

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

In the Matter of

**Illumina, Inc.
a corporation,**

and

**GRAIL, Inc.
a corporation,**

Respondents.

Docket No. 9401

**RESPONDENT GRAIL, LLC'S UNOPPOSED MOTION FOR LEAVE TO FILE A
REPLY IN SUPPORT OF GRAIL, LLC'S THIRD MOTION FOR *IN CAMERA* REVIEW
OF CERTAIN TRIAL EXHIBITS**

Pursuant to Rules 3.22(c) and (d) of the Commission Rules of Practice, 16 C.F.R. § 3.22, Respondent GRAIL, LLC (“GRAIL”) respectfully moves for the Court’s leave to file the attached Reply In Support of Respondent Grail, LLC’s Third Motion For *In Camera* Review Of Certain Trial Exhibits (“Reply”). GRAIL filed its Third Motion for *In Camera* Review of Certain Trial Exhibits on August 27, 2021 (the “Third Motion”). Complaint Counsel filed its Opposition to GRAIL’s Third Motion on September 1, 2021 (“Third Opposition”). Complaint Counsel’s Third Opposition specifically objected to GRAIL’s requested *in camera* treatment of portions of two transcripts. In an effort to reduce the burden on the Court and to facilitate resolution of the Third Motion, in the accompanying Reply, GRAIL directly resolves those issues specifically identified in the Third Opposition.

GRAIL requested Complaint Counsel’s consent to this Motion request for leave to file the Reply and Complaint Counsel has indicated that it will not oppose this Motion.

Dated: September 2, 2021

Respectfully submitted,

/s/ Anna M. Rathbun

Anna M. Rathbun
Michael G. Egge
Marguerite M. Sullivan
Anna M. Rathbun
David L. Johnson
Sean Mulloy
LATHAM & WATKINS LLP,
555 Eleventh Street NW
Suite 1000
Washington, D.C. 20004
Telephone: (202) 637-2200
Facsimile: (202) 637-2201
Michael.Egge@lw.com
Marguerite.Sullivan@lw.com
Anna.Rathbun@lw.com
David.Johnson@lw.com
Sean.Mulloy@lw.com

Alfred C. Pfeiffer
505 Montgomery Street
Suite 2000
San Francisco, CA 94111-6538
Telephone: (415) 391-0600
Facsimile: (415) 395-8095
Al.Pfeiffer@lw.com

Marilyn N. Guirguis
1271 Avenue of the Americas
New York, NY 10020
Telephone: (212) 906-4748
Marilyn.Guirguis@lw.com

Marcus Curtis
Nathaniel J. Amann
12670 High Bluff Drive
San Diego, CA 92130
Telephone: (858) 509-8465
Marcus.Curtis@lw.com
Nathaniel.Amann@lw.com

*Attorneys for Respondent
GRAIL, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2021, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

April Tabor
Acting 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:

Complaint Counsel

U.S. Federal Trade Commission

Susan Musser
Dylan P. Naegele
David Gonen
Jonathan Ripa
Matthew E. Joseph
Jordan S. Andrew
Betty Jean McNeil
Lauren Gaskin
Nicolas Stebinger
Samuel Fulliton
Stephen A. Mohr
Sarah Wohl
William Cooke
Catherine Sanchez
Joseph Neely
Nicholas A. Widnell
Daniel Zach
Eric D. Edmonson

Counsel for Respondent Illumina, Inc.

Cravath, Swaine & Moore LLP

Christine A. Varney
Richard J. Stark
David R. Marriott
J. Wesley Earnhardt
Sharonmoyee Goswami

Jesse M. Weiss
Michael J. Zaken

Counsel for Respondent GRAIL, LLC

Latham & Watkins LLP

Michael G. Egge
Marguerite M. Sullivan
Alfred C. Pfeiffer, Jr.
Anna M. Rathbun
David L. Johnson
Marcus Curtis
Marilyn N. Guirguis
Sean Mulloy
Nathaniel J. Amann

September 2, 2021

/s/ Anna M. Rathbun

Anna M. Rathbun

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

In the Matter of

**Illumina, Inc.
a corporation,**

and

**GRAIL, Inc.
a corporation,**

Respondents.

Docket No. 9401

**STATEMENT IN SUPPORT OF RESPONDENT GRAIL, LLC'S UNOPPOSED
MOTION FOR LEAVE TO FILE A REPLY IN SUPPORT OF GRAIL, LLC'S THIRD
MOTION FOR *IN CAMERA* REVIEW OF CERTAIN TRIAL EXHIBITS**

Pursuant to Paragraph 4 of the Scheduling Order entered on April 26, 2021, Respondents hereby represent that counsel for the moving parties has conferred with Complaint Counsel by email in an effort in good faith to resolve by agreement issues raised by the Motion. Complaint Counsel has informed Respondents that Complaint Counsel will not oppose Respondents' Motion.

