

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

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

**ORDER ON NON-PARTIES’ MOTIONS  
FOR *IN CAMERA* TREATMENT**

**I.**

Pursuant to Rule 3.45(b) of the Rules of Practice of the Federal Trade Commission (“FTC” or “Commission”) and the Scheduling Order entered in this matter, certain non-parties, identified below, filed motions for *in camera* treatment for designated materials that FTC Complaint Counsel and/or Respondents Illumina, Inc., and GRAIL, Inc. have listed on their exhibit lists as materials that might be introduced at trial. Neither Complaint Counsel nor Respondents opposed the motions filed by the non-parties.

**II.**

Under Rule 3.45(b), the Administrative Law Judge may order that material offered into evidence “be placed *in camera* only [a] after finding that its public disclosure will likely result in a clearly defined, serious injury to the person, partnership or corporation requesting *in camera* treatment or [b] after finding that the material constitutes sensitive personal information.” 16 C.F.R. § 3.45(b).

**A. Clearly defined, serious injury**

“[R]equests for *in camera* treatment must show ‘that the public disclosure of the documentary evidence will result in a clearly defined, serious injury to the person or corporation whose records are involved.’” *In re Kaiser Aluminum & Chem. Corp.*, 1984 FTC

LEXIS 60, at \*1 n.1 (May 25, 1984), quoting *In re H. P. Hood & Sons, Inc.*, 1961 FTC LEXIS 368 (Mar. 14, 1961). Applicants must “make a clear showing that the information concerned is sufficiently secret and sufficiently material to their business that disclosure would result in serious competitive injury.” *In re General Foods Corp.*, 1980 FTC LEXIS 99, at \*10 (Mar. 10, 1980). If the applicants for *in camera* treatment make this showing, the importance of the information in explaining the rationale of FTC decisions is “the principal countervailing consideration weighing in favor of disclosure.” *Id.*

The FTC recognizes the “substantial public interest in holding all aspects of adjudicative proceedings, including the evidence adduced therein, open to all interested persons.” *Hood*, 1961 FTC LEXIS 368, at \*5-6. A full and open record of the adjudicative proceedings promotes public understanding of decisions at the Commission. *In re Bristol-Myers Co.*, 1977 FTC LEXIS 25, at \*6 (Nov. 11, 1977). A full and open record also provides guidance to persons affected by the Commission’s actions and helps to deter potential violators of the laws that the Commission enforces. *Hood*, 1961 FTC LEXIS 368, at \*6-7. The burden of showing good cause for withholding documents from the public record rests with the party requesting that documents be given *in camera* treatment. *Id.* at \*10-11. Moreover, there is a presumption that *in camera* treatment will not be accorded to information that is more than three years old. *In re Int’l Ass’n of Conference Interpreters*, 1996 FTC LEXIS 298, at \*15 (June 26, 1996) (citing *General Foods*, 1980 FTC LEXIS 99, at \*4-5; *In re Crown Cork & Seal Co.*, 1967 FTC LEXIS 128, at \*2-3 (June 26, 1967)).

In order to sustain the burden for withholding documents from the public record, an affidavit or declaration is always required, demonstrating that a document is sufficiently secret and sufficiently material to the applicant’s business that disclosure would result in serious competitive injury. *In re North Texas Specialty Physicians*, 2004 FTC LEXIS 109, at \*3-4 (Apr. 23, 2004). To overcome the presumption that *in camera* treatment will not be granted for information that is more than three years old, applicants seeking *in camera* treatment for such documents must also demonstrate, by affidavit or declaration, that such material remains competitively sensitive. In addition, to properly evaluate requests for *in camera* treatment, applicants for *in camera* treatment must provide a copy of the documents for which they seek *in camera* treatment to the Administrative Law Judge for review. Where *in camera* treatment is sought for transcripts of investigational hearings or depositions, the requests shall be made only for those specific pages and line numbers of transcripts which contain information that meets the *in camera* standard. *In re Unocal*, 2004 FTC LEXIS 197, \*4-5 (Oct. 7, 2004).

Under Commission Rule 3.45(b)(3), indefinite *in camera* treatment is warranted only “in unusual circumstances,” including circumstances in which “the need for confidentiality of the material . . . is not likely to decrease over time . . .” 16 C.F.R. § 3.45(b)(3). “Applicants seeking indefinite *in camera* treatment must further demonstrate ‘at the outset that the need for confidentiality of the material is not likely to decrease over time’ 54 Fed. Reg. 49,279 (1989) . . . [and] that the circumstances which presently give rise to this injury are likely to be forever present so as to warrant the issuance of an indefinite *in camera* order rather than one of more limited duration.” *In re E. I. DuPont de Nemours & Co.*, 1990 FTC LEXIS 134, at \*2-3 (Apr. 25, 1990). In *DuPont*, the Commission rejected the respondent’s request for

indefinite *in camera* treatment. However, based on “the highly unusual level of detailed cost data contained in these specific trial exhibit pages, the existence of extrapolation techniques of known precision in an environment of relative economic stability, and the limited amount of technological innovation occurring in the . . . industry, . . .” the Commission extended the duration of the *in camera* treatment for a period of ten years. *Id.* at \*5-6.

In determining the length of time for which *in camera* treatment is appropriate, the distinction between trade secrets and ordinary business records is important because ordinary business records are granted less protection than trade secrets. *Hood*, 1961 FTC LEXIS 368, at \*12. Examples of trade secrets meriting indefinite *in camera* treatment include secret formulas, processes, other secret technical information, or information that is privileged. *Hood*, 1961 FTC LEXIS 368, at \*12; *General Foods*, 1980 FTC LEXIS 99, at \*2; *In re Textron, Inc.*, 1991 FTC LEXIS 135, at \*1 (Apr. 26, 1991).

In contrast to trade secrets, ordinary business records include information such as customer names, pricing to customers, business costs and profits, as well as business plans, marketing plans, or sales documents. *See Hood*, 1961 FTC LEXIS 368, at \*13; *In re McWane, Inc.*, 2012 FTC LEXIS 143 (Aug. 17, 2012); *In re Int’l Ass’n of Conference Interpreters*, 1996 FTC LEXIS 298, at \*13-14. When *in camera* treatment is granted for ordinary business records, it is typically provided for two to five years. *E.g., McWane*, 2012 FTC LEXIS 143; *In re ProMedica Health Sys.*, 2011 FTC LEXIS 101 (May 25, 2011).

## **B. Sensitive personal information**

Under Rule 3.45(b) of the Rules of Practice, after finding that material constitutes “sensitive personal information,” (“SIP”) the Administrative Law Judge shall order that such material be given *in camera* treatment. 16 C.F.R. § 3.45(b). “Sensitive personal information” is defined as including, but not limited to, “an individual’s Social Security number, taxpayer identification number, financial account number, credit card or debit card number, driver’s license number, state-issued identification number, passport number, date of birth (other than year), and any sensitive health information identifiable by individual, such as an individual’s medical records.” 16 C.F.R. § 3.45(b). In addition to these listed categories of information, in some circumstances, individuals’ names and addresses, and witness telephone numbers have been found to be “sensitive personal information” and accorded *in camera* treatment. *In re LabMD, Inc.*, 2014 FTC LEXIS 127 (May 6, 2014); *In re McWane, Inc.*, 2012 FTC LEXIS 156 (Sept. 17, 2012). *See also In re Basic Research, LLC*, 2006 FTC LEXIS 14, at \*5-6 (Jan. 25, 2006) (permitting the redaction of information concerning particular consumers’ names or other personal data when it was not relevant). “[S]ensitive personal information . . . shall be accorded permanent *in camera* treatment unless disclosure or an expiration date is required or provided by law.” 16 C.F.R. § 3.45(b)(3).

## **III.**

The non-parties listed below filed separate motions for *in camera* treatment. Each motion included the documents for which *in camera* treatment is sought and was properly supported by a declaration of an individual within the company who had reviewed the

documents at issue. These declarations supported the applicants' claims that the documents are sufficiently secret and sufficiently material to their businesses that disclosure would result in serious competitive injury. That showing was then balanced against the importance of the information in explaining the rationale of FTC decisions. *See Kaiser Aluminum*, 1984 FTC LEXIS 60, at \*2 ("A public understanding of this proceeding does not depend on access to these data submitted by these third party firms."). Moreover, in evaluating the specific motions of each of the non-parties under the standards set forth above, requests for *in camera* treatment by non-parties warrant "special solicitude." *Crown Cork*, 1967 FTC LEXIS 128, at \*2; *ProMedica*, 2011 FTC LEXIS 101, at \*3-4. *See also Kaiser Aluminum*, 1984 FTC LEXIS 60, at \*2-3 ("As a policy matter, extensions of confidential or *in camera* treatment in appropriate cases involving third party bystanders encourages cooperation with future adjudicative discovery requests.").

### **American Cancer Society, Inc. ("ACS")**

ACS seeks *in camera* treatment for two portions of one deposition transcript that it asserts constitute competitively sensitive confidential information. ACS supports its motion with a declaration from its chief legal and risk officer. The declaration asserts that the deposition contains confidential information concerning ACS views, activities, and current processes, in addition to its business relationships with companies concerning the development of multi-cancer early detection tests, and that such information is competitively sensitive. The declaration also describes in detail the significant steps ACS takes to protect the information from disclosure and maintain its confidentiality.

ACS has met its burden of demonstrating that the information is sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the following portions of the deposition transcript of Dr. William D. Chance: PX7086 (35:1-36:6 and 39:24-43:17).

