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On behalf of:

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ILLUMINA, INC.

Petitioner

v.

THE TRUSTEES OF COLUMBIA UNIVERSITY

IN THE CITY OF NEW YORK

Patent Owner

IPR2018-00322

Patent 9,708,358

ILLUMINA RESPONSE TO COLUMBIA MOTION TO SEAL

Pursuant to the July 3, 2018 Scheduling Order (Paper 17) at 3, Petitioner Illumina, Inc. (“Illumina”) hereby responds to the October 26, 2018 Motion to Seal (Paper 33) filed by Patent Owner The Trustees of Columbia University in the City of New York (“Columbia”).

BASIS FOR RESPONSE

Columbia in its Motion to Seal seeks to seal confidential information produced by Illumina under seal in a district court proceeding. Paper 33 at 1-3. As indicated in the July 3, 2018 Scheduling Order (Paper 17) at 2-3, when a party moves to seal material of the opposing party, the opposing party is authorized to file a response within 7 days of the filing of the motion to seal. In view of Columbia’s Motion to Seal seeking to seal confidential information produced by Illumina, this Response is appropriate under the Scheduling Order. This Response is also being timely filed as the Motion to Seal was filed October 26, 2018.

ILLUMINA’S POSITION REGARDING COLUMBIA’S MOTION TO SEAL

Illumina has reviewed Columbia’s Motion to Seal and Exhibits 2120-2124, which serve as the underlying subject matter of the Motion to Seal. Illumina does not object to Columbia’s moving to seal these exhibits nor to the use of the Board’s default Protective Order to govern the treatment of sealed exhibits in this proceeding. Illumina agrees that Exhibits 2120-2124 contain sensitive business

confidential information, and good cause exists for placing these documents under seal.

GOOD CAUSE EXISTS FOR SEALING
ILLUMINA'S CONFIDENTIAL INFORMATION

As indicated in the Motion to Seal, there is good cause for sealing Exhibits 2120-2124 because each of the exhibits contains sensitive, confidential business information. This sensitive, confidential business information relates to confidential correspondence by individuals at Illumina or individuals at Solexa, Inc. ("Solexa"), which was a corporation later acquired by Illumina.

Exhibit 2120 contains internal communications by individuals at Solexa relating to the merger between Illumina and Solexa. Exhibit 2120 contains pages of information specifying the details of the merger. Illumina maintains that the details of the merger remain business-sensitive information and it would be prejudicial to Illumina to make these details public.

Exhibit 2121 contains communications between individuals at Illumina and individuals at Solexa relating to the merger between Illumina and Solexa. Illumina maintains that the details of the merger remain business-sensitive information and it would be prejudicial to Illumina to make these details public.

Exhibits 2122-2124 (Exhibits 2123 & 2124 are attachments to Exhibit 2122) contain communications between Illumina individuals and Solexa's IP attorney relating to a meeting stemming from the merger between Illumina and Solexa.

Illumina maintains that the details of the merger remain business-sensitive information and it would be prejudicial to Illumina to make these details public.

CERTIFICATION OF NON-PUBLICATION

On behalf of Illumina, undersigned counsel certifies that to the best of his knowledge the information in Exhibits 2120-2124 has not been published or otherwise made public. These exhibits have been produced in litigation under seal, marked “Highly Confidential – Attorneys’ Eyes Only,” and have remained under seal to this date.

CONCLUSION

In view of the above, Illumina submits that good cause for sealing Exhibits 2120-2124.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: November 2, 2018

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Illumina, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **ILLUMINA RESPONSE TO COLUMBIA MOTION TO SEAL** is being served on November 2, 2018, via e-mail, pursuant to agreement of the parties, to counsel for The Trustees of Columbia University in the City of New York, at the addresses below:

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