsel by email at jeustice@cpsc.gov, lwolf@cpsc.gov, and sanand@cpsc.gov.

/s Sarah L. Wilson
Sarah L. Wilson