

1 HONORABLE RICARDO S. MARTINEZ

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE WESTERN DISTRICT OF WASHINGTON
10 AT SEATTLE

11 MICROSOFT CORPORATION,

12 Plaintiff,

13 vs.

14 INTERNAL REVENUE SERVICE,

15 Defendant.

NO. 2:15-cv-01605 RSM

THIRD CONSENT MOTION AND ORDER
REGARDING CASE SCHEDULE

16 The above-captioned action is for declaratory and injunctive relief under the Freedom of
17 Information Act (“FOIA”), 5 U.S.C. § 552, as amended, and the Administrative Procedure Act, 5
18 U.S.C. § 701 et seq. The parties jointly request that the action remain open and that the Court
19 approve the parties’ agreed upon, modified schedule set forth in paragraph 1, below. In support
20 of this request, the parties state the following:

21 1. On August 13, 2021, the Court issued a modified case management order in
22 which the Court adopted the parties’ proposed revised schedule and case management order.
23 Under that schedule, the IRS was required to provide Microsoft with a draft revised *Vaughn*
24 index by September 17, 2021, and to file a motion for summary judgment by October 29, 2021.
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THIRD CONSENT MOTION TO EXTEND TIME AND ORDER
REGARDING CASE SCHEDULE
(Case Nos. 2:15-cv-1605)

U.S. Department of Justice, Tax Division
Ben Franklin Station, P.O. Box 227
Washington, D.C. 20044
202-616-8994 (Phone)
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1 The IRS, however, underestimated the amount of time and resources needed to complete a draft
 2 revised *Vaughn* index in this matter. The parties also plan to thereafter engage in good faith
 3 negotiations to attempt to narrow the issues that might need to be resolved through summary
 4 judgment proceedings.¹ The IRS accordingly requests, and Microsoft consents, to extend the
 5 remaining deadlines for transmitting a draft revised *Vaughn* index to Microsoft and for filing a
 6 motion for summary judgment. The IRS therefore requests that the Court adopt the following
 7 revised schedule for the above-captioned case:

SCHEDULE	
Event	Date
The IRS to provide draft revised <i>Vaughn</i> indices:	October 15, 2021
The IRS to file its motion for summary judgment:	December 3, 2021

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 14 2. Recognizing that the parties continue to engage in good faith negotiations, the
 15 parties agree that evidence of the IRS's efforts to address Microsoft's concerns, including any
 16 revisions to previously exchanged declarations or exemption claims, is not admissible to prove
 17 that the IRS's search was unreasonable or that the IRS's exemption claims were improper.

18 3. The parties jointly request that this action remain open and that the Court enter an
 19 order adopting the case schedule proposed in paragraph 1.

20 Respectfully submitted this 17th day of September, 2021.

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24 ¹ The IRS provided Microsoft with a draft revised *Vaughn* index in 2:15-cv-00369 and 2:15-cv-00850 on
 25 August 27, 2021, and the parties are in the process of identifying and attempting to address issues in the
 index.

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21 *Attorney for Defendant Internal Revenue Service*

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing JOINT MOTION via the Court's electronic case filing system on September 17, 2021.

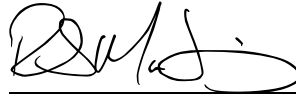
/s Stephen S. Ho

STEPHEN S. HO

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ORDER

It is SO ORDERED this 17th day of September, 2021.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

Presented by:

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