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6 Attorneys for Defendant Cheap Tech Guys LLC

7
 8 **UNITED STATES DISTRICT COURT**
 9 **DISTRICT OF NEVADA, SOUTHERN DIVISION**

11 MICROSOFT CORPORATION, a
Washington Corporation,

12 Plaintiff,

13 v.

14 CHEAP TECH GUYS LLC, a Nevada
15 Limited Liability Company,

16 Defendant.

Case No. 2:21-cv-00284-JCM-VCF

**STIPULATION AND ORDER TO
 CONTINUE RE: [35] MOTION TO
 COMPEL HEARING (First Request)**

Trial Date: None Set

17 IT IS HEREBY STIPULATED by and between Plaintiff, MICROSOFT CORPORATION
 18 ("Plaintiff") by and through its counsel of record, the law firms of Greenberg Traurig, LLP and
 19 Davis Wright Tremaine, LLP, and Defendant, CHEAP TECH GUYS LLC ("Defendant"), by and
 20 through its counsel, the law firm of Wood, Smith, Henning & Berman, LLP, that the hearing on the
 21 Motion to Compel Hearing re [35] be continued currently set for Monday, July 11, 2022 to
 22 **Wednesday, November 2, 2022** based upon the instant **STIPULATION AND ORDER TO**
 23 **CONTINUE RE: [35] MOTION TO COMPEL HEARING (First Request)**. As contemplated
 24 by LR IA 6-1, this extension is requested for good cause as discussed below:

25 **A. Procedural History:**

26 On June 9, 2022, the Parties appeared via video conference regarding the requested hearing
 27 on Plaintiff’s Motion to Compel [Doc 35].
 28

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1 As set forth in the Minutes of Proceedings [Doc 46]:

- 2 1. The Court continued the hearing to July 11, 2022 at 1 p.m.
- 3 2. The Court required that the hearing be conducted in person on that date and time.
- 4 3. The Court ordered the representative of Cheap Tech Guys LLC, John Giannone, to
5 be present.
- 6 4. The Court further ordered that the full insurance policy and either a privilege log or
7 unredacted documents by produced by June 16, 2022.

8 **B. Compliance with Court Order:**

- 9 1. Defendant has since produced the full insurance policy, a privilege log, and 453
10 pages of unredacted documents.
- 11 2. Plaintiff is currently reviewing those documents. To the extent that there are any
12 unresolved discovery issues after the document review, counsel for Plaintiff and Defendant have
13 agreed to meet and confer at a mutually agreeable time. The document review and meet and confer
14 meeting (if necessary) cannot practically be completed by the current July 11, 2022 hearing date.

15 **C. Basis for the Request for Continuance:**

- 16 1. Since the June 9, 2022 hearing, counsel have been negotiating the logistics for an
17 outside insurance coverage applicability opinion to be followed by a mediation because the coverage
18 opinion is necessary in order to facilitate effective settlement discussions.
- 19 2. The Parties previously had a mediation scheduled with Mediator Judge Glass [ret.]
20 on July 13, 2022, but agreed to continue it in order to address the outstanding insurance issues first.
- 21 3. Mediator Judge Glass [ret.] is in demand and her earliest availability is not until
22 October 2022.
- 23 4. The Parties are currently coordinating a date with her for a mediation on Wednesday,
24 October 12, 2022.
- 25 5. In the interest of judicial economy, the parties jointly propose that the hearing on
26 Plaintiff's Motion to Compel be rescheduled until after the mediation. The parties have obtained a
27 possible alternative hearing date from the Court's Judicial Executive Assistant of November 2, 2022
28 and agree to that date.

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of July, 2022, a true and correct copy of **STIPULATION AND ORDER TO CONTINUE RE: [35] MOTION TO COMPEL HEARING (First Request)** was served via the United States District Court CM/ECF system on all parties or persons requiring notice.

By /s/ Raeann M. Todd

an Employee of
WOOD, SMITH, HENNING & BERMAN LLP

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Raeann M. Todd

From: MacNaughton, Bonnie <BonnieMacNaughton@dwt.com>
Sent: Thursday, July 7, 2022 4:48 PM
To: Brooke A. Bohlke; rosehilla@gtlaw.com; miltenbergerc@gtlaw.com; Nick Adams; Freed, Jake
Cc: Raeann M. Todd
Subject: [EXTERNAL] RE: 7/11 Microsoft vs. Cheap Tech Guys - Evidentiary Hearing
Attachments: Stip and Order to Extend 7-11-22 Motion Hearing. v2 2022-07-07.docx

Thanks for your perseverance on this, Brooke. This all makes much more sense. I've taken the liberty of streamlining our stipulation. You have my approval to add my signature and file it with these changes. We will send you a stipulation to continue the case schedule in its entirety tomorrow and would like to file it tomorrow.

