

**UNITED STATES OF AMERICA
BEFORE THE 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 MEMORANDUM IN OPPOSITION
TO RESPONDENTS’ REQUEST FOR EXPEDITED CONSIDERATION**

Respondents Illumina, Inc. (“Illumina”) and GRAIL, Inc. (“GRAIL”) (collectively, “Respondents”) filed a Motion for Conference to Facilitate Settlement (“Motion”) at midnight on July 2, 2021. Respondents’ Proposed Order (“Order”) would require both Respondents and Complaint Counsel to submit a “statement of its settlement position”¹ tomorrow, one business day after Respondents filed their Motion and without providing Complaint Counsel the opportunity to file any opposition to its underlying papers.

Further, before they filed the motion – and despite Complaint Counsel’s request, Respondents refused to identify the settlement proposal that they wished to discuss and only provided it as exhibits to its Motion. Complaint Counsel intends to assess Respondents’ proposal and to file its response to Respondents’ Motion within ten days – i.e., by Thursday, July 15, 2021 – as provided for by Rule 3.22(d). Complaint Counsel respectfully asks this Court to deny Respondents’ request to require the submission of settlement papers on July 7. Complaint

¹ Rule 3.25(a) does not refer to—let alone require—submission of any “statement of [] settlement position” in connection with Rule 3.25(a) conferences.

Counsel also requests that this Court deny Respondents' request for a settlement conference on July 8, 2021 and defer a decision as to when and whether to set a settlement conference until after Complaint Counsel has filed its response to Respondents' underlying motion.

Dated: July 6, 2021

Respectfully submitted,

By: s/ Susan A. Musser
Susan A. Musser

Counsel Supporting the Complaint

CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2021, I filed the foregoing document electronically using the FTC's E-Filing System, which will send notification of such filing to:

April Tabor
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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:

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