

Filed January 14, 2021

On behalf of **Illumina, Inc.**

By: Kerry S. Taylor

Nathanael R. Luman

Michael L. Fuller

William R. Zimmerman (pro hac vice)

KNOBBE, MARTENS, OLSON & BEAR, LLP

2040 Main Street, 14th Floor

Irvine, CA 92614

Tel.: (858) 707-4000 Fax: (858) 707-4001

Email: BoxIllumina@knobbe.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ILLUMINA, INC.

Petitioner,

v.

**TRUSTEES OF COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK**

Patent Owner.

IPR2020-01177
Patent 10,435,742

**ILLUMINA'S OBJECTIONS TO ADMISSIBILITY OF
COLUMBIA EVIDENCE SUBMITTED BEFORE TRIAL INSTITUTION**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioner Illumina, Inc., timely objects to the admissibility of evidence submitted by Patent Owner Trustees of Columbia University in the City of New York before institution of trial.

Exhibit Number and Description	Objections
Ex. 2001 - Defendant Illumina, Inc.'s Response to Plaintiffs' Opening Claim Construction Brief	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the district court claim construction briefings, hearing, and orders. In addition, Columbia's citation to a selected portion of this document is taken out of context and misleading.
Ex. 2009 - IPR2017-02172 Preliminary Response of Patent Owner Illumina Cambridge Ltd.	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the previous IPR proceeding. In addition, Columbia's citations to selected portions of this document are taken out of context and misleading.
Ex. 2010 - IPR2017-02174 Preliminary Response of Patent Owner Illumina Cambridge Ltd.	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the previous IPR proceeding. In addition, Columbia's citations to selected portions of this document are taken out of context and misleading.
Ex. 2011 - IPR2013-00517 Illumina's Patent Owner Response	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the previous IPR proceeding. In addition, Columbia's citations to selected portions of this document are taken out of context and misleading.

Exhibit Number and Description	Objections
Ex. 2013 - IPR2013-00517 Deposition of Floyd Romesberg, Ph.D., July 8, 2014	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the previous IPR proceeding. In addition, Columbia’s citations to selected portions of this document are taken out of context and misleading.
Ex. 2023 - Brief of Patent Owner-Appellant Illumina Cambridge Ltd., <i>Illumina Cambridge Ltd. v. Intelligent Bio-Systems, Inc.</i> , D.I. 27, 2015-1123 (Fed. Cir.)	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the appellate proceeding. In addition, Columbia’s citation to a selected portion of this document is taken out of context and misleading.
Ex. 2030 - Exhibit 7 to Complaint for Patent Infringement, <i>The Trustees of Columbia University in the City of New York and Qiagen Sciences, LLC v. Illumina, Inc.</i> , D.I. 1-7, 19-cv-01681 (D. Del.)	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the district court proceeding. Further, this document does not comply with the district court claim construction order, lacks factual basis, confuses issues, and is misleading. Hearsay (FRE 802): The exhibit includes out-of-court statements offered for the truth of the matter asserted.

Exhibit Number and Description	Objections
Ex. 2031 - Exhibit 8 to Complaint for Patent Infringement, <i>The Trustees of Columbia University in the City of New York and Qiagen Sciences, LLC v. Illumina, Inc.</i> , D.I. 1-8, 19-cv-01681 (D. Del.)	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the district court proceeding. Further, this document does not comply with the district court claim construction order, lacks factual basis, confuses issues, and is misleading. Hearsay (FRE 802): The exhibit includes out-of-court statements offered for the truth of the matter asserted.
Ex. 2034 - IPR2018-00291, Petition for <i>Inter Partes</i> Review of U.S. Patent No. 9,718,852	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the previous IPR proceeding. In addition, Columbia’s citations to selected portions of this document are taken out of context and misleading.
Ex. 2039 - IPR2012-00007 Illumina Reply	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the previous IPR proceeding. In addition, Columbia’s citation to a selected portion of this document is taken out of context and misleading.
Ex. 2040 - IPR2012-00007 Illumina Expert Declaration	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the previous IPR proceeding. In addition, Columbia’s citations to selected portions of this document are taken out of context and misleading.
Ex. 2041 - IPR2012-00007 Illumina Petition	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the previous IPR

Exhibit Number and Description	Objections
	proceeding. In addition, Columbia’s citations to selected portions of this document are taken out of context and misleading.
Ex. 2044 - Defendant Illumina, Inc.’s Answer to Plaintiffs’ Motion for Reconsideration of the Court’s Claim Construction Order, D.I. 64, 19-cv-01681 (D. Del.)	Incomplete, Relevance, Misleading (FRE 106, 401, 403): This document, when taken in isolation, provides an incomplete version of the district court proceeding. In addition, Columbia’s citations to selected portions of this document are taken out of context and misleading.
Ex. 2048 - Declaration of Kenneth A. Johnson	Relevance, Misleading (FRE 106, 401, 402, 403): ¶¶ 26-27 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and improperly mischaracterize the teachings of Tsien. ¶¶ 29-30 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and improperly mischaracterize the teachings of Tsien. ¶ 32 is misleading, incomplete, and irrelevant because it lacks support for the contentions for which it is cited and improperly mischaracterize the teachings of Dower. ¶¶ 34-36 are misleading, incomplete, and irrelevant because they lack support for the contentions for which they are cited and improperly mischaracterize the teachings of Dower as well as the prosecution history of the challenged patent and the size of 3’-capping groups.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.