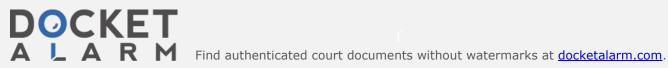1
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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA
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22	**THE SCRIPPS RESEARCH INSTITUTE,**	Case No. 3:16-cv-661-JLS-BGS
23	Plaintiff,	**SCRIPPS'S OPENING CLAIM CONSTRUCTION BRIEF**
24	v.	
25	**ILLUMINA, INC.,**	Date: January 30, 2018
26	Defendant.	Time: 9:00 am
27		Judge: Hon. Janis L. Sammartino Courtroom: 4D

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I.   INTRODUCTION

The Patent-in-Suit involves complicated technical subject matter—encoded combinatorial chemical libraries. Technology aside, the Court can reject Illumina's constructions because they violate basic claim-construction principles. As the Court determined in its denial of Illumina's Motion to Dismiss (Dkt. No. 34), Illumina improperly tries to limit the "a"-related terms to an exemplary disclosure in an embodiment and does so even though the doctrine of claim differentiation and the plain claim language support a broader construction. Illumina likewise attempts to shoehorn into the "linker molecule" limitations based on a misreading of the prosecution history of other patents relating to different claim limitations—language not found in the Patent-in-Suit. Illumina also seeks to read out the word "identifier" from the term "identifier oligonucleotide C." Federal Circuit precedent rejects those approaches to claim construction, and Scripps respectfully requests that this Court do so as well.

II.   BACKGROUND

The Scripps Research Institute ("Scripps") developed the inventions described and claimed in the Patent-in-Suit, U.S. Patent No. 6,060,596 (the "'596 Patent"). The '596 Patent, entitled "Encoded Combinatorial Chemical Libraries," claims priority to an application filed in March, 1992. The three inventors of the '596 Patent each hold doctoral degrees, and one inventor is a Nobel Laureate. Because the Court is already familiar with the technology in the context of Illumina's Motion to Dismiss (Dkt. No. 34), Scripps will provide only a brief technical background here.[1]

In general, the '596 Patent relates to encoding a library of chemical polymers with genetic information to track the structure of each chemical polymer. Metzker Decl., at ¶ 39. These libraries are used in the manufacture of DNA microarrays. Each DNA substrate or bead in a microarray product contains hundreds of thousands of copies of specific DNA

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[1] Scripps's technical expert has provided in his declaration a more extensive background of DNA, biological systems, chemical synthesis, and the '596 Patent. *See* Declaration of Dr. Michael L. Metzker, at ¶¶ 22–38 (attached as Exh. 1).

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