

FEDERAL MARITIME COMMISSION
Office of Administrative Law Judges

SAMSUNG ELECTRONICS AMERICA, INC., *Complainant*

v.

ZIM INTEGRATED SHIPPING SERVICES LTD., *Respondent*.

DOCKET NO. 22-30

Served: June 30, 2023

ORDER OF: Erin M. WIRTH, *Chief Administrative Law Judge*.

ORDER ON RESPONDENT’S MOTION FOR EXTENSION OF SCHEDULING ORDER

On June 27, 2023, Respondent ZIM Integrated Shipping Services Ltd. (“ZIM”) filed a motion (“Motion”) seeking an extension of over six weeks for the deadlines in the amended scheduling order. On June 30, 2023, Complainant Samsung Electronics America, Inc. (“Samsung” or “SEA”) filed a response to the motion (“Opposition”) which proposed a shorter extension of two weeks.

ZIM asserts that “this case involves tens of thousands of shipments, more than two hundred thousand pages of documents, and the depositions of 13 fact witnesses (all of which were conducted in less than a month)” and that Samsung “has served two affirmative expert reports (one of which is 30 pages in length and has 168 pages of exhibits, and the other of which is 50 pages in length with 82 footnotes purporting to refer to supporting evidence that was not attached to the report).” Motion at 2. ZIM argues that the requested extension is necessary for a full development of the evidentiary record. Motion at 3.

Samsung contends that ZIM’s “third request to extend the schedule in this proceeding should be rejected,” arguing that ZIM’s proposed schedule extension is excessive and without good cause and that ZIM flouted the FMC’s pre-motion meet-and-confer requirement. Opposition at 5-6.

Samsung served its expert reports on June 19, 2023, and ZIM intended only to submit rebuttal expert reports, however, the parties have been unable to agree on a deadline for the rebuttal reports. This is a large proceeding and the parties reported in their last status report that they have exchanged almost 250,000 pages of documents and were taking 13 depositions in the space of one month. Supplemental Joint Status Report at 3. Moreover, ZIM must have a reasonable time for its expert to respond to the detailed expert reports provided by Samsung. However, the extension requested by ZIM will delay the proceeding and is longer than necessary. Therefore, a shorter extension of approximately four weeks is granted.

Regarding expert depositions, both parties state that if one side conducts depositions then the other side should be able to conduct depositions as well. Motion at 4; Opposition at 7. A deadline is provided for expert depositions, but only if both sides can agree to dates that work for all of the expert depositions by the deadline below. The parties are strongly encouraged to agree to dates for expert depositions as soon as possible or be prepared to brief the proceeding without the expert depositions.

For the reasons discussed above, it is hereby **ORDERED** that the motion be **GRANTED IN PART AND DENIED IN PART**. The parties shall follow this revised schedule:

July 20, 2023	Submit expert rebuttal reports.
July 28, 2023	Expert depositions completed if both sides agree to dates.
August 21, 2023	Complainant's brief, proposed findings of fact, and appendix.
September 21, 2023	Respondent's opposition brief, responses to proposed findings of fact, proposed findings of fact, and appendix.
October 5, 2023	Complainant's reply brief and responses to proposed findings of fact.


Erin M. Wirth
Chief Administrative Law Judge