From: Brooke A. Bohlke <BBohlke@wshblaw.com>
Sent: Thursday, July 7, 2022 4:03 PM
To: MacNaughton, Bonnie <BonnieMacNaughton@dwt.com>; rosehilla@gtlaw.com; miltenbergerc@gtlaw.com; Nick Adams <NAdams@wshblaw.com>; Freed, Jake <JakeFreed@dwt.com>
Cc: Raeann M. Todd <RTodd@wshblaw.com>
Subject: RE: 7/11 Microsoft vs. Cheap Tech Guys - Evidentiary Hearing

[EXTERNAL]

Hi-

I have been on the phone all day attempting to pin down dates and ultimately selected them myself. The JEA was able to talk to the Judge and let him know our difficulties in setting an earlier mediation with Judge Glass [ret.]. He agreed to have the hearing after the mediation.

Attached is a revised SAO. I selected a mediation date for Wednesday October 12 and a new hearing date for Wednesday November 2. If this hearing date does not work, the Court is available on November 21, 22, 28, 29. However, both the mediation and hearing are requested to be in person, so I wanted to be conscious of not scheduling anything too close to the Thanksgiving holiday. I will be in town, but I know that you and your client will have to travel.

I would like to file this/and or with any revisions as soon as possible. Please let us know when we have your approval to attach an e-signature.

Thanks and have a good night.

Brooke A. Bohlke

Partner

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From: MacNaughton, Bonnie <BonnieMacNaughton@dwt.com>
Sent: Thursday, July 7, 2022 11:58 AM
To: Brooke A. Bohlke <BBohlke@wshblaw.com>; rosehilla@gtlaw.com; miltenbergerc@gtlaw.com; Nick Adams <NAdams@wshblaw.com>; Freed, Jake <JakeFreed@dwt.com>
Cc: Raeann M. Todd <RTodd@wshblaw.com>
Subject: [EXTERNAL] RE: 7/11 Microsoft vs. Cheap Tech Guys - Evidentiary Hearing

Hi. Thanks for this. Before we submit this, I'd like to pin down the mediation date. Is there any reason we can't get that on calendar so we can include it in both this stipulation and the case scheduling continuance request?

From: Brooke A. Bohlke <BBohlke@wshblaw.com>
Sent: Thursday, July 7, 2022 10:22 AM
To: MacNaughton, Bonnie <BonnieMacNaughton@dwt.com>; rosehilla@gtlaw.com; miltenbergerc@gtlaw.com; Nick Adams <NAdams@wshblaw.com>; Freed, Jake <JakeFreed@dwt.com>
Cc: Raeann M. Todd <RTodd@wshblaw.com>
Subject: RE: 7/11 Microsoft vs. Cheap Tech Guys - Evidentiary Hearing

[EXTERNAL]

Hi-

Attached is a proposed stipulation to continue the upcoming hearing. Please confirm your approval to attach your e-signature.

Thank you.

PS- on a related note, how long do you propose that we request for an extension of the scheduling order? I propose 90 days from the date of the hearing because of the strict deadlines in Federal Court.

Let us know your thoughts. Thanks.

Brooke A. Bohlke

Partner

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From: MacNaughton, Bonnie <BonnieMacNaughton@dwt.com>
Sent: Wednesday, July 6, 2022 4:40 PM
To: Brooke A. Bohlke <BBohlke@wshblaw.com>; rosehilla@gtlaw.com; miltenbergerc@gtlaw.com; Nick Adams <NAdams@wshblaw.com>; Freed, Jake <JakeFreed@dwt.com>
Cc: Raeann M. Todd <RTodd@wshblaw.com>
Subject: [EXTERNAL] RE: 7/11 Microsoft vs. Cheap Tech Guys - Evidentiary Hearing

Sounds like a plan.

From: Brooke A. Bohlke <BBohlke@wshblaw.com>

Sent: Wednesday, July 6, 2022 4:37 PM

To: MacNaughton, Bonnie <BonnieMacNaughton@dwt.com>; rosehilla@gtlaw.com; miltenbergerc@gtlaw.com; Nick Adams <NAdams@wshblaw.com>; Freed, Jake <JakeFreed@dwt.com>

Cc: Raeann M. Todd <RTodd@wshblaw.com>

Subject: RE: 7/11 Microsoft vs. Cheap Tech Guys - Evidentiary Hearing

[EXTERNAL]

I can incorporate that into a separate sao. I will get this to you tomorrow and we will file them consecutively.