### **Caris Life Sciences, Inc. ("Caris")**

Caris seeks *in camera* treatment for all or portions of nine documents that it asserts constitute competitively sensitive confidential business documents or trade secrets. Caris supports its motion with a declaration from its general counsel. The declaration asserts that Caris has spent millions of dollars on the research and development projects described in the confidential documents and that the documents contain proprietary information that is highly valuable, especially to Caris' competitors. The declaration also describes in detail the significant steps Caris takes to protect the information from disclosure and maintain its confidentiality.

Caris has met its burden of demonstrating that these documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. In order to make the expiration date of *in camera* treatment consistent across exhibits

provided by non-parties, which furthers the public interest in administrative efficiency,<sup>1</sup> *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified as PX8319, PX8320, PX8321, PX9130, and CarisLifeSciences SDT\_Illumina 02492-02495, and for the designated portions of PX9131, PX9134, and FTCCarisLife-00000477-00000487.

With respect to the one document for which Caris seeks indefinite *in camera* treatment, Caris has demonstrated that the detailed information about technical specifications of Caris' testing products will not cease to be competitively sensitive. Accordingly, indefinite *in camera* treatment is GRANTED for the document identified as PX9137.

### **Element Biosciences, Inc. (“Element”)**

Element seeks *in camera* treatment for seven documents and portions of one deposition transcript that it asserts constitute competitively sensitive confidential business documents and technical trade secrets. Element supports its motion with a declaration from its co-founder and chief executive officer. The declaration asserts that the documents and deposition contain confidential information relating to Element's proprietary technology, business development and marketing strategies, product and pricing strategies, competitive and positioning analysis, and communications with Element's partners and potential customers, and that such information is competitively sensitive. The declaration also describes in detail the significant steps Element takes to protect the information from disclosure and maintain its confidentiality.

Element has met its burden of demonstrating that these documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified by Bates numbers: ELEMENT 00001-017, 00018-032, 00033-046, 00047-063, 00261-321, 00339-365 and 00366-385.

With respect to the deposition transcript, Element has narrowed its request to only those portions meeting the standards for *in camera* treatment. *In camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the following portions of the deposition transcript of Dr. Molly He (PX7124): 4:20-21; 4:23-24; 5:3-4; 22:20-22; 23:7-11; 23:12; 23:15; 24:2-25; 25:18-25; 26:2-25; 27:1-3; 9-25; 28:1; 28:4-12; 15-18; 23-25; 29:2-20; 23-25; 30:1-15; 24-25; 31:1-10; 13-16; 22-25; 32:1; 14-15; 17-20; 22-25; 33:1-25; 34:3-5; 7-16; 35:11-21; 36:4-10; 43:8-25; 44:1; 3-7; 10-20; 22-25; 45:4-5; 10-13; 15-16; 18-25; 46:1-5; 10-11; 13-14; 16-25; 47:1-7; 11-12; 16-19; 23-25; 48:1-8; 10-15; 51:18-23; 25; 52:1-4; 10; 12-13; 53:16-19; 22; 57:7-19; 24-25; 58:1-10; 18-25; 59:1-3; 60:6-7; 11-16; 18; 61:5-12; 62:4-14; 18-21; 64:5-23; 65:6-22; 66:3-11; 13-14; 16-19; 22-23; 67:9-15; 20-21; 24-25; 68:1-2; 9-10; 12-13; 20-23; 25; 69:1-2; 12; 16-20; 70:5-6; 11-13; 71:4-5; 72:3-16; 19-24; 74:20-23; 75:20-22; 25; 77:1-7; 78:6-7; 11-12; 14-25; 79:1-5; 19-22; 81:1; 9; 14; 82:11-13; 83:11-22; 25; 84:7; 85:6-9; 13-19; 86:2-4; 15-16; 87:17; 21-22; 88:8;

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<sup>1</sup> See *In re ProMedica Health Sys.*, 2011 FTC LEXIS 101, at \*20 n.1 (May 25, 2011).

89:23; 90:13; 20; 23; 24; 91:1; 24; 92:2; 14; 95:18-25; 96:6-8; 12-16; 97:1-2; 24; 98:14; 15; 99:18-19; 100:1-7; 10-12; 18-19; 101:1-2; 4-5; 21-25; 102:1-3; 103:16-17; 104:9-15; 105:21; 24-25; 106:1-5; 11; 12-16; 107:6-8; 10; 12-13; 16; 23-25; 108:1-4; 7-10; 14; 15-17; 24-25; 109:1-6; 12-14; 110:6-8; 111:3-7; 116:5-6; 8; 19; 20-24; 117:5-7; 10-18; 21-24; 118:5-8; 119:5; 6-8; 9; 120:20; and 126:6.

### **Emory University and Dr. Charles Hill (“Emory”)**

Emory seeks *in camera* treatment for two documents that it asserts constitute competitively sensitive confidential documents. Emory supports its motion with a declaration from one of its employees. The declaration asserts that the documents contain confidential technical proprietary business information relating to Emory’s research and healthcare activities, including clinical information, and financial data, including the cost/pricing of Emory’s suppliers for materials and supplies, and that such information is competitively sensitive. The declaration also describes in detail the significant steps Emory takes to protect the information from disclosure and maintain its confidentiality.

Emory has met its burden of demonstrating that these documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. In addition, Emory has met its burden of demonstrating that documents relating to its technical scientific processes are entitled to extended protection. Accordingly, *in camera* treatment for a period of ten years, to expire on September 1, 2031, is GRANTED for the documents identified as PX8493 and PX8494.

### **Exact Sciences, Corp. (“Exact”)**

Exact seeks *in camera* treatment for several documents and portions of six deposition transcripts that it asserts constitute competitively sensitive confidential business documents and testimony. Exact supports its amended motion<sup>2</sup> with a declaration from a senior employee. The declaration asserts that the documents and depositions contain confidential proprietary business information, product research and development, marketing strategies, including potential acquisitions, product and pricing strategies, competitive analysis, and communications relating to negotiations with Exact’s suppliers, and that such information is competitively sensitive. The declaration also describes in detail the significant steps Exact takes to protect the information from disclosure and maintain its confidentiality.

Exact has met its burden of demonstrating that these documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. In addition, Exact has met its burden of demonstrating that documents relating to its products in development are entitled to extended protection. Accordingly, *in camera* treatment for a period of ten years, to expire on September 1, 2031, is GRANTED for the

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<sup>2</sup> Exact filed a motion for leave to amend its original motion for *in camera* treatment. Exact asserts that, after Exact had filed its original motion, it received notification from Illumina of additional exhibits from Exact that Respondents intend to introduce at trial. Exact’s motion to file an amended motion for *in camera* treatment is GRANTED.

documents and designated deposition and investigational hearing testimony identified in Exact's amended motion.

### **Freenome Holdings, Inc. ("Freenome")**

Freenome seeks *in camera* treatment for several documents and portions of deposition or investigational hearing transcripts that it asserts constitute competitively sensitive confidential business documents and testimony. Freenome supports its motion with a declaration from its chief executive officer. The declaration asserts that the documents contain confidential information about the company, including Freenome's business strategies and innovations, proprietary technology information, medical research and scientific data, product research and development strategies, competitive positioning, pricing, and internal email communications/exchanges relating to acquisitions and vendor-customer relationships, and that such information is competitively sensitive. The declaration also describes in detail the significant steps Freenome takes to protect the information from disclosure and maintain its confidentiality.

Freenome has met its burden of demonstrating that these documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. While Freenome has over designated materials for which it seeks indefinite *in camera* treatment, Freenome has met its burden of demonstrating that documents relating to product development strategy, presentations to the United States Food and Drug Administration, and the information contained in its responses to the FTC's CID and the European Commission's request for information, as well as the designated portions of the transcripts of investigational hearings and depositions are entitled to extended protection. Accordingly, *in camera* treatment for a period of ten years, to expire on September 1, 2031, is GRANTED for the documents identified in Freenome's motion as falling into categories I and II, and to the designated portions of the documents identified as falling into Category V. The documents listed in categories III and IV consist of ordinary business records, and not trade secrets. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified in categories III and IV.

### **Goldman Sachs & Co. LLC ("Goldman Sachs")**

Goldman Sachs seeks *in camera* treatment for five documents that it asserts constitute competitively sensitive confidential business documents. Goldman Sachs supports its motion with a declaration from an associate. The declaration asserts that the documents contain confidential proprietary business information relating to client services, internal methodologies and strategies when advising clients, financial analysis, merger and acquisition information, and Goldman Sachs' non-public engagements with companies and potential clients, and that such information is competitively sensitive. The declaration also describes in detail the significant steps Goldman Sachs takes to protect the information from disclosure and maintain its confidentiality.

Goldman Sachs has met its burden of demonstrating that these documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. However, these documents consist of ordinary business records,

and not trade secrets. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified as PX8409, PX8410, PX8411, PX8412 and PX9166 (001-003).

### **Guardant Health, Inc. (“Guardant”)**

Guardant seeks *in camera* treatment for 69 documents, including portions of five testimony transcripts, that Guardant states fall into one or more of four categories: (a) documents regarding the regulatory status of Guardant’s tests, including regulatory applications and approvals; (b) documents discussing sensitive details of Guardant’s business operations; (c) documents discussing Guardant’s business strategies and product development and commercialization plans, and (d) testimony of Guardant senior executives discussing the foregoing sensitive topics. Guardant supports its motion with a declaration from its vice president of IP litigation and licensing. The declaration asserts that the documents contain confidential technical proprietary information and business strategies, regulatory processes, marketing and distribution plans, competitive analysis, research and development activities, clinical information, financial data, and internal email communications/exchanges relating to its competitors. The declaration also describes in detail the significant steps Guardant takes to protect the information from disclosure and maintain its confidentiality.

