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**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

In the Matter of

Tempur Sealy International, Inc.,
a corporation,

and

Mattress Firm Group Inc.
a corporation.

DOCKET NO. 9433

JOINT STATUS REPORT

Pursuant to the Court’s Order Continuing Suspension of Deadlines in Scheduling Order and Directing a Further Status Report, dated January 14, 2025, Complaint Counsel and Respondents Tempur Sealy International, Inc. (“Tempur Sealy”) and Mattress Firm Group Inc., n/k/a Lima Deal Corporation LLC, (“Mattress Firm”) submit this Joint Status Report. The Parties provide an update on the federal preliminary injunction proceeding, the Part 3 proceeding, including “their position regarding whether and how to amend the Scheduling Order,” and pending motions.

On January 31, 2025, the district court denied the FTC’s motion for a preliminary injunction preventing Tempur Sealy’s acquisition of Mattress Firm until after completion of Part 3 proceedings. Subsequently, on February 5, 2025, Tempur Sealy completed its acquisition of Mattress Firm. Following these significant developments, the Parties propose that any further amendment to the Scheduling Order be deferred to allow Respondents to file a motion to remove this matter from Part 3 adjudication when permitted under FTC Rule 3.26. *See* 16 C.F.R. § 3.26(c). The Parties are available to address this and any other issue the Court wishes to address at the Court’s convenience.

I. Joint Status Report

A. The Federal Court Proceeding

On July 2, 2024, the FTC filed an administrative complaint challenging Tempur Sealy’s acquisition of Mattress Firm. That same day, the FTC filed a complaint in federal court seeking a preliminary injunction. Compl., *Federal Trade Commission v. Tempur Sealy Int’l, Inc.*, No. 4:24-cv-02508 (S.D. Tex.), ECF No. 1.

The federal court held an evidentiary hearing in November 2024 and heard closing arguments on December 16, 2024. During the hearing, the Court heard from 21 live witnesses, received deposition testimony for another 31 witnesses, and received and considered Joint

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Proposed Findings of Fact and Conclusions of Law. ECF No. 511.

On January 31, 2025, the Court entered an Order and Opinion “denying the motion by the Federal Trade Commission for a preliminary injunction that would halt the closing of the proposed acquisition of Mattress Firm Group Inc by Tempur Sealy International, Inc, pending completion of its own administrative proceeding.” ECF No. 508. As noted above, on February 5, 2025, Tempur Sealy completed its acquisition of Mattress Firm.

Separate from the federal proceedings initiated by the FTC, on October 4, 2024, Tempur Sealy and Mattress Firm filed a Complaint against the FTC and the five FTC Commissioners in the Southern District of Texas alleging that the Part 3 proceedings violated Article III by purporting to adjudicate Respondents’ property and contract rights and that the FTC’s purported ability to choose whether to sue in-house or in an Article III court violated the non-delegation doctrine. *Tempur Sealy Int’l, Inc. v. Federal Trade Commission*, No. 4:24-cv-3764 (S.D. Tex.), ECF No. 1. Respondents have sought a preliminary injunction, which is fully briefed and pending before U.S. District Judge Charles Eskridge.¹

B. Pending Motions

There is one pending motion in the federal court proceedings. In the 4:24-cv-3764 proceeding, Tempur Sealy and Mattress Firm filed a Motion for Preliminary Injunction on November 5, 2024, to enjoin the Part 3 proceeding. ECF No. 33. The Department of Justice, representing the FTC, filed its Opposition to Motion for Preliminary Injunction on December 13, 2024. ECF No. 39. Tempur Sealy and Mattress Firm filed a Reply in support of their Motion for Preliminary Injunction on January 10, 2025. ECF No. 42. The Court has scheduled a status conference in this proceeding for February 18, 2025.

II. Part 3 Proceeding

The Commission issued the Administrative Complaint in Part 3 on July 2, 2024. Respondents Tempur Sealy and Mattress Firm filed their respective Answers and Defenses on July 9, 2024. The Court issued a Scheduling Order on July 19, 2024.

On October 2, 2024, Respondents filed a motion requesting that the Commission continue the Part 3 hearing from December 4, 2024, to February 9, 2025, to give the federal court time to rule on the FTC’s request for a preliminary injunction before the beginning of the Part 3 hearing.² Complaint Counsel filed a Response on October 15, 2024, agreeing that the Part 3 hearing should begin no sooner than February 9, 2025, but requesting that the Commission defer setting a date for the Part 3 hearing and instead require the Parties to submit a joint status report on January 13, 2025, updating the Commission on the status of the preliminary injunction proceeding and its impact on whether (and when) an administrative hearing may be necessary.

