

Interlocutory Orders, Etc.

IN THE MATTER OF
TRAFFIC JAM EVENTS, LLC.
AND
DAVID J. JEANSONNE II

Docket No. 9395. Order, August 24, 2021

Order directing Respondents to provide expedited response to Complaint Counsel's expedited motion to continue evidentiary hearing and prehearing deadlines.

**ORDER DIRECTING RESPONDENTS TO PROVIDE EXPEDITED RESPONSE TO COMPLAINT COUNSEL'S
EXPEDITED MOTION TO CONTINUE EVIDENTIARY HEARING AND PREHEARING DEADLINES**

On August 18, 2021, Complaint Counsel moved for a continuance of the date of the evidentiary hearing from September 14, 2021, to November 16, 2021, and corresponding adjustment of the deadlines for prehearing submissions, because the hearing and prehearing proceedings may be rendered moot by the Commission's resolution of Complaint Counsel's pending Motion for Summary Decision. Complaint Counsel's Expedited Motion to Continue Evidentiary Hearing and Prehearing Deadlines ("Motion for Continuance"). Complaint Counsel requested expedited treatment of the Motion for Continuance because of the approaching hearing date and deadlines for pretrial submissions, beginning on August 30, 2021. Complaint Counsel stated, however, that Respondents' counsel has not assented to continuing the hearing and indicated that Respondents may seek other relief. Under Commission Rules 3.22(d) and 4.3(c), Respondents normally would have ten days to respond to the Motion for Continuance, plus an additional day reflecting electronic service. Rule 3.22(d), however, authorizes the Commission to adjust the response period. To facilitate prompt resolution of the Motion for Continuance in the face of imminent prehearing deadline, we direct Respondents to provide an expedited response to Complaint Counsel's expedited Motion for Continuance. Accordingly,

IT IS HEREBY ORDERED that Respondents Traffic Jam Events, LLC. and David J. Jeansonne II shall submit their response (if any) to Complaint Counsel's Expedited Motion to Continue Evidentiary Hearing and Prehearing Deadlines by no later than 12:00 p.m. (noon), August 25, 2021.

By the Commission.

Interlocutory Orders, Etc.

IN THE MATTER OF

ILLUMINA, INC.

AND

GRAIL, INC.

Docket No. 9401. Order, August 24, 2021

Order directing general counsel to enforce two nonparty subpoenas.

ORDER DIRECTING GENERAL COUNSEL TO ENFORCE NONPARTY SUBPOENAS

On August 4, 2021, Respondents filed a motion requesting that the Chief Administrative Law Judge (“ALJ”) certify to the Commission, pursuant to Commission Rule 3.38(c), 16 C.F.R. § 3.38(c), Respondents’ request for court enforcement of two subpoenas for documents and testimony to nonparty Caris Life Sciences, Inc. (“Caris”). Caris opposed the Motion, asserting that (1) Respondents waited too long to bring the Motion, risking prejudice to Caris in potentially having to comply with the subpoenas in a short time frame; (2) the information demanded by the subpoenas was unnecessarily broad; and (3) collecting and producing the necessary documents and disclosing Caris’s confidential information to a competitor would be unduly burdensome. On August 16, 2021, the ALJ granted Respondents’ Motion, certifying their request for court enforcement of the subpoenas and recommending that court enforcement be sought. Having reviewed the parties’ filings and the ALJ’s certification and recommendation, we direct the General Counsel to seek enforcement of the subpoenas in federal district court.¹

I. BACKGROUND

This dispute arises in the context of the Commission’s challenge to the proposed acquisition of Respondent GRAIL, Inc. (“GRAIL”) by Respondent Illumina, Inc. (“Illumina”). The following summary is based on allegations in the administrative complaint brought under Section 5 of the FTC Act, 15 U.S.C. § 45, and Section 7 of the Clayton Act, 15 U.S.C. § 18.²

¹ We use the following abbreviations for citations to the pleadings:

Motion:	[Sealed] Respondents’ Motion to Certify to the Commission a Request Seeking Court Enforcement of Document and Testimony Subpoenas Issued to Caris Life Sciences (Aug. 4, 2021)
Opposition:	Non-Party Caris Life Sciences, Inc.’s [Sealed] Response to Respondents’ Motion to Certify to the Commission a Request Seeking Court Enforcement of Document and Testimony Subpoenas Issued to Caris Life Sciences (Aug. 10, 2021)
Goswami Decl.	[Sealed] Declaration of Sharonmoyee Goswami, attached to Motion (Aug. 3, 2021)
ALJ Order:	Order Granting Motion for Certification to the Commission of Request for Court Enforcement of Nonparty Subpoena (Aug. 16, 2021)

² In addition to this administrative proceeding, Complaint Counsel also brought a parallel action in federal court seeking a preliminary injunction against the transaction. *See* Case No. 3:21-cv-800-CAB-BGS (S.D. Cal.), transferred from Case No. 21-cv-873 (D.D.C.). Complaint Counsel have since voluntarily dismissed that action.