Guardant has met its burden of demonstrating that these documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified by exhibit number and or bates number as: PX8523 (GH\_000014534-14561), GH\_000006725, GH\_000009441-9445, GH\_000009659-9663, GH\_000014562-14566, PX8305 (GH\_000001681-2120), PX8307 (GH\_000006580), PX8312 (GH\_000002506-2691), PX8346 (GH\_000002257-2505), GH\_000002182-2256, GH\_000006734-6757, GH\_000012973, GH\_000012974, GH\_000013056, PX8309 (GH\_000006705-6724), PX8310 (GH\_000006801), PX8314 (GH\_000006588), PX8474 (GH\_000007777\_R-7968\_R), PX8495 (GH\_000010475-10482), PX8498 (GH\_000008731-8735), PX8499 (GH\_000008990-8907), PX8503 GH\_000009446-9514), PX8506 (GH\_000010357-10360), PX8507 (GH\_000010627-10629), PX8508 (GH\_000011457-11463), PX8520 (GH\_000009195-9201), PX8521 (GH\_000009218-9219), PX9068 (001-030), GH\_000007025-7055, GH\_000007425, GH\_000007443, GH\_000007489, GH\_000007490, GH\_000007591, GH\_000007864\_R-7942\_R, GH\_000008162\_R-8190\_R, GH\_000008191\_R-8209\_R, GH\_000008210\_R-8311\_R, GH\_000008850-8853, GH\_000009201, GH\_000009351, GH\_000009518-9556, GH\_000010357, GH\_000010378-10380, GH\_000012690, GH\_000012723, GH\_000012724, GH\_000013011-13012, GH\_000013115-13120, GH\_000014475, and for the designated portions of documents identified as PX8306 (GH\_000006253), X8311 (GH\_000006819), PX8313 (GH\_000006254-6494), GH\_000011983, PX8496 (GH\_000013176-13178), PX8501 (GH\_000009376-9377), PX8502 (GH\_000009401-9404), PX8504 (GH\_000010208-10283), PX8505 (GH\_000010340-10352) GH\_000008336-8337, GH\_000008352-8355, GH\_000008714-8716, GH\_000010555, GH\_000010567.

With respect to the deposition transcripts, Guardant has narrowed its request to only those portions meeting the standards for *in camera* treatment. *In camera* treatment, for a

period of five years, to expire on September 1, 2026, is GRANTED for the following investigational hearing and deposition transcripts:

William Getty (IH): PX7040 (34:18-25; 35:1-8; 36:1-3; 56:16-18; 56:21-22; 56:24; 57:1; 57:3-6; 57:8-9; 57:17-25; 58:1; 81:23-25; 82:1-5; 85:18-25; 86:1-2; 86:14-25; 87:9-17; 87:19-24; 88:2-5; 88:16-21; 91:15-21; 92:16-25; 93:1-5; 93:7; 93:9; 93:11-17; 93:25; 94:1-15; 94:20-21; 94:23; 95:5-6; 95:12; 95:17-25; 96:1-4; 96:6-13; 98:4-7; 101:15-22; 103:1-2; 103:7-8; 103:13-18; 104:13-14; 104:25; 105:1-7; 105:12-20; 106:10-12; 106:19-21; 106:24; 114:9-12; 114:21-25; 115:3-6; 115:25; 116:1-9; 117:1-5; 117:16-20; 118:15; 118:17; 118:22; 118:25; 119:2-4; 119:7-8; 122:2-25; 123:1-14; 129:6-14; 141:18-25; 142:1-4; 142:12-15; 142:18-25; 143:1-4; 149:20-21; 151:2-7; 151:11-25; 152:1-25; 153:4-15; 174:8-11; 174:17-18; 174:20; 174:25; 175:1; 191:22-23; PX7040 (051-081(index)) and PX7040 (083 (errata)).

Darya Chudova (IH): PX7045 (25:25; 26:1-3; 26:7-10; 27:24-25; 28:1-2; 28:12-15; 36:5-16; 39:19-25; 40:1-6; 40:15-25; 41:1-16; 41:18; 41:23-25; 42:25; 43:1-8; 43:17; 45:10-13; 48:5-8; 48:22; 49:24-25; 50:1-5; 50:8; 50:15; 65:4-18; 76:1-5; 81:6-11; 81:15-23; 84:22-25; 85:1-25; 86:1-4; 86:8-20; 88:11-21; 91:2-22; 93:10-12; 93:15; 93:18-19; 94:5-8; 94:19-22; 95:3-18; 96:1; 96:7-12; 99:25; 100:1-6; 100:11-25; 101:1-6; 101:10-15; 101:17-23; 102:8-9; 103:4-17; 105:10; 109:9-25; 110:1-10; 110:13-23; 111:5-18; 113:23-25; 114:1-7; 114:10-16; 114:19-25; 115; 4-9; 116:21-25; 117:1-25; 118:1-11; 121:7-25; 122:1-6; 122:17-25; 123:1-3; and PX7045 (034-054 (index))).

Nitin Sood: PX7090 (24:15-18; 25:5-9; 27:19-25; 28:1-3; 28:5-7; 28:17; 32:18-25; 33:1-12; 33:17-19; 35:5-6; 35:24-25; 36:3-10; 37:1-4; 37:12-15; 37:21-25; 38:1-7; 38:11-12; 39:10-11; 39:14-16; 39:20; 39:24-25; 40:3-4; 40:6-15; 40:23-25; 41:4-5; 41:8-10; 41:13-16; 41:21-25; 42:8; 42:12-24; 43:6-12; 44:3-9; 44:11-12; 44:19; 44:24-25; 45:1-2; 53:15-17; 52:23-25; 53:2-3; 53:5-7; 54:15-17; 55:3-5; 63:4-6; 63:12-14; 64:5-6; 64:17-19; 67:17-19; 67:25; 68:1-22; 71:19-21; 71:23-25; 72:1; 74:4-6; 75:1; 75:4-5; 76:20-24; 77:20; 77:24-25; 78:1; 78:8-9; 78:17; 78:19; 78:22-25; 79:1-2; 99:21-23; 102:1-2; 104:11-12; 106:1-10; 108:15-16; 119:19-20; 124:23-24; 125:2-18; 135:19-25; 136:1-5; 136:11-12; 137:10-12; 137:15-16; 137:18-20; 137:23-25; 138:1-7; 138:16-19; 138:22-24; 139:3-10; and PX7090 (040-068 (index))).

Darya Chudova: PX7100 (20:17; 21:2; 21:22-23; 22:8; 25:14; 25:21; 25:25; 26:1-2; 27:7-10; 27: 19-25; 28:1; 28:3; 28:15; 29:1-13; 30:24-25; 31:5-8; 33:14-24; 34:2-5; 34:9; 34:11-15; 35:1-2; 35:5-18; 38:15-17; 39:6; 39:20; 40:4; 41:16-25; 42:1; 42:11; 42:24-25; 43:1-3; 45:15-25; 46:1-4; 47:6-25; 52:13-25; 53:1-25; 54:1-13; 54:16-25; 55:1-16; 55:22; 56:11-23; 57:8-25; 58:1-2; 58:6-13; 60:21-25; 61:1-17; 62:8-21; 63:2; 63:5; 63:12-22; 63:24-25; 64:1-20; 65:6-25; 66:1-4; 66: 8-16; 67:5-15; 67:19-25; 68:1-19; 68:21-22; 70:15; 72:6-11; 72:14; 74:5; 78:25; 79:1-15; 79:25; 80:1; 85:14-24; 86:1-25; 87:1-22; 95:15-21; 95:23-25; 96:1-3; 96:13-17; 96:20-25; 97:1-17; 98:7-15; 99:17-25; 100:1-4; 100:9-10; 100:14-19; 102:23-25; 103:1-13; 107:3-16; 110:3-6; 118:20-25; 119:1-2; 119:15-18; 121:15-22; 122:12-13; 123:13-15; 126:22-25; 127:1-19; 128:16-17; 129:10-24; 130:10-13; 130:18-19; 131:6-9; 131:14-17; 131: 21-25; 132: 5-8; 132:12-22; 133:14-24; 134:1-11; 134:14-18; 138:2-8; 138:17-23; 139:3-4; 139:8-25; 140:1-3; 140:6-9; 140:12-17; 140:21-25; 141:1; 141:5-7; 141:10-16; 141:19-25; 142:1-3; 142:12-14; 143:6-16; 144:20-25; 145:1-25; 146:1-25; 147:1-

3; 147:6-25; 148:1-21; 149:5-21; 149:23-25; 150:1-17; 151:1-7; 151:13-23; 151:25; 152:1-5; 152:8-16; 152:23-24; 153:2-24; 154:2-3; 154:6-21; 154: 25; 155:1-17; 155:19-25; 156:1-17; 156:23-25; 157:1-25; 158:1-5; 158:9-25; 159:1-14; 160:25; 161:1-13; 169:24; 177:9-18; 178:15-21; 178:25; 179:1-3; 179:6-12; 181:15-25; 182:1-16; and PX7100 (050-092 (index)).