Dated: September 2, 2021

Respectfully submitted,

/s/ Anna M. Rathbun

Anna M. Rathbun

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

In the Matter of

**Illumina, Inc.
a corporation,**

and

**GRAIL, Inc.
a corporation,**

Respondents.

Docket No. 9401

[PROPOSED] ORDER

Upon consideration of Respondent GRAIL LLC’s (“GRAIL”) Unopposed Motion for Leave to File a Reply In Support of Respondent Grail, LLC’s Third Motion For *In Camera* Review Of Certain Trial Exhibits, it is hereby

ORDERED, that GRAIL is granted leave to file its Reply.

Date: _____

D. Michael Chappell
Chief Administrative Law Judge

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

In the Matter of

**Illumina, Inc.
a corporation,**

and

**GRAIL, Inc.
a corporation,**

Respondents.

Docket No. 9401

**RESPONDENT GRAIL, LLC’S REPLY IN SUPPORT OF RESPONDENT GRAIL,
LLC’S THIRD MOTION FOR *IN CAMERA* REVIEW OF CERTAIN TRIAL EXHIBITS**

In accordance with the Court’s Order, on August 27, 2021, the undersigned counsel for GRAIL, LLC filed its Third Motion For *In Camera* Review of Certain Trial Exhibits. (“Third Motion”). As described therein, the Third Motion eliminated over 200 documents from GRAIL’s prior request for *in camera* treatment, and, on average, cut the length of time requested for *in camera* treatment nearly in half. *See* Third Motion at 1-2. Complaint Counsel filed its Opposition to the Third Motion on September 1, 2021 (“Third Opposition”). Therein, Complaint Counsel specifically objected to GRAIL’s requested *in camera* treatment of portions of two transcripts of testimony from GRAIL’s CEO Hans Bishop. Complaint Counsel’s Third Opposition did not specifically identify any other exhibit or transcript for which it objected to GRAIL’s requested relief for *in camera* treatment.

In an effort to facilitate the Court’s resolution of GRAIL’s Third Motion, GRAIL hereby agrees to de-designate the portions of the GRAIL-related materials that Complaint Counsel specifically identified in Sections II.B and II.C of its Third Opposition. Specifically, GRAIL de-

PUBLIC RECORD

designates the following testimony from the investigatory hearing and deposition of Hans Bishop: PX7069 at 64:14-65:23, 82:22-83:12, 84:8-85:18, 94:13-95:4, 96:21-23, 98:17-20, 101:12-102:25, 103:18-104:5, 104:14-105:25, 106:1-107:1 (Hans Bishop Investigatory Hearing Transcript); PX7083 at 53:1-55:4, 69:2-71:19, 72:23-73:7, 79:2-3, 82:4-83:17, 84:13-87:10, 111:13-112:2, 116:7-118:8, 176:22-177:2 (Hans Bishop Deposition Transcript).

Through this de-designation, GRAIL has addressed the specific objections that Complaint Counsel raised in its Third Opposition as to GRAIL's Third Motion. Accordingly, GRAIL respectfully requests that the Court Grant the remainder of GRAIL's Third Motion.

Dated: September 2, 2021

Respectfully submitted,

/s/ Anna M. Rathbun

Anna M. Rathbun
 Michael G. Egge
 Marguerite M. Sullivan
 Anna M. Rathbun
 David L. Johnson
 Sean Mulloy
 LATHAM & WATKINS LLP,
 555 Eleventh Street NW
 Suite 1000
 Washington, D.C. 20004
 Telephone: (202) 637-2200
 Facsimile: (202) 637-2201
 Michael.Egge@lw.com
 Marguerite.Sullivan@lw.com
 Anna.Rathbun@lw.com
 David.Johnson@lw.com
 Sean.Mulloy@lw.com

Alfred C. Pfeiffer
 505 Montgomery Street
 Suite 2000
 San Francisco, CA 94111-6538
 Telephone: (415) 391-0600
 Facsimile: (415) 395-8095
 Al.Pfeiffer@lw.com

PUBLIC RECORD

Marilyn N. Guirguis
1271 Avenue of the Americas
New York, NY 10020
Telephone: (212) 906-4748
Marilyn.Guirguis@lw.com

Marcus Curtis
Nathaniel J. Amann
12670 High Bluff Drive
San Diego, CA 92130
Telephone: (858) 509-8465
Marcus.Curtis@lw.com
Nathaniel.Amann@lw.com

*Attorneys for Respondent
GRAIL, LLC*