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9 Attorneys for Plaintiffs  
ILLUMINA, INC.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12

13 ILLUMINA, INC.,

14 Plaintiff,

15 v.

16 ARIOSIA DIAGNOSTICS, INC.,

17 Defendant.  
18

Case No.

**COMPLAINT FOR PATENT  
INFRINGEMENT**

**JURY TRIAL DEMANDED**

1 Plaintiff Illumina, Inc. (“Illumina”) for their complaint against Defendant Ariosa  
2 Diagnostics, Inc. (“Ariosa”), allege as follows:

3 **NATURE OF THIS ACTION**

4 1. This action arises under 28 U.S.C. §§ 1331 and the United States Patent  
5 Act, 35 U.S.C. § 100 *et seq.*

6 2. Illumina brings this action to halt Defendant’s infringement of Illumina’s  
7 rights under the Patent Laws of the United States, 35 U.S.C. § 1, *et seq.*

8 **PARTIES**

9 3. Illumina is a corporation organized and existing under the laws of the State  
10 of Delaware, with its principal place of business at 5200 Illumina Way, San Diego, California,  
11 92122. Illumina is the owner of U.S. Patent No. 7,955,794 (“the ’794 patent”).

12 4. Illumina is a leading developer, manufacturer, and marketer of life science  
13 tools and integrated systems for large-scale analysis of genetic variation and function. Through  
14 its sequencing and array-based solutions, Illumina has revolutionized DNA analysis. Most  
15 recently, Illumina achieved a significant milestone in medical progress through the launch of  
16 sequencing technology capable of pushing the cost of sequencing the human genome down to  
17 \$1000.

18 5. On information and belief, Ariosa is a company organized and existing  
19 under the laws of Delaware, with its principal place of business at 5945 Optical Court, San Jose,  
20 California 95138.

21 6. Defendant has, and has had, continuous and systematic contacts with the  
22 State of California, including this District. For instance, Ariosa has acknowledged in *Ariosa*  
23 *Diagnostics, Inc. v. Sequenom, Inc.*, Civil Action No. 11-03691 (N.D. Cal. Dec. 19, 2011) that it  
24 “currently is, and has been, using the Aria Test in this District to conduct clinical studies in order  
25 to validate the performance of the test in detection of fetal chromosome abnormalities.” On  
26 information and belief, residents of this District have used services sold by or from Defendant.  
27  
28

1 **JURISDICTION AND VENUE**

2 7. This action arises under the Patent Laws of the United States of America,  
3 35 U.S.C. § 1 *et seq.* This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 28  
4 U.S.C. § 1338(a) because this is a civil action arising under the Patent Act.

5 8. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) because  
6 a substantial part of the events giving rise to Illumina's claim occurred in this District and  
7 because Defendant is subject to personal jurisdiction in this District.

8 **INTRA-DISTRICT ASSIGNMENT**

9 9. Pursuant to Civil Local Rules 3-5(b) and 3-2(c), because this action is an  
10 intellectual property action, it is properly assigned to any of the divisions in this District.

11 **BACKGROUND**

12 10. In or around May 2012, Ariosa began selling and offering to sell a  
13 commercial non-invasive prenatal test for Down syndrome, which it refers to by the trade name  
14 Harmony™ Prenatal Test. Technical literature describing the technology underlying the  
15 Harmony™ Prenatal Test (which Ariosa identifies in a section of its website entitled "ABOUT  
16 THE SCIENCE") explains that the method involves *inter alia* a multiplexing method for  
17 detecting target sequences. *See, e.g.*, Sparks, A.B., Struble, C.A., Wang, E.T., Song, K.,  
18 Oliphant, A., Non-invasive Prenatal Detection and Selective Analysis of Cell-free DNA Obtained  
19 from Maternal Blood: Evaluation for Trisomy 21 and Trisomy 18, *Am. J. Obstet. Gynecol.*  
20 (2012). In view of this description, on information and belief Defendant's Harmony™ Prenatal  
21 Test infringes the '794 patent directly and indirectly.

22 **COUNT I**

23 **Infringement of U.S. Patent No. 7,955,794**

24 11. Illumina re-alleges and incorporates by this reference the allegations  
25 contained in paragraphs 1 through 10 above as relevant to this count.

26 12. On September 1, 2009, the United States Patent and Trademark Office duly  
27 and legally issued the '794 patent, entitled "Multiplex Nucleic Acid Reactions."  
28



1 E. An order for an accounting of damages from Defendant's infringement;

2 F. An award to Illumina of their costs and reasonable expenses to the fullest  
3 extent permitted by law;

4 G. A declaration that this case is exceptional pursuant to 35 U.S.C. § 285, and  
5 an award of attorneys' fees and costs; and

6 H. An award of such other and further relief as the Court may deem just and  
7 proper.

8  
9 **DEMAND FOR JURY TRIAL**

10 Pursuant to Federal Rule of Civil Procedure 38(b) and Civil Local Rule 3-6(a),  
11 Illumina hereby demands a trial by jury on all issues so triable.

12  
13 Dated: April 25, 2014

Respectfully submitted,

14 WEIL, GOTSHAL & MANGES LLP  
15 Edward R. Reines  
16 Derek C. Walter  
17 Michele A. Gauger  
18 Anant N. Pradhan

19 By: /s/ Edward R. Reines  
20 Edward R. Reines  
21 Attorneys for Plaintiff  
22 ILLUMINA, INC.  
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