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10	UNITED STATES D	DISTRICT COURT
11	NORTHERN DISTRIC	T OF CALIFORNIA
12	NORTHERN DISTRIC	TOT CALIFORNIA
13 14	ILLUMINA, INC., Plaintiff,	Case No.
15	V.	COMPLAINT FOR PATENT
16		INFRINGEMENT
17	ARIOSA DIAGNOSTICS, INC.,	
18	Defendant.	JURY TRIAL DEMANDED
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	COMPLAINT DEMAND FOR HIRY TRIAL	

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	<u>PARTIES</u>		
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.		
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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 nam				
14	Harmony TM Prenatal Test. Technical literature describing the technology underlying th				
15	Harmony TM Prenatal Test (which Ariosa identifies in a section of its website entitled "ABOU"				
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 Obtaine				
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™ Prenata				
21	Test infringes the '794 patent directly and indirectly.				
22	<u>COUNT I</u>				
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					
	COMPLAINT				

1	13. Arnold Oliphant, John R. Steulpnagel, Mark S. Chee, Scott L. Butler, Jian-		
2	Bing Fan, and Min-Jui Richard Shen, are the sole and true inventors of the '794 patent. By		
3	operation of law and as a result of written assignment agreements, Illumina obtained the entire		
4	right, title, and interest to and in the '794 patent.		
5	14. On information and belief, Defendant has and continues to sell, offer to		
6	sell, and use the Harmony TM Prenatal Test.		
7	15. On information and belief, Defendant has and continues to directly,		
8	indirectly, and or contributorily infringes, literally or by equivalence one or more claims of the		
9	'794 patent.		
10	16. On information and belief, Defendant's infringement has been willful and		
11	deliberate since, at least, the date Defendant employed Arnold Oliphant and John R.		
12	Steulpgnagel, named inventors of the '794 patent.		
13	17. Defendant's infringement of the '794 patent has injured Illumina in its		
14	business and property rights. Illumina is entitled to recovery of monetary damages for such		
15	injuries pursuant to 35 U.S.C. § 284 in an amount to be determined at trial.		
16	18. Defendant's infringement of the '794 patent has caused irreparable harm to		
17	Illumina and will continue to cause such harm unless and until their infringing activities are		
18	enjoined by this Court.		
19	PRAYER FOR RELIEF		
20	WHEREFORE, Illumina prays for relief as follows:		
21	A. Judgment that Defendant has infringed, induced others to infringe, and/or		
22	contributorily infringed the '794 patent;		
23	B. An order permanently enjoining Defendant from further infringement of		
24	the'794 patent;		
25	C. An award of damages pursuant to 35 U.S.C. § 284;		
26	D. A declaration that Defendant's infringement was willful and deliberate, and		
27	an increase to the award of damages of three times the amount found or assessed by the Court, in		
28	accordance with 35 U.S.C. § 284.		

1	E.	E. An order for an accounting of damages from Defendant's infringement;					
2	F.	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	e is excep	tional pursuant to 35 U.S.C. § 285, and			
5	an award of attorneys' fees and costs; and						
6	H.	An award of such other ar	nd further	relief as the Court may deem just and			
7	proper.						
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9		DEMAND FOR	JURY	<u> </u>			
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	Dated: April 25, 20	.1./	Paspastfu	lly submitted,			
13	Dated. April 23, 20	14 1	Kespectiu	my submitted,			
14			WEIL, GO	OTSHAL & MANGES LLP			
15		I	Derek C.	Walter			
16			Michele <i>A</i> Anant N.	A. Gauger Pradhan			
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19		I	Ву:	/s/ Edward R. Reines Edward R. Reines			
20				Attorneys for Plaintiff ILLUMINA, INC.			
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