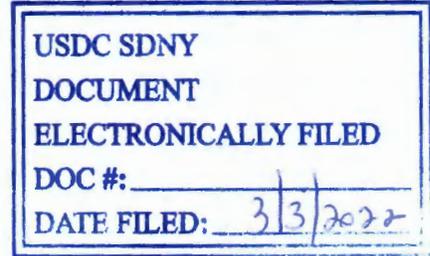


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES COURTHOUSE
500 PEARL STREET
NEW YORK, NEW YORK 10007-1581
(212) 805-6325

CHAMBERS OF
COLLEEN McMAHON
UNITED STATES DISTRICT JUDGE



TO ALL COUNSEL IN: *Pearlstein v. Blackberry Limited et al.*
No. 13-cv-07060 (S.D.N.Y.)

FROM: Judge McMahon

RE: Final Pre-Trial Conference and Trial Date

DATE: March 3, 2022

Counsel:

I am pleased to report that we have been assigned April 7 (Thursday) as our jury selection date. We will select in my courtroom, which Courtroom 24A it the Daniel Patrick Moynihan Courthouse. Revised COVID protocols mean that we can accommodate as many as 40 jurors for jury selection in that room. As soon as we have a jury (and while your trial will not be as long as you think it will be – time limits on your presentations will be discussed at the final pretrial conference -- I anticipate selection will take a while, as we will have a number of opt outs due to the length of the proceeding), we will proceed to opening statements and evidence.

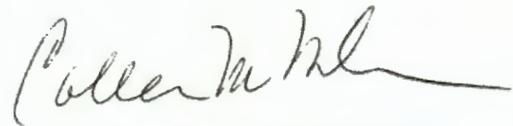
Contrary to my usual rules, we will sit five days a week until the trial is concluded. We will start at 9:30 AM each day and we will break at 5 PM unless I have a criminal matter that I must hear at 4:30. The only exception is that we will break on Wednesday and Thursday, April 13 and 14, at 4 PM, and we will not sit on Friday, April 15, which is both Good Friday and the First Seder (conveniently, they coincide this year). We will resume on Monday, April 18. I am leaving the country on Friday, May 13, and we need to conclude the trial (by conclude I mean conclude – as in, reach a verdict) a week earlier than that, so that I can attend to other matters prior to my departure. If you run out of witnesses prior to the end of the trial day, the next words you should be prepared to say are, “We rest.” Plan accordingly.

Because this is a civil trial, we listen to witnesses once and once only. This means that both sides should be prepared to question a witness fully when s/he takes the stand. I will be assigning you a number of hours for each side to be on its feet questioning, whether on direct or on cross. That is the amount of time you will have. I am a strict timekeeper. It will take you less time than you think to try this case.

We will hold our final pre-trial conference on Monday, March 14 starting at 10 AM. At that conference, we will go over the witness lists, and I will rule on all your objections to the introduction of exhibits. It is my custom to pre-admit exhibits so that we do not consume jury time with ritualistic matters that can easily be resolved prior to trial. I rather imagine that you have "over-objected" to your opponent's exhibits – everyone does, though it is a practice I view with distaste -- but be advised that you must be prepared to argue every objection, in 25 words or less, on March 14. Between now and then, please go over your objections and eliminate any frivolous ones, because you will not be leaving the courthouse for any reason until we are quite done with rulings on objections, and maintaining frivolous objections could keep you here well into the evening.

Each side will have one half hour (30 minutes) for opening statements. You can factor that into your thinking now because at 30 minutes you will be asked to take your seat. If you start to argue your case during your opening, I will also ask you to be seated. Tailor your remarks accordingly. I will decide on the length of closing arguments after hearing the evidence, but you are unlikely to have more than one hour.

All other matters we will take up on March 14. I look forward to seeing you then.



U.S.D.J.

BY ECF TO ALL COUNSEL