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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

hiQ Labs, Inc.,

Plaintiff,

vs.

LinkedIn Corporation,

Defendant.

LinkedIn Corporation

Counterclaimant,

vs.

hiQ Labs, Inc.

Counterdefendant.

Case No. 17-cv-03301-EMC

**STIPULATION AND ~~PROPOSED~~
ORDER AMENDING CASE SCHEDULE
AND PROVIDING FOR CERTAIN
DEPOSITION PROCEDURES**

Complaint Filed: June 7, 2017
Trial Date: February 27, 2023

1 WHEREAS, on February 14, 2020, hiQ Labs, Inc. (“hiQ”) filed its first amended
2 complaint (the “FAC”), which is the operative complaint in the instant action (ECF No. 131); and

3 WHEREAS, on November 20, 2020, LinkedIn Corporation (“LinkedIn”) filed its answer
4 to the FAC and Counterclaims (ECF No. 170); and

5 WHEREAS, on August 10, 2021, the Court entered a scheduling order setting dates for
6 the close of discovery, the filing of dispositive motions, and trial (the “Scheduling Order”) (ECF
7 No. 211); and

8 WHEREAS, on September 3, 2021, hiQ filed its answer to LinkedIn’s counterclaims
9 (ECF No. 214); and

10 WHEREAS, LinkedIn and hiQ served written discovery at the first opportunity in June
11 2021, negotiated a stipulated protective order by August 2021, and then pursued several months
12 of negotiations before reaching an ESI agreement in November 2021; and

13 WHEREAS, since reaching an ESI agreement in November 2021, the parties have been
14 reviewing and producing documents and have pursued additional written and third-party
15 discovery, and also reached a stipulation regarding the scope of discovery and testimony relating
16 to experts; and

17 WHEREAS, the parties recently conducted a settlement status update call with Magistrate
18 Judge Ryu, and as a result of that call agreed to a settlement conference date of May 13, 2022,
19 and Judge Ryu issued an order setting the settlement conference for that date, as well as deadlines
20 for other requirements leading up to that conference (ECF No. 230); and

21 WHEREAS, the parties have each propounded comprehensive Rule 30(b)(6) deposition
22 notices encompassing more than 35 topics but have not yet commenced such depositions; and

23 WHEREAS, Rule 30 does not specify how depositions taken pursuant to Rule 30(b)(6)
24 will be counted towards the 10-deposition limit, and the parties have also reached a new
25 stipulation regarding the timing and counting of such deposition hours as reflected herein; and

26 WHEREAS, despite this substantial level of ongoing litigation activity pursued diligently
27 by the parties, there have been meaningful challenges involving the volume of ESI production,
28 including the review and production of large quantities of material to be produced from Slack,

1 CRM databases, and other noncustodial sources, and the parties have a great deal of work
2 remaining to complete fact discovery and to conduct expert preparation and discovery; and

3 WHEREAS, the parties estimate the need to take the full number of depositions permitted
4 by Rule 30, if not more, and doing so will be highly impracticable, inefficient, and unduly
5 burdensome and expensive to both sides on the existing schedule in light of the remaining time
6 needed for document production; and

7 WHEREAS, a modest adjustment to the schedule will resolve the parties' concerns and
8 will maintain the interval between summary judgment and trial required by this Court's standard
9 form of scheduling order, will not impact the timing of the pretrial meet and confer, the filing of
10 motions *in limine* and oppositions to motions *in limine*, the joint pretrial order, objections to Rule
11 26(a)(3) disclosures, the final pretrial conference, or trial previously set by the court (ECF No.
12 210); and

13 WHEREAS, the parties intend to seek a new date for a settlement conference from Judge
14 Ryu coincident with and subject to this Court's approval of other scheduling changes;

15 THEREFORE, in light of the development of circumstances as described herein and in the
16 accompanying Declaration of Annette Hurst, good cause exists for an extension of several case
17 dates and for the entry of an order addressing how Rule 30(b)(6) depositions will be counted
18 towards the 10-deposition limit, and it is hereby stipulated and agreed:

19 1. The parties agree to a revised case schedule set forth below and respectfully request
20 that the Court enter the same as to a Rule 16 case management order.

ACTION	CURRENT DEADLINE	PROPOSED DEADLINE
Written Discovery Cut-Off (Including Document Production)	March 31, 2022	(no change)
Fact Deposition Discovery Cutoff		May 20, 2022
Motion to Compel – Fact Discovery	April 7, 2022	May 25, 2022
Opening Expert Reports (A party with the burden of proof on any matter must serve its report on that issue on the opening report date.)	April 14, 2022	June 3, 2022

ACTION	CURRENT DEADLINE	PROPOSED DEADLINE
Meet and Confer to discuss matters pertinent to improving the prospects that settlement negotiations will be productive	April 29, 2022	Based on new settlement conference date to be determined by Judge Ryu
Last court day to submit exchanged settlement conference statement and confidential settlement letter	May 3, 2022	Based on new settlement conference date tbd by Judge Ryu
Responsive Expert Reports	May 5, 2022	June 24, 2022
Settlement Conference	May 13, 2022	TBD based on Judge Ryu availability in June/July 2022
Expert Discovery Cut-Off	May 26, 2022	July 20, 2022
Motion to Compel – Expert Discovery	June 2, 2022	July 27, 2022
Dispositive and Daubert Motions	July 5, 2022	August 5, 2022
Oppositions to Dispositive and Daubert Motions	August 1, 2022	August 31, 2022
Replies to Oppositions to Dispositive and Daubert Motions	August 11, 2022	September 12, 2022
Hearing on Dispositive and Daubert Motions	August 25, 2022	September 30, 2022
FRCP 26(a)(3) Disclosures	September 16, 2022	September 30, 2022
Pretrial Meet and Confer	October 7, 2022	(no change)
Motions <i>in Limine</i>	October 14, 2022	(no change)
Oppositions to Motions <i>in Limine</i>	October 28, 2022	(no change)
Meet and Confer regarding preparation of Joint Pretrial Conference Statement	December 20, 2022	(no change)
Joint Pretrial Conference Statement and Joint Pretrial Order	January 10, 2023	(no change)
Voir Dire questions, Joint Proposed Verdict Form, Joint Proposed Jury Instructions, Preliminary Statement to the Jury	January 10, 2023	(no change)
Trial Briefs	January 10, 2023	(no change)
Proposed Findings of Fact and Conclusions of Law	January 10, 2023	(no change)

ACTION	CURRENT DEADLINE	PROPOSED DEADLINE
Witness List, Exhibit List, and Discovery Response Appendices and submit two sets of pre-marked exhibits to chambers	January 10, 2023	(no change)
Objections to FRCP 26(a)(3) Disclosures	January 17, 2023	(no change)
Final Pretrial Conference	January 31, 2023	(no change)
Trial	February 27, 2023	(no change)

2. The parties have served comprehensive Rule 30(b)(6) deposition notices. A party may elect to notice additional Rule 30(b)(6) topics for deposition so long as any such notice is served no later than March 31, 2022.

3. The responding party will serve any objections to noticed topics no later than 14 days after the notice is served, and the parties will meet and confer regarding any objections promptly thereafter. The parties will also meet and confer regarding the dates to be set for deposition(s) on noticed topics in accordance with the Local Rules.

4. The responding party will identify the witness for each topic at least 5 business days in advance of the date a witness is to be produced on that topic.