William Getty: PX7105 (14:13-16; 14:22-25; 15:1-3; 15:22-25; 16:1; 18:8-15; 21:22; 43:1-4; 43:7-8; 47:16-17; 52:7-12; 52:21-24; 72:3-4; 72:13; 72:16; 77:9; 113:19-21; 113:24-25; 114:1; 114:4-21; 115:8-10; 115:16-20; 116:2-4; 116:16; 116:20-25; 117:1-2; 117:7-8; 117:18-20; 120: 9-11; 120:21-22; 120:25; 121:1; 121:9-11; 121:15-19; 122:15; 122:18-19; 122:24; 123:2-3; 124: 19; 124:22-24; 126:14; 127:21-22; 127:24-25; 128:1-3; 128:10-12; 129:10; 129:13-14; 129:24; 130:10; 130:19; 131:15; 131:22; 131:24; 132:15; 132:22; 132:24; 133:1-2; 133:7; 133:9; 133:16; 133:18; 133:20; 134:4; 134:13; 134:19; 135:1; 135:3-4; 135:7; 136:16; 136:18; 137:9; 137:17; 137:20; 138:4; 138:9; 138:11; 138:14; 138:17-18; 139:5; 140:14; 141:13-14; 142:18; 143:9; 143: 11-12; 143:17-18; 144:1-2; 144:10-11; 144:20-21; 145:9; 145:13; 145:18-19; 146:5-7; 147:16-18; 147:24; 148:1-2; 148:19-20; 149:5; 149:11; 149:23; 151:10-11; 151:17-23; 152:4-5; 152: 11-12; 152:15-16; 152:19; 153:24; 154:4; 154:6-7; 154:10-12; 155:3-5; 155:8-10; 155:18-19; 156:1; 156:8-11; 15:16; 156:18-23; 156:25; 157: 1-4; 157:9-10; 157:14-17; 157:21-22; 158:7-8; 158:11-12; 159:4; 159:15-20; 159:25; 160:7-8; 160:15-16; 160:25; 161:1; 161:9-10; 161:13-17; 161:19-21; 161:23-25; 162:2; 162:8-10; 162:13-15; 162:23; 163:3; 163:7; 163:10; 163:12-13; 164:17-19; 164:21; 164:23; 165:5; 165:7; 165:11-12; 164:17; 165:22-23; 166:1-2; 166:5; 166:9; 166:13-14; 166:20-21; 166:25; 167:1-3; 167:17-19; 171:5-6; 172:3-11; 173:1-2; 173:11; 173:23-25; 174:1-3; 175:12; 177:24-25; 178:1-4; 178:6-10; 178:15-17; 180:17; 180:19; 181:1; 181:6; 185:20; 187:11-12; 187:15-16; 187:20-23; 188:8-11; 189:2-4; 189:8-9; 189:15; 190:4; 190:14; 190:19-20; 190:22; 191:6-8; 191:11-13; 191:17; 191:25; 192:3-4; 192:6-8; 192:12-13; 192:15-21; 192:25; 193:3-5; 193:14-15; 193:18-19; 193:24-25; 194:1; 194:4; 194:7; 194:15; 195:2-8; 195:13-14; 195:16-18; 195:23-25; 196:14-17; 196:22-23; 197:22; 198:18; 198:21-22; 199:8; 199:13-15; 200:18-21; 201:8; 201:12-14; 202:25; 203:1; 203:16-17; 203:20-21; 204:4; 204:20-22; 206:6-7; 207:4-5; 207:13-14; 207:16-19; 208:8-9; 208:16; 208:21; 209:1-2; 209:8-9; 209:11; 209:14-15; 209:18-22; 210:4-6; 210:8; 210:12; 210:14; 210:22-23; 212:13; 212:18-20; 212:22; 212:24-25; 213:1-2; 213:4-5; 213:10-13; 213:16; 228:19-23; 228:25; 229:1-2; 230:12-14; 232: 20-21; 233:1-4; 233:16-17; 236:9; 237:11; 240:18; 243:18; 244:8-9; 245:8-12; 245:18-19; 245: 21-24; 248:23-25; 249:1-12; PX7105 (066-120 (index)); and PX7105 (121 (errata)).

In addition, permanent *in camera* treatment is GRANTED for the sensitive personal information contained in PX7040 at 9:11-12; 9:16-17.

### **Helio Health (“Helio”)**

Helio seeks *in camera* treatment for six documents and portions of one deposition transcript that it asserts constitute competitively sensitive confidential business documents and testimony. Helio supports its motion with a declaration from its chief executive officer. The declaration asserts that the documents contain Helio’s business practices and strategies, intellectual property and trade secrets, clinical trial data, product research and development, and sales and commercial strategies, and that such information is competitively sensitive. The

declaration also describes in detail the significant steps Helio takes to protect the information from disclosure and maintain its confidentiality.

Helio has met its burden of demonstrating that these documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified as PX8651, PX8652, PX8653, PX8655 and RX0894 and for the designated portions of the transcript of Ken Chahine, PX7077.

### **Invitae Corporation (“Invitae”)**

Invitae seeks *in camera* treatment for twelve documents and portions of four deposition transcripts that it asserts constitute competitively sensitive confidential business documents and testimony. Invitae supports its motion with a declaration from its general counsel and secretary. The declaration asserts that the documents and depositions contain confidential information relating to Invitae’s proprietary processes and technology, business strategies, financial data, including detailed pricing of its products, internal data on current and future products, competitive analysis, commercial agreements, and internal email communications regarding competitive strategies, and that such information is competitively sensitive. The declaration also describes in detail the significant steps Invitae takes to protect the information from disclosure and maintain its confidentiality.

Invitae has met its burden of demonstrating that these documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified as PX8331, PX8333, PX8334, PX8335, PX8366, PX8337, PX8338, PX8339, PX8340, PX8355, PX9176 and PX9177.

With respect to the deposition transcripts, Invitae has narrowed its request to only those portions meeting the standards for *in camera* treatment. *In camera* treatment, for a period of five years, to expire on September 1, 2026, is GRANTED for the following deposition transcripts:

PX7044 (Deposition of Joshua Stahl) p. 38, line 23 to p. 39, line 2; p. 99, line 15; p. 100, line 2 to line 3; p. 128, line 9; p. 131, line 19 to line 20; p. 131, line 25; p. 132, line 1; p. 132, line 4 to line 6; p. 133, line 23 to p. 134, line 15; p. 134, line 20 to line 21; p. 135, line 9 to line 11; p. 135, line 16 to line 19; p. 135, line 21 to p. 136, line 8; p. 137, line 14 to line 21; p. 138, line 25 to p. 139, line 3; p. 139, line 6; p. 139, line 8 to line 9.

PX7046 (Deposition of Sean Emerson George) p. 31, line 2; p. 39, line 14 to line 15; p. 40, line 4 to line 8; p. 51, line 15 to line 24; p. 52, line 7; p. 55, line 11 to line 12; p. 55, line 14; p. 55, line 16 to line 17; p. 60, line 10; p. 61, line 18; p. 61, line 21 to line 22; p. 65, line 17 to line 18; p. 74, line 25; p. 76, line 5 to line 6; p. 77, line 20 to line 22; p. 77, line 24 to p. 78, line 1; p. 78, line 4 to line 6; p. 78, line 9; p. 78, line 17; p. 78, line 22; p. 80, line 17 to line 19; p. 81, line 5 to line 6; p. 81, line 8; p. 83, line 21 to line 24; p. 89, line 16 to line 17; p. 95, line 13 to line 17; p. 98, line 1 to line 2; p. 98, line 8 to line 9; p. 103, line 23 to p. 104,

line 1; p. 107, line 19 to line 23; p. 108, line 2 to line 11; p. 113, line 10 to line 11; p. 122, line 19 to line 20; p. 122, line 24; p. 123, line 1; p. 123, line 19; p. 124, line 1; p. 124, line 3 to line 12; p. 125, line 5 to line 6; p. 125, line 25 to p. 126, line 1; p. 126, line 11 to line 12; p. 128, line 1 to line 2; p. 130, line 12 to line 13; p. 130, line 21; p. 132, line 23; p. 148, line 25 to p. 149, line 1; p. 149, line 17 to line 18; p. 150, line 6 to line 12; p. 168, line 11.

PX7075 (Deposition of Joshua Stahl) p. 51, line 2 to p. 54 line 22; p. 55, line 4 to p. 57, line 25; p. 58, line 13 to line 24; p. 63, line 7 to p. 64, line 4; p. 64, line 24 to p 65, line 24; p. 66, line 1 to line 18; p. 66, line 25 to p. 67, line 19; p. 70, line 3 to line 12; p. 77, line 12 to p. 78, line 11; p. 80, line 5 to line 18; p. 95, line 17 to line 22; p. 96, line 4 to line 11.

PX7081 (Deposition of Sean Emerson George) p.21, line 10 to line 11; p.21, line 22; p. 22, line 8 to line 9; p. 22, line 11 to line 15; p. 25, line 5 to line 8; p. 34, line 20 to line 23; p. 46, line 10 to line 11; p. 63, line 13; p. 63, line 21 to p. 64, line 6; p. 65, line 19 to p. 66, line 9; p. 67, line 13 to p. 68, line 5; p. 68, line 9 to line 18; p. 69, line 6 to line 16; p. 69, line 22 to line 25; p. 70, line 2 to line 9; p. 81, line 8 to line 12; p. 96, line 2 to p. 99, line 25.

### **Laboratory Corporation of America Holdings (“Labcorp”)**

Labcorp seeks *in camera* treatment for 20 documents and a deposition transcript that it asserts constitute competitively sensitive confidential business documents and testimony. Labcorp supports its motion with a declaration from its chief scientific officer and senior vice president. The declaration asserts that the documents and depositions contain confidential information and testimony relating to its business strategies, current and future test offerings in development, competitive strategies and analyses, supply agreements and acquisition data, and internal email communications with its employees relating to products, new business opportunities and potential partnerships, and that such information is competitively sensitive. The declaration also describes in detail the significant steps Labcorp takes to protect the information from disclosure and maintain its confidentiality.

Labcorp has met its burden of demonstrating that these documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified as PX8574, PX8575, PX8577, PX8578, PX8579, PX8580, PX8581, PX8582, PX8586, PX8587, PX8588, PX8589, PX8592, PX8593, PX8594, PX8595, PX8596 and PX8597. In addition, Labcorp has met its burden of demonstrating that its document relating to long-term strategy and potential tactics for important company initiatives is entitled to extended protection. Accordingly, *in camera* treatment for a period of ten years, to expire on September 1, 2031, is GRANTED for the document identified as PX8576.

