

**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

RESPONDENT AMAZON’S UNOPPOSED MOTION TO ALTER SCHEDULE

Pursuant to 16 C.F.R. § 1025.31(g), Respondent Amazon.com, Inc. (“Respondent”) hereby moves for a seven-day extension of the case schedule to enable Amazon to take the Federal Rule of Civil Procedure 30(b)(6) deposition of the Consumer Product Safety Commission (“CPSC”) on August 26, 2022. Unforeseen health circumstances involving Respondent Counsel provide good cause for this seven-day extension.

The discovery deadlines in this proceeding remain subject to alteration by the Presiding Officer based on “exceptional circumstances and for good cause shown.” 16 C.F.R. § 1025.31(g). Pursuant to that standard, “the Presiding Officer is, in fact, authorized to increase or decrease the time period for discovery based upon the nature of the proceedings and the circumstances.” *Rules of Practice for Adjudicative Proceedings*, 45 Fed. Reg. 29,206, 29,212 (May 1, 1980).

Under the Presiding Officer’s June 7, 2022 scheduling order, the operative discovery cutoff is August 19, 2022. *See* Dkt. 42. Pursuant to that schedule, Amazon noticed five depositions of CPSC personnel: one rebuttal expert deposition, three fact witness depositions, and one 30(b)(6) deposition. Amazon conducted its deposition of CPSC’s rebuttal expert on August 9. Following coordination with Complaint Counsel based on witness and attorney availability on both sides, the Parties scheduled the three

CPSC fact depositions for August 16, 17, and 18, and the 30(b)(6) deposition for August 19.

Exceptional circumstances justify an extension of Amazon's deadline to take the 30(b)(6) deposition of the CPSC, originally scheduled for August 19. On the afternoon of August 17, Respondent Counsel responsible for the 30(b)(6) deposition tested positive for COVID-19, and was immediately ordered to quarantine for 5-10 days. Respondent Counsel immediately consulted with Complaint Counsel, and Complaint Counsel did not oppose a seven-day extension of the case schedule to enable Amazon to take the 30(b)(6) deposition of the CPSC on August 26.

Amazon's request will not prejudice Complaint Counsel, who will benefit from more time to prepare their witness as a result of the extension. The length of Amazon's requested extension is based solely on the 10-day quarantine window recommended by Counsel's attending physician. Nor would it be feasible for Amazon to substitute another attorney for this particular deposition—affected Counsel has been preparing for weeks and cannot reasonably prepare another attorney for the deposition within 24 hours. Given the significance of CPSC's 30(b)(6) deposition testimony and the need to assemble a discovery record that will be most useful to the Presiding Officer in resolving this matter on the merits, there is sufficient good cause to permit a seven-day extension to the discovery schedule for Amazon to take its 30(b)(6) deposition on August 26. And to the extent rescheduling of the 30(b)(6) deposition is appropriate, Complaint Counsel has represented to Amazon (and Amazon agrees) that a corresponding seven-day extension to all motion for summary decision filing dates is likewise appropriate to ensure that the Parties have sufficient time to analyze the 30(b)(6) deposition testimony and incorporate into their respective motions as appropriate.

CONCLUSION

For the extenuating reasons stated above, the Presiding Officer should grant a seven-day extension to the remaining case deadlines pursuant to the attached Proposed Order.

Dated: August 18, 2022

Respectfully submitted,



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[PROPOSED] ORDER

This matter, having come before the Presiding Officer on Respondent Amazon.com, Inc.'s Unopposed Motion to Alter Schedule dated August 18, 2022, it is hereby ORDERED that the Motion is GRANTED.

It shall be further ORDERED:

Due to extenuating circumstances involving Respondent Counsel, I find good cause to extend the schedule by seven days. The schedule is revised as follows:

August 26, 2022:	Discovery Cutoff
September 23, 2022:	Deadline for motions for summary decision
October 21, 2022:	Deadline for oppositions to motions for summary decision
November 21, 2022:	Deadline for replies in support of motions for summary decision

Dated: August _____, 2022

James E. Grimes
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2022, a true and correct copy of the foregoing document was, pursuant to the Order Following Prehearing Conference entered by the Presiding Officer on October 19, 2021:

- 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, sanand@cpsc.gov, fmillett@cpsc.gov, and tmendel@cpsc.gov.

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