

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
OFFICE OF THE CHIEF ADMINISTRATIVE HEARING OFFICER

December 13, 2022

Ravi Sharma,	)	
Complainant,	)	
	)	
v.	)	8 U.S.C. § 1324b Proceeding
	)	OCAHO Case No. 2022B00023
	)	
NVIDIA CORP.,	)	
Respondent.	)	
_____	)	

Appearances: Ravi Sharma, pro se Complainant  
Patrick Shen, Esq., K. Edward Raleigh, Esq., and Samantha Caesar, Esq.,  
for Respondent

ORDER EXTENDING DISCOVERY DEADLINE AND MODIFYING CASE SCHEDULE

I. BACKGROUND

This case arises under the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1324b. Complainant, Ravi Sharma, filed a complaint, pro se, with the Office of the Chief Administrative Hearing Officer (OCAHO) on February 2, 2022, alleging that Respondent, NVIDIA Corp., violated § 1324b. On March 15, 2022, Respondent, through counsel, filed a Motion to Dismiss and Answer. On March 28, 2022, Complainant filed an Opposition to the Motion to Dismiss. On August 11, 2022, the Court denied Respondent's Motion to Dismiss. *Ravi Sharma v. NVIDIA Corp.*, 17 OCAHO no. 1450, 1 (2022).<sup>1</sup>

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<sup>1</sup> Citations to OCAHO precedents reprinted in bound Volumes 1 through 8 reflect the volume number and the case number of the particular decision, followed by the specific page in that volume where the decision begins; the pinpoint citations which follow are thus to the pages, seriatim, of the specific entire volume. Pinpoint citations to OCAHO precedents subsequent to Volume 8, where the decision has not yet reprinted in a bound volume, are to pages within the original issuances; the beginning page number of an unbound case will always be 1, and is accordingly omitted from the citation. Published decisions may be accessed in the Westlaw database "FIM-OCAHO," or in the LexisNexis database "OCAHO," or on the website at <http://www.justice.gov/eoir/OcahoMain/ocahosibpage.htm#PubDecOrders>.

On September 14, 2022, the Court issued an Order Summarizing September 7, 2022 Prehearing Conference, which, *inter alia*, memorialized disposition of two oral motions related to discovery parameters. The Court also set the following case schedule: discovery closes and discovery motions are due on December 6, 2022; dispositive motions are due on January 5, 2023; responses to dispositive motions are due on February 6, 2023; and a tentative hearing date in June 2023.

On September 21, 2022, Complainant filed a Request for Anonymity in Court's Published Orders and Decisions (Anonymity Motion). On October 3, 2022, Respondent filed an Opposition to Complainant's Anonymity Motion. On October 13, 2022, the Court denied Complainant's Anonymity Motion.

On November 22, 2022, Complainant filed a Motion to Seek Resolution Regarding Respondent NVIDIA Corporation's Responses to Complainant's Discovery Requests (Discovery Motion). Complainant seeks an order that Respondent: (1) identify which produced records are responsive to each interrogatory and request for production;<sup>2</sup> (2) produce unredacted records for the propounded discovery requests; and (3) provide responses to interrogatories 7, 8, 9, 10, "without objecting to the restrictions on [the] number of interrogatories." *See* Disc. Mot. 11–13. Complainant also seeks an additional 5 interrogatories and 5 requests for production, along with a 60-day extension of the date discovery closes. *Id.*

On December 6, 2022, Respondent filed an Opposition to Complainant's Discovery Motion (Opposition). Respondent argues that it has met its discovery obligations under OCAHO's rules.<sup>3</sup> *See generally* Opp'n. Specifically, Respondent asserts that it properly responded to Complainant's discovery requests (objecting or redacting irrelevant information as necessary), and properly identified documents responsive to Complainant's discovery requests. *See id.* at 1–3, 7. Respondent also argues that Complainant has not met his burden to either expand the scope, or extend the time, for discovery. *Id.* at 3, 20–21.

## II. PROCEDURAL HISTORY OF DISCOVERY

On September 30, 2022, Complainant mailed his interrogatories to Respondent. Disc. Mot. Ex. A; Opp'n 5 (citing Ex. A). On October 3, 2022, Complainant mailed his requests for production to Respondent. Disc. Mot. Ex. B; Opp'n 5 (citing Ex. B).

On October 7, 2022, Respondent mailed its interrogatories and requests for production to Complainant. Opp'n 5 (citing Ex. C).

On October 31, 2022, Respondent answered Complainant's interrogatories. Disc. Mot. Ex. D–E; Opp'n 5 (citing Ex. D).

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<sup>2</sup> The relief sought relates to "Bates-numbering" that ties specific responsive documents to specific requests for production. Disc. Mot. 3.

<sup>3</sup> OCAHO Rules of Practice and Procedure, 28 C.F.R. pt. 68 (2022).

On November 2, 2022, Respondent provided Complainant electronic access to its discovery responses. Disc. Mot. Ex. C; Opp’n 6 (citing Ex. E–F). That same day, Complainant objected to electronic service of the discovery responses, and requested that Respondent specify which specific documents correspond to each of his discovery requests (related to Bates numbering). Disc. Mot. Ex. C; Opp’n 6, Ex. G.