With respect to the deposition transcript of Marcia Eisenberg, Labcorp has not narrowed its request to only those pages containing confidential information. Accordingly, Labcorp’s motion is DENIED WITHOUT PREJUDICE for the transcript identified as PX7122. Labcorp may file a renewed motion seeking *in camera* treatment for only those

pages and line numbers that contain information that meets the strict standards for *in camera* treatment.

**Morgan Stanley & Co., LLC (“Morgan Stanley”)**

Morgan Stanley seeks *in camera* treatment for 25 documents that it asserts constitute competitively sensitive confidential business documents. Morgan Stanley supports its motion with an affidavit from a managing director. The affidavit asserts that the documents contain confidential advice regarding potential private and public transactions, its business processes and strategies, and advisory work/services provided to GRAIL. The affidavit further asserts that the documents reflect confidential, commercially sensitive information about potential GRAIL transactions, the identity of potential investors and advisory clients, financial data, sales and marketing strategies and valuation analyses, and that such information is competitively sensitive. The affidavit also describes in detail the significant steps Morgan Stanley takes to protect the information from disclosure and maintain its confidentiality.

Morgan Stanley has met its burden of demonstrating that these documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. However, these documents consist of ordinary business records, and not trade secrets. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified as RX2614, RX2622, RX2627, PX8472, PX8467, RX2672, PX8473/RX2629, PX8457, and for the designated portions of RX2643, PX8460, RX2667/PX8461, PX8462, PX8458, PX8466, RX2668, RX2671/PX8471, PX8463, RX2607/PX8470, PX8459, PX8465 and PX7078.

**Natera, Inc. (“Natera”)**

Natera seeks *in camera* treatment for several documents and portions of four deposition transcripts that it asserts constitute confidential competitively sensitive documents and testimony. Natera supports its motion with a declaration from its chief business officer. The declaration asserts that the information it seeks to protect contains trade secrets concerning the technical specificity and research and development efforts for its blood-based cancer screening tests, and highly sensitive business information concerning these tests, including its plans for marketing and commercializing the tests, and its analysis of competition in the industry. The declaration also describes in detail the significant steps Natera takes to protect the information from disclosure and maintain its confidentiality.

Natera has met its burden of demonstrating that the information is sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified as PX8379, PX8630, FTC-V-ILLUMGRAIL-NAT-00024380-FTC-V-ILLUMGRAIL-NAT-00024413, and for the following portions of PX7111 (15:21-16:1; 18:19-19:4; 20:7-10; 20:13-30:5; 30:7-34:21; 35:1-20; 39:17-40:3; 40:8-10; 40:16-22; 41:6-16; 42:3-44:22; 46:16-22; 47:7-20; 48:1-50:1; 51:4-20; 52:3- 54:17; 55:18-56:6; 56:20-57:19; 57:22-58:4; 59:5-60:20; 61:21; 62:4-66:14; 67:7-78:20; 79:3-81:13; 82:22-83:7; 84:10-102:14; 114:4-116:6; 119:12-15; 119:22-120:15;

123:11-124:19; 131:12-132:17; 133:5-134:3; 134:22-136:5; 136:11-143:1; 144:21-146:6; 147:8-150:3; 150:12-152:14; 156:11-165:8; 166:4-174:14; 177:4-188:21; 191:7-207:15; 208:10-224:14; 225:8-229:20; 230:14-16; 231:1-255:5; 255:11-260:1; and the glossary attached at pages 068-112); the following portions of PX7113 (36:2-37:2; 38:1-54:4; 56:9-21; 57:14-59:18; 60:2-66:9; 67:10-74:16; 75:6-11; 75:16-18; 76:1-77:7; 77:16-79:21; 80:4-82:15; 82:22-84:8; 84:12-88:5; 89:6-11; 89:19-94:13; 95:10-15; 96:4-100:8; 100:20-101:2; 101:19-109:14; 110:2-114:7; 114:19-115:2; 115:6-116:13; 117:1-123:4; 134:9-17; 138:4-140:9; 142:4-146:4; 147:17-149:9; 149:20-151:7; 152:10-15; 153:6-18; 156:1-3; 156:16-157:4; 159:11-160:5; 160:14-22; 161:18-162:12; 163:10-164:14; 165:18; 166:11-171:22; 172:6-173:22; 174:8-176:2; 177:8-9; 178:16-179:4; 179:6-18; 180:13-182:7; 182:18-183:8; 183:14-187:19; 188:21-189:11; 189:17-193:15; 194:9-198:18; 198:20-205:10; 206:13-208:13; 209:12-215:2; 216:22-217:17; 217:22-218:9; 218:11-221:3; 223:11; 225:22-231:11; 233:8-262:16; 263:5-265:16; 266:5-283:22; 285:21-286:7; 286:15-289:19; 290:5-297:5; 297:15-298:3; 300:6-303:18; and the glossary attached at pages 311-369); the following portions of PX7053 (19:6-15; 19:19-22; 20:7-10; 22:17-23; 24:4-5; 24:13-18; 25:1-3; 25:12-26:7; 28:7-8; 31:6-10; 34:15-35:2; 35:15-37:15; 38:1-2; 38:11-13; 39:22-41:17; 42:4-45:22; 46:18-51:5; 55:4-63:16; 64:8-69:14; 69:17-70:4; 70:9-72:10; 72:24-81:1; 81:16-86:15; 88:4-89:16; 89:21-91:25; 92:12-96:1; 96:11-98:20; 99:2-100:23; 028-053); and the following portions of PX7054 (9:4-12; 12:19-22; 17:20-18:5; 18:7-21; 25:17-23; 28:7-18; 30:20-21; 38:22-39:15; 39:20-46:6; 47:22-50:4; 51:2-24; 52:1-53:1; 53:21-69:5; 69:12-74:11; 76:6-9; 76:19-94:19; 97:16-119:6; and the glossary attached at pages 033-050).

In addition, Natera has met its burden of demonstrating that documents relating to its non-public trade secret information are entitled to extended protection. Accordingly, *in camera* treatment for a period of ten years, to expire on September 1, 2031, is GRANTED for the documents identified as PX8532; FTC-V-ILLUMGRAIL-NAT-00007346-7377; FTC-V-ILLUMGRAIL-NAT-00008081-8135; FTC-V-ILLUMGRAIL-NAT-00008156-8275; FTC-V-ILLUMGRAIL-NAT-00008453-8545; FTC-V-ILLUMGRAIL-NAT-00008561-8699; FTC-VILLUMGRAIL-NAT-00012371-12393; FTC-V-ILLUMGRAIL-NAT-00015761-15817; NAT-FTC\_00000525-533; NAT-FTC\_00006273-6284; and NAT-FTC\_00000003-00000009.

**Omniome, Inc. (“Omniome”)**

Omniome seeks *in camera* treatment for eight documents and portions of an investigational hearing transcript and a deposition transcript that it asserts constitute confidential competitively sensitive documents and testimony. Omniome supports its motion with a declaration from its executive chairman. The declaration asserts that the information it seeks to protect contains Omniome’s trade secrets regarding its technology and Omniome’s sensitive business information, including confidential plans to commercialize its product. The declaration also describes in detail the significant steps Omniome takes to protect the information from disclosure and maintain its confidentiality.

Omniome has met its burden of demonstrating that the information is sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on

September 1, 2026, is GRANTED for the documents identified as OMNIOME-FTC-ILL-00001216, OMNIOME-FTC ILL-00001469, OMNIOME-FTC-ILL-00001522, and the following portions of the deposition transcript of Ken Song (13:18-14:6; 15:7-16:17; 18:25-20:3; 20:17-31:1; 31:8-33:1; 33:13-34:11; 37:24-38:18; 39:9-13; 41:12-43:9; 44:23-25; 45:9-47:8; 48:19-49:2; 52:13-53:20; 54:22-55:7; 55:16-56:20; 101:10-21; 102:24-105:13) and the following portions of the IH transcript of Ken Song (14:6-15:2; 15:21-16:5; 17:22-18:20; 18:23-20:11; 21:9-22:11; 22:22-25:18; 27:1-6; 28:6-29:1; 46:3-6; 46:18-21; 52:11-13; 53:5-56:24; 59:23-64:3; 66:22-67:18; 68:9-20; 69:1-72:1; 72:5-73:3; 73:18-74:5; 74:25-77:1; 77:13-81:22; 82:3-83:22; 84:2-85:23; 86:2-24; 87:3-88:18; 88:22-92:25; 95:21-98:24; 99:14-101:7; 104:6-7; 104:13-22; 105:3-107:23; 109:14-110:20; 137:2-7; 138:4-139:7; 140:16-25; 142:13-143:16; 143:21-145:2; 145:8-15).

In addition, Omniome has met its burden of demonstrating that documents relating to its non-public trade secrets are entitled to extended protection. Accordingly, *in camera* treatment for a period of ten years, to expire on September 1, 2031, is GRANTED for the documents identified as OMNIOME-FTC ILL-00000069, OMNIOME-FTC-ILL-00000001, OMNIOME-FTC-ILL-00000570, OMNIOME-FTC-ILL-00000773, and OMNIOME-FTC-ILL-00001001.

**Pacific Biosciences of California, Inc. (“PacBio”)**

PacBio seeks *in camera* treatment for portions of one declaration submitted in the investigation of this matter that it asserts constitute confidential competitively sensitive information. PacBio supports its motion with a declaration from its president and chief executive officer. The declaration in support of its motion asserts that the information it seeks to protect describes PacBio’s product roadmap, research and development plans, and strategic priorities. The declaration also describes in detail the significant steps PacBio takes to protect the information from disclosure and maintain its confidentiality.

PacBio has met its burden of demonstrating that the information is sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the following portions of PX8399 (¶¶ 5 (partial), 7-10, and 11 (partial)).

