

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES**

_____ )	
In the Matter of )	
)	
Illumina, Inc., )	
a corporation, )	Docket No. 9401
)	
and )	
)	
GRAIL, Inc., )	
a corporation, )	
)	
Respondents. )	
_____ )	

**ORDER DENYING RESPONDENTS’ MOTION FOR  
CONFERENCE TO FACILITATE SETTLEMENT**

**I.**

On July 13, 2021, Respondents Illumina, Inc. and GRAIL, Inc. (collectively, “Respondents”) filed a Motion for Conference to Facilitate Settlement (“Motion”). Federal Trade Commission (“FTC”) Complaint Counsel filed an opposition on July 15, 2021 (“Opposition”). For the reasons set forth below, the Motion is DENIED.<sup>1</sup>

**II.**

Respondents assert that they have submitted multiple settlement proposals to the FTC, but that the FTC has neither responded nor proposed any alternative terms for settlement. Respondents request that this Court convene a settlement conference in order to ensure that Complaint Counsel engages with Respondents in an effort to resolve the matter through settlement.

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<sup>1</sup> Respondents’ Motion, originally submitted on July 2, 2021, requested an order directing a response from Complaint Counsel by July 7 and setting the requested settlement conference for July 8, which dates represent a shortening of the time allowed under FTC Rules. *See* 16 C.F.R. § 3.22(d). The Office of the Secretary returned Respondents’ filing to counsel for failure to comply with procedural rules. On July 6, 2021, Complaint Counsel submitted a filing opposing Respondents’ proposed shortened timeframe. *See* Complaint Counsel’s Opposition to Request for Expedited Treatment. On July 13, 2021, Respondents refiled the Motion without revising the above-referenced dates. As those dates have passed, Respondents’ requests are DENIED as moot.

Complaint Counsel states that the settlement proposal included with Respondents' Motion is essentially the same proposal that Respondents offered in an attempt to settle the pending dispute prior to the filing of the administrative Complaint, and that the proposal was rejected by the Commission. Complaint Counsel argues that, to this extent, Respondents' present settlement proposal is not made in good faith. Complaint Counsel further argues that Respondents' proposal is fundamentally flawed, and Complaint Counsel cannot currently identify any amendments to the proposal or an alternative settlement path that appears likely to remedy the alleged competitive harm resulting from the proposed transaction.

**III.**

Pursuant to FTC Rule 3.25(a):

The Administrative Law Judge may, in his or her discretion and without suspension of prehearing procedures, hold conferences for the purpose of supervising negotiations for the settlement of the case, in whole or in part, by way of consent agreement.

16 C.F.R. § 3.25(a). It is clear from the Motion and the Opposition that the parties are not presently engaged in negotiations for the purpose of settlement, and thus there are no settlement negotiations to supervise, as contemplated by Rule 3.25(a). There being no apparent basis for holding a settlement conference at this time, the Motion is DENIED.

Nothing in this Order precludes the parties from refileing a motion for a settlement conference under Rule 3.25(a) in the future, should negotiations ensue and supervision is desired. The parties are encouraged to engage in settlement negotiations.

ORDERED:



D. Michael Chappell  
Chief Administrative Law Judge

Date: July 21, 2021