Brooke A. Bohlke

Partner

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From: MacNaughton, Bonnie <BonnieMacNaughton@dwt.com>

Sent: Wednesday, July 6, 2022 4:29 PM

To: Brooke A. Bohlke <BBohlke@wshblaw.com>; rosehilla@gtlaw.com; miltenbergerc@gtlaw.com; Nick Adams <NAdams@wshblaw.com>; Freed, Jake <JakeFreed@dwt.com>

Cc: Raeann M. Todd <RTodd@wshblaw.com>

Subject: [EXTERNAL] RE: 7/11 Microsoft vs. Cheap Tech Guys - Evidentiary Hearing

Based on this, I'm comfortable setting the hearing for one of the below dates and either moving forward with it or asking to move it again in September. That week, I can only do the 27th. If that works on your end, let's press ahead with what you suggest.

How about the case schedule continuance?

From: Brooke A. Bohlke <BBohlke@wshblaw.com>

Sent: Wednesday, July 6, 2022 4:18 PM

To: MacNaughton, Bonnie <BonnieMacNaughton@dwt.com>; rosehilla@gtlaw.com; miltenbergerc@gtlaw.com; kellygorton@dwt.com; Nick Adams <NAdams@wshblaw.com>; Freed, Jake <JakeFreed@dwt.com>

Cc: Raeann M. Todd <RTodd@wshblaw.com>

Subject: RE: 7/11 Microsoft vs. Cheap Tech Guys - Evidentiary Hearing

[EXTERNAL]

I **completely** agree with you and discussed the same with my client this morning.

However, I am also very familiar with this Judge and Nevada Federal Court. They are **extremely** strict with continuances and deadlines and prefer that the parties file multiple requests for extensions. As you are aware, unfortunately, the agreed upon mediator is not available until October and based upon my experience, I believe that the Court would have denied a request (at this time), to continue the hearing after that date.

My main concern is securing a new date for the hearing set for July 11 even if we do not think that the new hearing date will go forward. I can reach out to the Court right now, but have an additional concern that his clerk may provide dates and the stipulation is ultimately denied, leaving with us with an in person hearing on July 11.

Alternatively, we can agree upon a date below and select a different mediator.

Let me know your thoughts.

Hope this information is helpful.

Brooke A. Bohlke

Partner

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From: MacNaughton, Bonnie <BonnieMacNaughton@dwt.com>

Sent: Wednesday, July 6, 2022 4:03 PM

To: Brooke A. Bohlke <BBohlke@wshblaw.com>; rosehilla@gtlaw.com; miltenbergerc@gtlaw.com; kellygorton@dwt.com; Nick Adams <NAdams@wshblaw.com>; Freed, Jake <JakeFreed@dwt.com>

Cc: Raeann M. Todd <RTodd@wshblaw.com>

Subject: [EXTERNAL] RE: 7/11 Microsoft vs. Cheap Tech Guys - Evidentiary Hearing

Hi Brooke and all. At this point, I suggest we proceed as follows. We should confirm the mediation date at our earliest opportunity and set this hearing for the day or two afterwards (depending on the judge's calendar). I don't think it makes sense from an efficiency perspective to go through the discovery hearing in advance of the mediation. As I mentioned in my earlier email, I'd like to mediate the matter in October rather than November, if possible. Given this, I think we're going to need to ask the Court to move the case schedule again for about four months. We have a number of deadlines prior to the mediation/evidentiary hearing that will require significant work, including finishing all our discovery and filing pretrial documents. That's not practical with the dates we're proposing. If you agree, we can draft up a stipulation and order to move all pending dates.

We look forward to your thoughts.

From: Brooke A. Bohlke <BBohlke@wshblaw.com>

Sent: Tuesday, July 5, 2022 10:58 AM

To: MacNaughton, Bonnie <BonnieMacNaughton@dwt.com>; rosehilla@gtlaw.com; miltenbergerc@gtlaw.com; kellygorton@dwt.com; Nick Adams <NAdams@wshblaw.com>; Freed, Jake <JakeFreed@dwt.com>

Cc: Raeann M. Todd <RTodd@wshblaw.com>

Subject: 7/11 Microsoft vs. Cheap Tech Guys - Evidentiary Hearing

[EXTERNAL]

Hi-

Happy 4th of July. I am reaching out because I received the Judge's availability to continue the evidentiary hearing currently set for July 11, 2022. However, he has no availability until the following dates/times:

9-26 – all day;

9-27 after 11 am;

9-28 after 11 am;

9-29 all day; and

9-30 all day.

They will need a stipulation and order. I am already in the process of preparing a draft stipulation, but would like to identify a specific date.

Thanks for your assistance.

Brooke A. Bohlke

Partner

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