On November 4, 2022, Respondent mailed its discovery responses to Complainant as hard copies. Disc. Mot. Ex. C; Opp’n 7 (citing Ex. F–G).

On November 8, 2022, Complainant informed Respondent that he mailed his discovery responses. Disc. Mot. Ex. C; Opp’n Ex. G. In the same email, Complainant again raised concerns related to document identification, as well as concerns on redactions and interrogatory responses. *Id.*

On November 9, 2022, Respondent answered Complainant’s November 8, 2022 email, addressing issues on document specification, information redaction, and interrogatories. *Id.*

### III. LEGAL STANDARDS & DISCUSSION

At the outset, the Court must make clear to the parties that this Order addresses *only* the issue of extending the discovery deadline, which will then move the remaining deadlines in the case. The parties should not construe anything in this Order as an assessment of the merits of other issues raised in Complainant’s motion.

A decision to bifurcate the issues raised is a discretionary one, and it relates only to case management. By addressing only the matter of extending the deadline, the Court endeavors to place the parties on notice that they need not file any further motions seeking guidance as to filing deadlines for any case dispositive motions. Further, it preserves the positions of the parties while the remaining issues raised in the motion are considered and addressed. All discovery limitations outlined in previous orders remain in place.

#### A. Legal Standards for Extension of Discovery Timeframe

“OCAHO has broad authority to control discovery.” *United States v. Chancery Staffing Sols.*, 13 OCAHO no. 1326a, 3 (2019) (citing 28 C.F.R. pt. 68). That authority includes a decision on a motion to extend the discovery timeframe. *See Heath v. Consultadd*, 15 OCAHO no. 1395a, 3 (2022) (citations omitted); 28 C.F.R. § 68.18.

A party requesting to modify the date discovery closes must demonstrate good cause. *See A.S. v. Amazon Web Servs., Inc.*, 14 OCAHO no. 1381k, 3 (2021) (citations omitted) (“The applicable standard for an extension of time is good cause.”); *see also* Fed. R. Civ. P. 16(b)(4) (“A schedule may be modified only for good cause and with the judge’s consent.”).

In determining whether good cause exists to amend when discovery closes, the United States Court of Appeals for the Ninth Circuit<sup>4</sup> instructs courts to “primarily consider[r] the diligence of the party seeking the amendment.” *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992) (citations omitted); *see Zivkovic v. S. Cal. Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002) (citations omitted) (noting that the ‘diligence’ is in attempting to comply with the dates set by the court). While prejudice to the opposing party may be considered, the focus is upon the moving party’s reasons for seeking the modification. *See Johnson*, 975 F.2d at 609 (citation omitted).

## B. Discussion

The Court finds that sufficient good cause exists to extend the discovery timeframe. Complainant demonstrated diligence in attempting to complete discovery before the December 6, 2022 deadline. Complainant served his discovery requests on September 30, 2022 and October 3, 2022. The parties discussed the purportedly deficient discovery responses in early November 2022, and Complainant filed his Discovery Motion on November 22, 2022.

Further, the Court observes there are pending discovery-related requests for relief, and the parties likely seek full resolution of Complainant’s motion while still in the discovery window. Respondent also has not argued that it would suffer prejudice from extending the discovery timeframe by 60 days.<sup>5</sup>

Accordingly, the Court GRANTS Complainant’s motion, as to a 60-day extension of time for the date discovery closes. The Court DEFERS decision on the remaining issues raised in the motion. Parties can anticipate a separate order addressing those issues and are encouraged to meet and confer on discovery matters in the interim.

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<sup>4</sup> California, a state located in the Ninth Circuit, is the location where the violation is alleged to have occurred, and Respondent transacts business in the state. *See* 28 C.F.R. § 68.57.

<sup>5</sup> Respondent generally argues that the Court should deny the request for additional time to complete discovery, as Complainant “fails to identify any additional relevant information he will seek to discover” through additional discovery requests. *See* Opp’n 20–21. However, the Court has not yet decided on the raised discovery relevance or production issues, or the propriety of allowing more interrogatories or requests for production. *See also Heath v. ASTA CRS, Inc.*, 14 OCAHO no. 1385, 4 (2021) (citing *Ironworkers Local 455 v. Lake Constr. & Dev. Corp.*, 6 OCAHO no. 911, 1039, 1046 (1997) (noting that the purpose of discovery is to require the disclosure of all relevant information, and that a court seeks to resolve a case “based on a full and accurate understanding of the facts”).

IV. MODIFIED SCHEDULING ORDER

The Court ORDERS the following modified scheduling order in this case as follows:

February 6, 2023: Discovery closes, and deadline for discovery motions

March 8, 2023: Dispositive motions deadline

April 7, 2023: Responses to dispositive motions deadlines

August 2023: Tentative hearing timeframe

SO ORDERED.

Dated and entered on December 13, 2022.

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Honorable Andrea R. Carroll-Tipton  
Administrative Law Judge