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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION,  
  
Plaintiff,  
  
v.  
  
ILLUMINA, INC. and GRAIL, INC.,  
  
Defendants.

Case No.: 3:21-cv-00800-CAB-BGS  
**ORDER REGARDING PARTIES’  
PROPOSAL FOR RAISING  
DISCOVERY DISPUTES**

On May 17, 2021, counsel for all parties jointly contacted Judge Skomal’s chambers to propose a modification of Judge Skomal’s Chambers Rules regarding discovery disputes, Chambers Rules, Section V. (ECF 116.) The parties met and conferred regarding a proposal. They agreed as to briefing, but reached an impasse as to the timing of the briefing. The parties propose to have the moving party file a three-page single-spaced letter brief in support of their position followed by a three-page single-spaced letter brief in opposition. The parties disagreed as to the time for the responsive brief to be filed. Defendants proposed two days to expedite briefing, and Plaintiff proposed five to seven days to allow sufficient time to respond.

In support of their request for this modified process, the parties rely on the expedited schedule for completion of fact and expert discovery. (ECF 88 at 2, 5.) That schedule was jointly proposed by the parties and entered on April 26, 2021 shortly after

1 this case was transferred to this District on April 23, 2021. (ECF 87 (Joint Motion), 88  
2 (Case Management and Scheduling Order), 59 (Case transfer).) The Scheduling Order  
3 requires completion of fact discovery by June 4, 2021 with expert reports due in June and  
4 rebuttal reports by July 9, 2021. (ECF 88 at 2, 5.) The Scheduling Order also indicates  
5 that fact discovery commenced on April 1, 2021. (*Id.* at 2.)

6 The undersigned's Chambers Rules require parties to promptly meet and confer  
7 regarding all disputed issues (V.A) and, if unable to resolve the dispute, contact Judge  
8 Skomal's chambers to identify the dispute, (V.B). Absent tolling, parties are required to  
9 raise any discovery dispute within 30 days of a dispute arising, (V.C). After the dispute  
10 is raised, the Court either sets a conference or advises the parties of the format for  
11 briefing the dispute. (V.D.)

12 The Court approves the parties' proposal for raising and briefing discovery  
13 disputes by the moving party filing a three-page, single-spaced letter brief with a three-  
14 page single-spaced letter brief in response.<sup>1</sup> However, the Court adds that the briefs  
15 should not be filed with exhibits. The Court expects the parties to summarize any  
16 relevant exhibits in their briefs.<sup>2</sup> As to the time for the opposing party to respond, given  
17 the expedited discovery schedule, the Court finds two days to respond is appropriate.

18 The parties' proposal does not address how soon after a dispute arises a party  
19 would be required to file the initial letter brief raising the dispute with the Court. Given  
20 the short time frame to complete discovery and the parties' request for this expedited  
21 process for briefing, the Court finds the thirty-days the Court generally allows for  
22 disputes to be raised is too long and the allowance for the parties to extend the time to  
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25 <sup>1</sup> The parties also raised the potential for disputes related to third-party subpoenas. The  
26 parties must follow the requirements of Federal Rule of Civil Procedure 45 in addressing  
27 any challenges or issues with Rule 45 subpoenas. These procedures do not apply to those  
28 disputes.

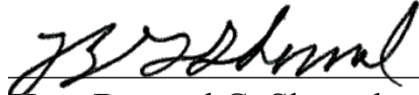
<sup>2</sup> To the extent submission of an exhibit is absolutely necessary, a party may request to  
submit the exhibit with the briefing.

1 respond to discovery requests should not apply. (Section V.C.) The Court is inclined to  
2 require the parties to meet and confer within two days of a dispute arising to resolve or  
3 narrow the issues in dispute with the initial letter brief filed within two days of the meet  
4 and confer.

5 However, given the parties did not address this issue in their proposal, the Court  
6 will allow the parties to propose an alternative time frame between when the dispute  
7 arises and when the initial letter brief will be filed. The parties may submit a Joint  
8 Motion with their proposal no later than May 21, 2021.

9 **IT IS SO ORDERED.**

10 Dated: May 19, 2021

11   
12 Hon. Bernard G. Skomal  
13 United States Magistrate Judge  
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