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April 12, 2024

VIA ECF

Hon. Kenneth M. Karas, U.S.D.J.
U.S. District Court for the Southern District of New York
300 Quarropas Street, Courtroom 521
White Plains, New York 10601-4150

Re: Carvana, LLC v. IBM Corp., Civ. No. 7:23-cv-8616(KMK)(VR)

Dear Judge Karas:

We represent Plaintiff Carvana in the above-referenced matter. Pursuant to Your Honor's Individual Rule 1C, Carvana respectfully requests an amendment to the case schedule which would involve adjusting not just interim discovery deadlines but also the close of fact discovery. Carvana has not previously sought an extension of the close of fact discovery deadline and we have conferred with IBM, who does not oppose the proposed new deadlines set forth in the chart below.

Carvana seeks the below revisions to the schedule because a substantial adjustment is needed in light of IBM's withdrawal of the '849 patent from this case and addition of an entirely new patent into the case—the '719 patent—which it never asserted or even mentioned to Carvana in the two year patent assertion campaign which led to the filing of this declaratory judgment action. Carvana is also seeking the below extensions due to IBM's potential failure to name foreign inventors and related invalidity issues associated with its '346 patent, which may require Carvana to seek discovery under the Hague Convention, which may take six months or more to complete. The need for such foreign discovery was unknown at the time the parties negotiated the original Case Management Order.

For the Court's reference, Carvana identifies below the original deadlines contained in the CMO at ECF 39 and new proposed deadlines for the same, subject to the Court's approval. If these new proposed deadlines are acceptable to the Court, Carvana would be pleased to file a proposed Amended Case Management and Scheduling Order reflecting the same:¹

¹ The original CMO noted a party agreement that the parties would take 110 deposition hours in this case. Should the Court permit Carvana to file an Amended CMO, it respectfully requests approval to add that hours taken deposing inventors of IBM's now removed '849 patent not count toward that 110 hour limit. While Carvana asked IBM to comment on a draft Amended CMO containing this provision, IBM never responded to Carvana's request.

April 12, 2024
Page 2

Deadline	Paragraph of CMO	Original Date	Proposed Revision
Close of Fact Discovery/Fact Depositions to be Completed By	5; 6f.	June 28, 2024	~~XXXXXXXXXX~~ November 15, 2024 August 28, 2024
Interrogatories to be Served By	6b.	May 14, 2024	~~October 9, 2024~~ July 14, 2024
Infringement Contentions For Newly Added '719 Patent	6c.	January 26, 2024	May 24, 2024
Invalidity Contentions For Newly Added '719 Patent	6c.	March 11, 2024	July 10, 2024
Exchange of Claim Terms to Be Construed	6d.	March 15, 2024	July 31, 2024
Parties to exchange proposed claim constructions	6d.	April 3, 2024	~~August 21, 2024~~ July 3, 2024
Parties to file Joint Disputed Claim Terms Chart under Local Patent Rule 11	6d.	April 17, 2024	~~August 28, 2024~~ July 17, 2024
Opening Claim Construction Brief	6d.	May 3, 2024	~~September 27, 2024~~ August 3, 2024
Opinion of Counsel	6e.	May 17, 2024	October 15, 2024
Deadline to serve Requests for Admissions	6g.	May 14, 2024	~~October 3, 2024~~ August 3, 2024
Responsive Claim Construction Brief	6d.	June 4, 2024	~~XXXXXXXXXX~~ October 23, 2024 September 6, 2024
Reply Claim Construction Brief	6d.	June 18, 2024	~~November 8, 2024~~ September 27, 2024
Sur-Reply Claim Construction Brief	6d.	July 2, 2024	~~November 22, 2024~~ October 18, 2024

April 12, 2024
Page 3

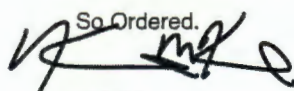
Settlement Conference	10	On or before July 12, 2024	On or before November 29, 2024 ²
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Carvana appreciates the Court's time and assistance in this matter and is available should Your Honor have any questions or concerns.

Respectfully Submitted,

/s/ Wendy R. Stein

The Court has modified the proposed discovery extension, after considering this and IBM's letters. No more extensions will be granted under any circumstances.

So Ordered.

4/15/24

² Carvana notes that despite representing that it would not oppose the proposed deadlines herein, IBM delayed the filing of this proposed schedule for weeks by demanding that Carvana graft onto this court's standard CMO a deadline for completion of Carvana's technical document production, which is not required by this district's Local Patent Rules or this Court's standard CMO. IBM has since withdrawn the demand.