**Personal Genome Diagnostics, Inc. (“PGDx”)**

PGDx seeks *in camera* treatment for several documents that it asserts constitute confidential competitively sensitive documents and testimony. PGDx supports its motion with a declaration from its head of legal and business operations. The declaration asserts that the information it seeks to protect contains business strategies, financial reports, pricing analyses and strategies, and marketing plans and assessments. The declaration also describes in detail the significant steps PGDx takes to protect the information from disclosure and maintain its confidentiality.

PGDx has met its burden of demonstrating that the information is sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified as PX8366, PX8550, PX8551, PGDX\_00018805, PGDX\_00018797, PGDX\_00020563, and for the following portions of PX7049 31:3-24; 38:21-23; 40:6-16; 41:17-23; 42:3-11; 42:13-19; 43:20-24; 44:8; 44:11-13; 45:10-16; 46:11-20; 46:22; 47:2-16; 47:22-25; 48:1-8; 48:10-11; 48:15; 48:19; 48:21-25; 53:19-25; 54:3-5; 75:11-15; 75:17-20; 75:22-25; 76:1-10; 76:13-15; 78:7-9; 78:11-16; 78:18-19; 79:12-25; 80:2-5; 80:17-22; 99:21-23; 100:22-25; 102:1-15; 103:10-17; 103:23-25; 104:1-11; 104:18-22; 105:7; 105:12-13; 105:23; 106:15-25; 107:1-17; 107:20-25; 108:1-15; 108:17-25; 114:7-25; 115:1-17; 117:7-22; 118:1-10; 118:16; 118:18-19; 119:2; 119:4-13; 119:16-25; 120:1; 120:5-8; 121:24-25; 122:1-7; 123:13; 123:15; 123:23-24; 124:1-3; 124:6-7; 124:11; 124:13-14; 124:22; 125:3; 125:14; 125:24; 126:16-20; 127:8; 128:15-20; 141:5-17; 141:19-21; 146:9-25; 147:1; 147:6; 147:12-14; 148:10-25; 149:1-4; 149:18; 150:5; 150:8; 150:16; 150:19-22; 151:3-5; 151:13-20; 152:15; 152:17; 152:18-21; 153:6-10; 153:23-25; 154:1-4; 154:9-17; 154:21-22; 155:3-8; 155:14-25; 156:1-3; 156:5; 156:9-22; 156:25; 163:8-15; 163:17-25; 164:1-17; 165:21-25; 166:1-11; 166:13-14; 166:16; 166:23-25; 167:1-5; 167:7-9; 167:12-13; 167:20-25; 168:1-8; 169:21-25; 170:1-6 and for the following portions of PX7112 (19:5; 19:10-18; 19:25; 20:4; 20:20; 20:22; 21:11-24; 22:6-7; 22:13; 22:16; 22:20-25; 23:1-2; 23:6-12; 23:19-23; 24:6-9; 24:12-13; 24:17-24; 25:1-5; 25:7-15; 25:17; 25:22-25; 70:8-10; 70:13-15; 70:19-20; 70:23; 72:8; 72:19; 73:8; 73:15; 73:17; 74:15-20; 74:23; 74:25; 75:6; 75:12; 75:20; 76:9; 76:11; 76:14; 76:18; 77:1; 77:5; 77:22-25; 78:1; 78:7; 78:11; 78:22-25; 79:1-2; 79:13; 79:15-22; 79:24-25; 80:5; 80:6; 80:15-16; 81:1-2; 81:7-8; 81:9; 81:13; 81:19-21; 86:20; 88:2-9; 89:6; 89:10-13; 89:15; 89:20; 89:25; 90:8; 90:13; 90:16; 91:14; 91:23; 92:5; 93:10; 104:23-25; 105:1-15; 105:20-25; 106:1; 106:3; 106:18; 106:23-25; 107:1; 108:23-25; 109:1-4; 109:7-9; 109:14-17; 111:10; 111:13; 111:17-20; 112:4-7; 112:10; 112:13; 112:18-21; 114:16-25; 115:1-5; 115:10-11; 116:3-12; 117:23-25; 118:1-7; 118:10-11; 124:4-7; 124:14-16; 125:7; 125:18-22; 127:21-23; 128:11; 128:16-22; 129:2-5; 129:7; 129:8-13; 129:15; 129:17-19; 129:25; 130:1-2; 130:9-14; 130:16; 137:10; 137:11; 137:17; 137:24; 146:13-17; 146:23-25; 147:10-18; 147:21; 147:24-25; 148:3-5; 148:8; 148:13; 148:19; 148:20-24; 149:1; 149:21; 149:22; 149:23; 150:3; 150:4; 150:5-12; 150:14-15; 151:9-10; 151:12-13; 151:24-25; 152:4; 152:12-13; 152:15-19; 152:21-25; 153:1-8; 153:11-13; 153:19-24; 154:1-4; 154:6-10; 154:13-15; 154:17-19; 154:21-23; 154:25; 155:1-2; 155:5-6; 155:10-13; 155:15-17; 155:19-23; 156:1-2; 156:4-6; 156:8-12; 156:14-18; 156:20-25; 157:1-6; 157:9-25; 158:1-20; 158:23-25; 159:1-5; 159:8-10; 159:14-21; 159:23-24; 160:1-6; 160:9; 160:11-13; 160:16-19; 160:23-25; 161:1-7; 161:9-14; 161:16-18; 161:20-22; 162:20-24; 163:2-4; 163:6-8; 164:3; 164:23-25; 165:1-3; 165:4-11; 165:20-22; 166:6-11; 166:15-18; 166:20-21; 166:23-25; 167:1-3; 167:5-6; 167:8-21; 168:4-8; 168:10-11; 170:4-7; 170:12-16; 170:22-25; 171:1; 171:8-15; 171:17-20; 175:2; 175:18-23; 176:2-25; 177:1; 186:25; 187:1-12; 188:5-6; 189:6-7; 189:12-13; 189:17; 189:25; 190:2; 190:3; 190:9; 190:12-17; 191:4; 191:7; 191:9; 191:13-14; 191:23; 192:1; 192:7; 192:9-11; 192:17-18; 192:20; 193:6; 193:11; 193:17; 193:19; 193:22; 193:24; 193:25).

In addition, PGDx has met its burden of demonstrating that documents relating to intellectual property and trade secrets are entitled to extended protection. Accordingly, *in*

*camera* treatment for a period of ten years, to expire on September 1, 2031, is GRANTED for the documents identified as PX8548, PX8549, and PGDX\_00018797.

### **Progenity Inc. (“Progenity”)**

Progenity seeks *in camera* treatment for portions of an investigational hearing transcript and a deposition transcript that it asserts constitute confidential competitively sensitive information. Progenity supports its motion with a declaration from its chief scientific officer. The declaration asserts that the information it seeks to protect includes forward-looking plans involving products that are currently in development. The declaration also describes in detail the significant steps Progenity takes to protect the information from disclosure and maintain its confidentiality.

Progenity has met its burden of demonstrating that the information is sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the following portions of PX7047 (48:1-49:7; 72:3-24; 80:11-23; 81:2-83:21; 84:14-85:11; 86:17-90:21; 91:15-93:25; 94:1-15; 95:1-12; 112:13-113:1; 136:5-13; 138:16-139:14; 140:5-24; 143:2-24; 150:18-152:19) and PX7082 (16:3-15; 17:1-18:7; 51:24-52:13; 52:21-55:25; 59:6-9; 59:13-14; 59:20-21; 60:1; 60:17-18; 60:24-25; 61:22-23; 97:13-98:21; 101:7-102:2; 102:3-9; 106:14-107:8; 109:12-17; 116:20-117:10; 119:9-120:13).

### **Quest Diagnostics Incorporated (“Quest Diagnostics”)**

Quest Diagnostics seeks *in camera* treatment for eight documents and portions of one document and a deposition transcript that it asserts constitute confidential competitively sensitive documents and testimony. Quest Diagnostics supports its motion with a declaration from its general manager. The declaration asserts that the information it seeks to protect consists of strategic planning and product development documents and supplier contracts. The declaration also describes in detail the significant steps Quest Diagnostics takes to protect the information from disclosure and maintain its confidentiality.

Quest Diagnostics has met its burden of demonstrating that the information is sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire, on September 1, 2026, is GRANTED for the documents identified as PX8554; PX8555; PX8558; PX8559; Quest 002219-299; PX8553; PX8557; PX8556; PX8552; the second sentence of Paragraph 6 of PX8552; and for the following portions of PX7116 (38:6 to 38:15; 48:11 to 49:7; 50:2 to 52:2; 53:3 to 55:1; 55:13 to 57:25; 59:9 to 62:24; 65:2 to 65:20; 71:5 to 72:18; 74:25 to 80:6; 82:19 to 83:23; 84:24 to 89:9; 89:25 to 91:18; 92:9 to 92:16; 99:22 to 101:15; 102:6 to 105:17; 106:18 to 107:5; 111:12 to 112:7; 112:21 to 119:21; 120:15 to 122:25; 126:25 to 132:25; 135:21 to 136:3; 144:2 to 154:2; 159:12 to 159:18; 160:14 to 160:19; 161:9 to 163:11; 164:23 to 165:1; 192:5 to 193:4; and 193:13 to 193:17).

**Roche Sequencing Solutions, Inc., Foundation Medicine, Inc., and Ariosa Diagnostics, Inc. (“Roche”)**

Roche seeks *in camera* treatment for 87 documents that it asserts constitute confidential competitively sensitive documents and testimony. Roche supports its motion with a declaration from a senior employee of one of its divisions. The declaration asserts that the documents or information it seeks to protect fall into one or more of the following categories: financial forecasts and information; customer-specific pricing and sales information; supplier-specific pricing information and contract terms; customer/supplier negotiations and internal customer/supplier strategy; business plans and competitive strategy; proprietary technical information; and documents obtained pursuant to a limited license. The declaration also describes in detail the significant steps Roche takes to protect the information from disclosure and maintain its confidentiality.