¹ In filing this Joint Status Report, Respondents do not concede that the Part 3 proceedings are proper or that the FTC may conduct the administrative hearing consistent with the Constitution. See *Tempur Sealy Int’l, Inc. v. Federal Trade Commission*, No. 4:24-cv-3764 (S.D. Tex.), ECF No. 1.

² A corrected motion was filed on October 3, 2024.

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On November 6, 2024, the Parties jointly moved this Court to suspend all pre-hearing deadlines in the Scheduling Order while the Commission considered Respondents' motion to continue the Part 3 hearing. On November 7, 2024, the Court granted the Parties' joint motion and suspended all pre-hearing deadlines in the Scheduling Order. The Court directed that, should the Commission grant Respondents' motion to continue the Part 3 hearing, the Parties shall submit a joint status report advising the Court on their position regarding whether and how to amend the Scheduling Order within ten business days after the completion of the preliminary injunction hearing in federal court.

Also on November 7, 2024, the Commission granted Respondents' motion to continue the Part 3 hearing, ordered that the Part 3 hearing commence on February 10, 2025, and directed the Parties to submit a joint status report or separate status reports on January 13, 2025, regarding the status of the federal court proceeding and its impact on whether (and when) an administrative hearing may be necessary.

On December 31, 2024, the Parties submitted a joint status report to the Court proposing that any further amendment to the Scheduling Order be deferred until submission of the January 13, 2025, status report. On January 13, 2025, the Parties submitted a joint status report and motion for continuance, requesting that the administrative hearing be postponed by 30 days. On January 14, 2025, the Court ordered that "[t]he suspension of the pre-hearing deadlines in the Scheduling Order remains in effect" and that "Within 2 business days from a Commission ruling on the joint motion for a 30-day continuance of the evidentiary hearing, the Parties shall submit a joint status report advising this Court on their position regarding whether and how to amend the Scheduling Order."

On February 4, 2025, the Commission granted Parties' Motion for Continuance, ordering that the "evidentiary hearing in this proceeding shall commence at 10:00 am on March 12, 2025."

A. Upcoming Motion

There are no pending motions in the Part 3 proceeding. However, Respondents anticipate filing a motion when permitted by Rule 3.26 to remove this matter from Part 3 adjudication. *See* 16 C.F.R. § 3.26. For this reason, Complaint Counsel and Respondents jointly and respectfully request that the Court defer any further amendment to the Scheduling Order to allow Respondents to file this motion.

Dated: February 6, 2025

Respectfully submitted,

By:

/s/ Jacob M. Coate
Jacob M. Coate
Ryan A. Shores
CLEARY GOTTLIEB STEEN &
HAMILTON LLP
2112 Pennsylvania Ave., NW
Washington, D.C. 20037

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Telephone: (202) 974-1500
jcoate@cgsh.com
rshores@cgsh.com

*Counsel for Respondents Tempur Sealy
International, Inc. and Mattress Firm
Group Inc., n/k/a Lima Deal Corporation
LLC*

/s/ William Sohn

William Sohn
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
Telephone: (202) 326-3356
Email: wsohn@ftc.gov

Counsel Supporting the Complaint

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Certificate of Service

I hereby certify that, on February 6, 2025, I caused the foregoing to be electronically filed with the Secretary of the Commission using the Federal Trade Commission's e-filing system, causing the document to be served on the following registered participants.

April J. Tabor
Secretary of the Federal Trade Commission
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm. H-113
Washington, D.C. 20580
ElectronicFilings@ftc.gov

Office of Administrative Law Judges
Federal Trade Commission
600 Pennsylvania Ave., NW,
Washington, D.C. 20580

I also certify that I caused an unredacted copy of the foregoing document to be served via email to:

Allyson Maltas, amaltas@ftc.gov

Noel Miller, nmiller2@ftc.gov

Stephen Rodger, srodger@ftc.gov

Ethan Stevenson, estevenson1@ftc.gov

Adam Pergament, apergament@ftc.gov

Jeanette Pascale, jpascale@ftc.gov

Isiah Albright, ialbright@ftc.gov

Devon Allen, dallen1@ftc.gov

Counsel Supporting the Complaint

/s/ Jacob M. Coate
Jacob M. Coate

*Counsel for Respondents Tempur Sealy
International, Inc. and Mattress Firm
Group Inc., n/k/a Lima Deal Corporation
LLC*