

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

**In the Matter of**

**Illumina, Inc.,  
a corporation,**

**and**

**GRAIL, Inc.,  
a corporation.**

**DOCKET NO. 9401**

**COMPLAINT COUNSEL’S OPPOSITION TO RESPONDENT ILLUMINA, INC.’S  
MOTION TO MODIFY THE PROTECTIVE ORDER**

Less than a week before the start of the hearing, Respondent Illumina, Inc. (“Illumina”) seeks permission for two of its in-house counsel to watch and listen as competitors of Respondent GRAIL, Inc. (“GRAIL”) testify about competitively sensitive information that Illumina could use to do them harm. Illumina’s motion should be denied for three reasons. First, the Commission Rules do not allow in-house counsel to receive third-party confidential information—no exceptions. Second, Illumina fails to provide evidence or articulate reasons as to how an exception could be needed here. Third, the in-house counsel of Illumina’s choice appear to be involved in competitive decision-making for Illumina, contrary to Illumina’s representations to Complaint Counsel and to this Court.

**BACKGROUND**

On March 30, 2021, the Commission unanimously issued a Complaint alleging that Illumina’s proposed acquisition of Respondent GRAIL, Inc. (“Grail”) violates federal antitrust laws by giving Illumina the ability and incentive to disadvantage Grail’s rivals, thereby reducing































































# Exhibit M

(CONFIDENTIAL – REDACTED IN ENTIRETY)

# Exhibit N

(CONFIDENTIAL – REDACTED IN ENTIRETY)

# Exhibit O

(CONFIDENTIAL – REDACTED IN ENTIRETY)



### CERTIFICATE OF SERVICE

I hereby certify that on August 20, 2021, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

April Tabor  
Secretary  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-113  
Washington, DC 20580  
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell  
Administrative Law Judge  
Federal Trade Commission  
600 Pennsylvania Ave., NW, Rm. H-110  
Washington, DC 20580

I also certify that I caused the foregoing document to be served via email to:

<p>David Marriott Christine A. Varney Sharonmoyee Goswami Cravath, Swaine &amp; Moore LLP 825 Eighth Avenue New York, NY 10019 (212) 474-1140 dmarriott@cravath.com cvarney@cravath.com sgoswami@cravath.com</p> <p><i>Counsel for Illumina, Inc.</i></p>	<p>Al Pfeiffer Michael G. Egge Marguerite M. Sullivan Latham &amp; Watkins LLP 555 Eleventh Street, NW Washington, DC 20004 (202) 637-2285 al.pfeiffer@lw.com michael.egge@lw.com marguerite.sullivan@lw.com</p> <p><i>Counsel for GRAIL, Inc.</i></p>
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/s/ J. Wells Harrell

J. Wells Harrell

*Counsel Supporting the Complaint*