Roche has met its burden of demonstrating that the documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. For documents containing business plans, competitive strategy, and customer/supplier negotiations, *in camera* treatment for a period of five years is appropriate.<sup>3</sup> Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified as PX8324/RX0502, PX8325, PX8326; PX8394; PX8566; PX9084; PX9085; PX9086; PX9090; PX9091; PX9092; PX9106; PX9107; PX9108; PX9109/RX0507; RX0486; RX0508; RX2696; RX2699; and RX2700.

For documents containing proprietary technical information, *in camera* treatment for a period of ten years is appropriate.<sup>4</sup> Accordingly, *in camera* treatment for a period of ten years, to expire on September 1, 2031, is GRANTED for the documents identified as PX8327/RX0510; PX8328/RX0511; PX8329/RX0512/RX2709; PX8351; PX8352/RX0503; PX8354; PX8395; PX8396; PX8397; PX8447/RX2698; PX8449; PX8450/RX2701; PX8564; PX8565; PX8614; PX9069; PX9070; PX9072; PX9073; PX9075; PX9076; PX9077; PX9078/RX0504; PX9079; PX9080; PX9081; PX9087; PX9096; PX9097; PX9098; PX9099; PX9100; PX9101; PX9102; PX9114; RX0485/RX2713; RX0506; RX0509; RX2694; RX2695; RX2697; RX2702; RX2703; RX2704; RX2705; RX2706; RX2707; RX2708; PX2711; and PX2712.

Roche’s motion is DENIED WITHOUT PREJUDICE for the deposition transcripts identified as PX7043, PX7068/RX3800, PX7074, and PX7118/RX3844 because Roche did not narrow its request to only the portions of testimony containing confidential information. Roche may file a renewed motion seeking *in camera* treatment for only those pages and line numbers that contain information that meets the strict standards for *in camera* treatment.

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<sup>3</sup> In order to make the expiration date of *in camera* treatment consistent across exhibits provided by non-parties, which furthers the public interest in administrative efficiency, *in camera* treatment for a period of five years is granted to those documents for which Roche sought protection for less than five years.

<sup>4</sup> In order to make the expiration date of *in camera* treatment consistent across exhibits provided by non-parties, which furthers the public interest in administrative efficiency, *in camera* treatment for a period of ten years is granted to those documents for which Roche sought protection for ten years or more.

### **Singular Genomics Systems, Inc. (“Singular”)**

Singular seeks *in camera* treatment for two documents and portions of a deposition transcript that it asserts constitute confidential competitively sensitive documents and testimony. Singular supports its motion with a declaration from its general counsel. The declaration asserts that the information it seeks to protect consists of sensitive business plans or strategies, projections, and/or customer outreach, including the performance of Singular’s product capabilities. The declaration also describes in detail the significant steps Singular takes to protect the information from disclosure and maintain its confidentiality.

Singular has met its burden of demonstrating that the information is sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified as PX8562 and PX8563.

Singular’s motion is DENIED WITHOUT PREJUDICE for the deposition transcript identified as PX7117 because Singular did not narrow its request to only the portions of testimony containing confidential information. Singular may file a renewed motion seeking *in camera* treatment for only those pages and line numbers that contain information that meets the strict standards for *in camera* treatment.

### **StageZero Life Sciences, Ltd. (“StageZero”)**

StageZero seeks *in camera* treatment for two documents and portions of a deposition transcript that it asserts constitute confidential competitively sensitive documents and testimony. StageZero supports its motion with a declaration from its director of laboratory operations. The declaration asserts that the information it seeks to protect consists of analyses of critical business decisions and development of cancer detection tests. The declaration also describes in detail the significant steps StageZero takes to protect the information from disclosure and maintain its confidentiality.

StageZero has met its burden of demonstrating that the information is sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified as PX8540 and PX8543 and the following portions of PX7114 (14:25-15:132; 16:20 -18:2; 18:25-19:24; 21:7-21:15; 21:22-22:2; 22:21-24:10; 24:21-25:10; 25:16-27:23; 28:8-29:6; 29:21-40:12; 41:8-42:16; 44:7-54:18; 55:7-55:14; 60:15-66:8; 68:25-69:6; 69:14-70:14; 71:19-71:24; 75:11-75:20; 76:13-76:18; 76:24 -77:1; 77:5-78:15; 78:22-78:25; 79:14-81:6; 84:6-84:20; 87:6-99:17; 89:6-90:11; 91:8-91:11; 94:18-95:12; 96:1-96:5; 97:4-99:12; 100:14 -101:19; 104:25-105:7; 106:1-108:10; 108:18-109:5; 111:11-112:16; 112:23-113:7; 115:1-115:10 and 116:2 -117:15).

### **Tempus Labs, Inc. (“Tempus”)**

Tempus seeks indefinite *in camera* treatment for investigational hearing testimony and seven documents that it asserts constitute confidential competitively sensitive documents and testimony. Tempus supports its motion with a declaration from its general counsel. The declaration asserts that the documents and/or testimony contain trade secrets and information proprietary and material to Tempus’ operations, including descriptions of Tempus’ products in development, information about its costs, and future plans to seek regulatory approval. The declaration also describes in detail the significant steps Tempus takes to protect the information from disclosure and maintain its confidentiality.

Tempus has met its burden of demonstrating that the information is sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Tempus has sought indefinite *in camera* treatment for all of its information, without distinguishing between ordinary business records, such as financial predictions, and trade secrets, such as product development details. Without this necessary distinction, Tempus’ motion is GRANTED in part.

*In camera* treatment, for a period of ten years, to expire on September 1, 2031, is GRANTED for the documents identified as PX8348; PX8380; PX8382; PX8383; PX8385; PX9211; and TEMPUS-FTC-0001311-1314; and for the following portions of PX7056 (20:3; 20:10; 20:16; 31:11; 31:21; 31:25; 32:3; 32:7; 32:15-20; 33:1-18; 42:6-10; 45:1-4; 45:7-15; 45:21-46:14; 48:1-49:1; 49:14-50:2; 50:6-7; 50:9-17; 50:21-51:12; 52:12-54:2; 54:18-55:8; 55:15-24; 56:4-58:1; 59:14-18; 61:7-18; 61:21; 61:24; 62:2-8; 62:13-63:25; 64:2-3; 65:4-16; 66:2-19; 66:25-75:25; 78:5-7; 78:13-79:8; 80:4-82:6; 82:9-84:21; 84:25-89:15; 89:17-94:19; 95:11-23; 96:18-100:4; 100:18-102:8; 103:5-7; 104:22-105:9; 105:11-13; 105:22-24); and the following portions of PX7080 (28:2-20; 37:1; 37:5-11; 37:13; 38:7-13; 38:15-39:8; 42:18; 42:20; 42:22-43:7; 33:14-20; 34:18-20; 34:22-35:8; 45:21-46:9; 46:11-18; 47:1-11; 48:5-19; 48:21-49:3; 49:13-53:5; 53:8-9; 54:14-55:10; 55:12-19; 55:21-56:8; 59:8-16; 59:19-60:6; 60:19-61:9; 62:11-62:22; 63:11-65:12; 65:15-19; 65:21-66:3; 66:5; 66:7-14; 66:16-67:13; 67:15-68:10; 68:12-14; 68:16-18; 69:12-14; 69:17-70:7; 71:14-21; 72:2-5; 72:7-22; 73:12-14; 73:17-18; 74:2-75:6; 75:9-11; 75:13-76:14; 77:21-87:9; 87:11-12; 87:16-18; 88:1-90:20; 91:14; 92:2-20; 93:17-95:2; 95:6-7; 96:18-98:15; 99:7-21; 107:16-108:1; 99:22-101:5; 117:10-118:6; 118:17-119:8).

Tempus’ request for permanent *in camera* treatment for the sensitive personal information contained in PX7056 at 7:9-10; 7:14 is GRANTED.

### **Thermo Fisher Scientific Inc. (“Thermo Fisher”)**

Thermo Fisher seeks *in camera* treatment for all or portions of seventeen documents, including a deposition and investigational transcript that it asserts constitute confidential competitively sensitive documents and testimony. Thermo Fisher supports its motion with a declaration from its vice president of product management, platforms and research. The declaration asserts that the documents fall into one or more of the following categories: strategic plans containing strategic objectives and considerations; competitive analysis and financial information; and R&D plans and R&D-related contracts. The declaration also

describes in detail the significant steps Thermo Fisher takes to protect the information from disclosure and maintain its confidentiality.

Thermo Fisher has met its burden of demonstrating that the information it seeks to protect is sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. For documents containing strategic objectives and considerations, competitive analysis, and financial information, *in camera* treatment for a period of five years is appropriate. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the documents identified as PX8444, RX2728, RX2730, RX2732, RX2735, and RX2737.<sup>5</sup>

For documents containing R&D plans and R&D-related contracts, *in camera* treatment for a period of ten years is appropriate. Accordingly, *in camera* treatment for a period of ten years, to expire on September 1, 2031, is GRANTED for the documents identified as PX8649, PX8650, RX2729, RX2731, RX2733, RX2734, RX2736, and RX2738.

With respect to the investigational hearing transcript and deposition transcript, Thermo Fisher has narrowed its request to only those portions meeting the standards for *in camera* treatment.

*In camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the following portions of the Andrew Felton Investigational Hearing Transcript (PX7070): 26:9-26:15; 26:22-27:12; 27:25-28:15; 57:2-57:21; 32:12-32:25; 34:1-34:21; 34:25-35:15; 48:15-49:3; 57:22-60:18; 68:7-69:13; 70:3-71:5; 38:5-38:9; and 51:3-51:8.

