

*May Contain Confidential Business Information  
Subject to Protective Order*

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN MICROFLUIDIC DEVICES

Inv. No. 337-TA-1068

**ORDER NO. 24: OMNIBUS ORDER GRANTING IN-PART AND DENYING IN-PART COMPLAINANTS' FIVE MOTIONS *IN LIMINE* [MOTION DOCKET NOS. 1068-016, 1068-017, 1068-018, 1068-019, 1068-020]**

(April 23, 2018)

On April 2, 2018, Complainants Bio-Rad Laboratories, Inc. and Lawrence Livermore National Security, LLC (collectively "Complainants") filed five (5) motions *in limine* ("MILs") with memoranda in support ("MIL Memorandum"). (Motion Docket Nos. 1068-016 through 1068-020). Pursuant to Ground Rule 2.2, Complainants certified in each of its MILs that they conferred with the other parties, and that Respondent 10X Genomics, Inc. ("Respondent" or "10X" and with Complainants, "the Private Parties") opposed each of Complainants' MILs. Complainants reported that Commission Investigative Staff ("Staff" and with the Private Parties, "the Parties") indicated she would take a position once Complainants filed their papers.

10X filed oppositions to each of Complainants' MILs. (Doc. ID Nos. 641275 (1068-016), 641283 (1068-017), 641408 (1068-018), 541235 (1068-019), 641245(1068-020)).

On April 9, 2018, Staff filed a combined response ("Staff Response") to Complainants' and Respondent's MILs. (Doc. ID No. 641349.). The Parties' arguments, with the evidence submitted, were considered and weighed. Each of Complainants' MILs is discussed in the order of the Docket Number.

***May Contain Confidential Business Information  
Subject to Protective Order***

proceedings before the ALJ provides predictability in enforcement of the order by U.S. Customs and Border Protection (“CBP”).” (*Id.* at 3 (quoting *Certain Electronic Digital Media Devices and Components Thereof*, Inv. No. 337-TA-796, Comm’n Op. at 104 (Aug. 9, 2013); *see also Certain Multiple Mode Outdoor Grills and Parts Thereof*, Inv. No. 337-TA-895, Comm’n Op. at 16 (Jul. 23, 2014).).

Complainants’ MIL No. 3, Motion Docket No. 1068-018, is *denied*. There appears to have been adequate discovery in which Complainants engaged. In this case, the information that Complainant seeks to strike and preclude will be admissible during the Hearing, subject to other appropriate evidentiary objections.

**4. MIL No. 4: Complainants’ MIL No. 4 to Strike Evidence in Respondent’s Pre-hearing Brief, and to Preclude Respondent from Offering Evidence During the Hearing with Respect to Claim Construction and Invalidity Not Presented During the *Markman* Process or Already Ruled Upon Is *Moot*. [Motion Docket No. 1068-019]**

Complainants and Staff, and to a certain extent, Respondent, all agree that Complainants’ MIL No. 4 is moot. Respondent says it has preserved its appellate rights with respect to the *Markman* constructions. The *Markman* Order, Order No. 20, directs that none of the Parties may argue claim construction not set forth in claim construction briefs. (*See* Order No. 20 (Apr. 4, 2018).). Similarly, Order No. 15 precludes Respondent from offering evidence with respect to invalidity because of the summary determination application of Assignor Estoppel to Respondent’s invalidity contentions/defenses. (*See* Order No. 15 (Mar. 5, 2018).). The Commission chose not to review Order No. 15. (*See* Doc. ID No. 641398 (Apr. 9, 2018).).

Respondent must redact from its Pre-Hearing Brief and not raise during the Hearing, any claim constructions or invalidity positions that are subject to Order Nos. 15 and 20.

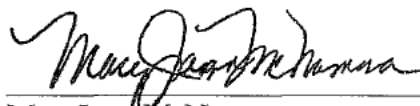
*May Contain Confidential Business Information  
Subject to Protective Order*

Within seven (7) business days of the date of this document, each party shall submit to the Office of the Administrative Law Judges a statement as to whether or not<sup>4</sup> it seeks to have any confidential portion of this document deleted from the public version. Any party seeking redactions to the public version must submit to this office two (2) copies of a proposed public version of this document pursuant to Ground Rule 1.10 with red brackets clearly indicating any portion asserted to contain confidential business information.

The Parties' submissions may be made by facsimile and/or hard copy by the aforementioned date. In addition, an electronic courtesy copy is required pursuant to Ground Rule 1.3.2.

The Parties' submissions concerning the public version of this document need not be filed with the Commission Secretary.

**SO ORDERED.**



---

MaryJoan McNamara  
Administrative Law Judge

---

<sup>4</sup> This means that parties that do not seek to have any portion of this Order redacted are still required to submit a statement to this effect.