*In camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the following portions of the Andrew Felton Deposition Transcript (PX7097/RX3823): 27:7-27:9; 27:11-27:19; 32:23-33:1; 33:4; 35:4-35:6; 35:9-35:21; 68:3-68:6; 68:8-68:17; 68:20-68:21; 103:4-103:7; 103:9-103:11; 105:4-105:8; 105:10-105:15; 120:10-120:15; 173:21-173:23; 173:25-174:12; 174:14-174:22; 174:24-175:4; 175:7 176:2; 176:5-176:13; 23:9-23:11; 23:13-23:22; 29:2-29:5; 29:8-29:10; 36:14-36:19; 36:23-37:2; 37:4-37:5; 42:12-42:15; 42:17-42:21; 42:23-43:1; 52:20-52:23; 60:10-60:15; 60:22-60:23; 60:25-61:14; 61:18-61:20; 61:22-62:6; 62:8-62:16; 62:18-62:20; 70:21-70:25; 71:8-71:11; 71:13-71:25; 72:3-72:7; 72:12-72:14; 72:16-72:21; 72:24-73:12; 73:14-74:4; 74:7-74:14; 74:16-74:25; 75:2-75:16; 75:23-75:25; 76:3-76:5; 76:7-76:14; 76:17-76:25; 77:3-77:12; 78:13-78:14; 78:16; 79:1-79:5; 79:12-79:17; 79:19-79:21; 79:23-79:25; 80:13-80:18; 80:21-81:7; 81:10-81:14; 82:9-83:4; 83:7-83:19; 83:21-83:22; 83:25-84:11; 85:5-85:9; 85:11; 86:2-86:5; 86:7-86:23; 86:25-87:9; 87:12-87:13; 87:15-87:24; 88:1-88:6; 88:8-88:11; 89:1-89:7; 91:11-91:22; 91:24-91:25; 103:23-104:1; 104:3-104:6; 105:22-106:9; 107:16-109:2; 109:6-110:7; 110:19-110:21; 110:24-111:6; 111:9-111:25; 112:4-112:5; 112:8-112:11; 113:1-113:3;

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<sup>5</sup> Thermo Fisher carefully carved out specific pages of exhibits for which it requested a higher level of *in camera* treatment. For example, PX8649 is categorized as “business strategy, competitive analyses”; however, Thermo Fisher notes that pages 017, 021, 024, and 236 of this exhibit contain R&D plans and information. Where an exhibit contains both categories of confidential information, the entire exhibit has been given the higher level of protection.

113:6-113:12; 113:20-113:23; 114:9-114:11; 114:14-114:21; 114:24-115:2; 115:7-115:11; 115:13-115:15; 115:17-115:23; 116:1-116:8; 116:12-117:2; 115:9-115:11; 124:8-124:17; 140:23-141:9; 141:17-142:1; 142:6-142:10; 142:13-143:2; 143:4-143:11; 143:13-143:19; 144:1-144:4; 148:19-149:16; 149:18-149:22; 149:25-150:2; 150:18-150:24; 151:1-151:8; 152:3-152:13; 152:15-152:21; 152:23-152:25; 153:13-153:15; 153:17-154:5; 154:8-154:9; 155:13-155:21; 160:13-161:10; 172:9-173:1; 48:23-49:2; 49:4; 49:14-49:18; and 158:18-159:4.

*In camera* treatment for a period of ten years, to expire on September 1, 2031, is GRANTED for the following portions of the Andrew Felton Investigational Hearing Transcript (PX7070): 36:10-37:21; 38:1-38:3; 38:14-38:18; 55:8-55:12; 55:17-55:20; 55:22-55:23; and 56:1-57:1.

*In camera* treatment for a period of ten years, to expire on September 1, 2031, is GRANTED for the following portions of the Andrew Felton Deposition Transcript (PX7097/RX3823): 21:23-21:25; 22:2-22:5; 22:7-22:13; 30:4-30:7; 30:9-30:22; 30:24-31:8; 31:10-31:17; 31:20-31:24; 32:2-32:10; 32:13-32:14; 93:17-93:20; 93:22-94:7; 94:9-94:12; 117:21-117:23; 118:1-118:3; 118:5-118:21; 118:24-119:1; 119:3-119:10; 119:13-119:16; 119:18-119:24; 120:2-120:9; 125:5-125:8; 125:15-125:16; 125:19-125:22; 125:24-126:1; 126:4-126:13; 126:20-126:22; 126:24-127:24; 128:1-128:6; 128:8-129:8; 129:10-129:20; 129:23-130:21; 130:24-131:16; 131:18-131:22; 131:25-132:6; 132:8-132:11; 132:13-132:15; 132:18-133:20; 133:23-134:3; 134:6-135:12; 135:14-136:12; 136:15-137:20; 137:23-138:9; 138:12-138:15; 138:17-139:3; 139:5-139:6; and 168:1-168:24.

Permanent *in camera* treatment is GRANTED for the sensitive personal information contained in PX7070 at 8:16-8:19.

Thermo Fisher's request for *in camera* treatment of the declaration submitted in support of its motion is DENIED. A non-party may obtain *in camera* treatment only for material "offered into evidence." 16 C.F.R. § 3.45(b). However, the declaration is protected by FTC Rule 3.45(e).

### **Third Rock Ventures, LLC ("Third Rock")**

Third Rock seeks indefinite *in camera* treatment for one deposition transcript, in its entirety, which Third Rock asserts contains competitively sensitive confidential business information. In the alternative, Third Rock seeks *in camera* treatment of certain highlighted portions a deposition. However, this alternative request seeks to protect all but eight pages of the deposition. Third Rock supports its motion with a declaration from a partner in the company. The declaration asserts that the deposition includes information on research and development, future clinical studies, regulatory approval status, research concerning the commercialization of a test, and details on marketing strategies. The declaration also describes in detail the significant steps Third Rock takes to protect the information from disclosure and maintain its confidentiality.

Third Rock has failed to meet its burden of demonstrating that the entire deposition, or all but eight pages of it, meets the standard for *in camera* treatment. In addition, Third Rock has sought indefinite *in camera* treatment for all of its information, without distinguishing between ordinary business records, such as financial predictions, and trade secrets, such as product development details. Therefore, Third Rock's motion is DENIED WITHOUT PREJUDICE. Third Rock may file a renewed motion seeking *in camera* treatment for only those pages and line numbers that contain information that meets the strict standards for *in camera* treatment. Third Rock shall seek indefinite *in camera* treatment only for the material meeting the highest standard described in this Order.

#### **Ultima Genomics, Inc. ("Ultima")**

Ultima seeks *in camera* treatment for two documents, one deposition transcript, and the declaration that it submitted in support of its motion, which Ultima asserts constitute highly confidential and competitively sensitive information. Ultima supports its motion with a declaration from its chief commercial officer. The declaration asserts that the documents and deposition contain proprietary information, including confidential information about Ultima's finances and competitive strategy. The declaration also describes in detail the significant steps Ultima takes to protect the information from disclosure and maintain its confidentiality.

Ultima has met its burden of demonstrating that the two documents are sufficiently secret and sufficiently material to its business that disclosure would result in serious competitive injury. Accordingly, *in camera* treatment for a period of five years, to expire on September 1, 2026, is GRANTED for the two documents identified as PX8570 and ULTIMA-FTC-00000027.

Ultima's motion is DENIED WITHOUT PREJUDICE for the deposition transcript identified as PX7119 because Ultima did not narrow its request to only the portions of testimony containing confidential information. Ultima may not shield the name of its chief commercial officer from public disclosure. Ultima may file a renewed motion seeking *in camera* treatment for only those pages and line numbers that contain information that meets the standard for *in camera* treatment.

Ultima's motion is DENIED as to the declaration submitted in support of its motion for *in camera* treatment. A non-party may obtain *in camera* treatment only for material "offered into evidence." 16 C.F.R. § 3.45(b). However, the declaration is protected by FTC Rule 3.45(e).

#### **IV.**

Several of the non-parties did not identify the documents for which they seek *in camera* treatment by a PX or RX number. If either party seeks to introduce these documents as exhibits, counsel shall prepare a proposed order showing that, by this Order, the document has been granted *in camera* treatment, the length of time extended for *in camera* treatment, and identifying each document by its PX or RX number.

All of the documents for which *in camera* treatment has been granted shall also be treated as confidential under the Protective Order issued in this case and may only be disclosed to those entities covered by the Protective Order. Each non-party whose documents or information has been granted *in camera* treatment by this Order shall inform its testifying current or former employees that *in camera* treatment has been provided for the material described in this Order.

The parties are permitted to elicit testimony that includes references to, or general statements derived from, the content of information that has been granted *in camera* treatment. 16 C.F.R. § 3.45. However, any testimony revealing the confidential information from documents that have been granted *in camera* treatment shall only be provided in an *in camera* session. Counsel shall segregate their questions of witnesses in such a manner that all questions on *in camera* materials will, to the extent practicable, be grouped together and elicited in one *in camera* session during the examination of a witness.

For those non-parties whose motion was denied without prejudice in part or in full, each non-party may refile a motion for *in camera* treatment by August 26, 2021. Each non-party is directed to carefully and thoroughly review all documents for which it seeks *in camera* treatment, and to strictly narrow its requests to only those documents that comply with the Commission's strict standards for *in camera* treatment. Any refiled motion shall include a sworn statement containing sufficient detail regarding the documents to identify the bases for the request for *in camera* treatment and demonstrate that such documents are entitled to *in camera* treatment.

ORDERED:



D. Michael Chappell  
Chief Administrative Law Judge

Date: August 19, 2021