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**U.S. District Court
District of New Jersey [LIVE] (Trenton)
CIVIL DOCKET FOR CASE #: 3:20-cv-07648-ZNQ-DEA**

ZIRVI v. UNITED STATES NATIONAL INSTITUTE OF HEALTH et al
Assigned to: Judge Zahid N. Quraishi
Referred to: Magistrate Judge Douglas E. Arpert
Cause: 05:552 Freedom of Information Act

Date Filed: 06/23/2020
Date Terminated: 04/28/2022
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

MONIB ZIRVI
MD, PH.D

represented by **ERIC H. JASO**
SPIRO HARRISON
363 BLOOMFIELD AVENUE
SUITE 2C
MONTCLAIR, NJ 07042
973-310-4026
Fax: 973-232-0887
Email: ejaso@spiroharrison.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

THOMAS MICHAEL KENNY
SPIRO HARRISON
363 BLOOMFIELD AVENUE
SUITE 2C
MONTCLAIR, NJ 07042
973-232-0881
Email: tkenny@spiroharrison.com
ATTORNEY TO BE NOTICED

JASON CHARLES SPIRO
Spiro LLC
830 MORRIS TURNPIKE
Short Hills, NJ 07078
(973) 232-0882
Email: jspiro@spiroharrison.com
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES NATIONAL INSTITUTE OF
HEALTH**

represented by **KRISTIN LYNN VASSALLO**
OFFICE OF THE U.S. ATTORNEY
DISTRICT OF NEW JERSEY
970 BROAD STREET
NEWARK, NJ 07102
973-645-2835
Email: kristin.vassallo@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

PETER GREGORY VIZCARRONDO
UNITED STATES ATTORNEY'S OFFICE
401 MARKET STREET
4TH FLOOR
CAMDEN, NJ 08101
856-757-5031
Email: peter.vizcarrondo@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**UNITED STATES NATIONAL INSTITUTES
OF STANDARDS AND TECHNOLOGY**

represented by **KRISTIN LYNN VASSALLO**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

PETER GREGORY VIZCARRONDO
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**UNITED STATES PATENT AND
TRADEMARK OFFICE**

represented by **KRISTIN LYNN VASSALLO**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

PETER GREGORY VIZCARRONDO
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Intervenor Defendant

ILLUMINA, INC.

represented by **DAVID A. LUTTINGER**
COVINGTON & BURLING LLP
THE NEW YORK TIMES BUILDING
620 EIGHTH AVENUE
NEW YORK, NY 10018
212-841-1000
Email: dluttinger@cov.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ROBERT PATRICK HANEY , JR.
FOLEY HOAG LLP
THE NEW YORK TIMES BUILDING
1301 AVENUE OF THE AMERICAS
25TH FLOOR
NEW YORK, NY 10019
212-812-0356
Email: rhaney@foleyhoag.com
TERMINATED: 06/24/2021
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/23/2020	1	COMPLAINT against UNITED STATES NATIONAL INSTITUTE OF HEALTH, UNITED STATES NATIONAL INSTITUTES OF STANDARDS AND TECHNOLOGY, UNITED STATES PATENT AND TRADEMARK OFFICE (Filing and Admin fee \$ 400 receipt number ANJDC-10977960), filed by MONIB ZIRVI. (Attachments: # 1 Exhibit Exhibit 1, # 2 Exhibit Exhibit 2, # 3 Exhibit Exhibit 3, # 4 Exhibit Exhibit 4, # 5 Exhibit Exhibit 5, # 6 Exhibit Exhibit 6, # 7 Exhibit Exhibit 7, # 8 Exhibit Exhibit 8, # 9 Exhibit Exhibit 9, # 10 Exhibit Exhibit 10, # 11 Exhibit Exhibit 11, # 12 Exhibit Exhibit 12, # 13 Exhibit Exhibit 13, # 14 Exhibit Exhibit 14, # 15 Exhibit Exhibit 15, # 16 Exhibit Exhibit 16, # 17 Exhibit Exhibit 17, # 18 Exhibit Exhibit 18, # 19 Exhibit Exhibit 19, # 20 Exhibit Exhibit 20, # 21 Exhibit Exhibit 21, # 22 Exhibit Exhibit 22, # 23 Exhibit Exhibit 23, # 24 Exhibit Exhibit 24, # 25 Civil Cover Sheet) (SPIRO, JASON) (Entered: 06/23/2020)
06/23/2020		CLERK'S QUALITY CONTROL MESSAGE - The case you electronically filed has been processed, however, the following deficiencies were found: Party Information is to be entered in CAPITAL LETTERS. It was selected that this case has been filed AGAINST the Plaintiff. The Clerk's Office has made the appropriate changes. Please refer to the Attorney Case Opening Guide for processing electronically filed cases. (jjc,) (Entered: 06/23/2020)
06/23/2020		Judge Michael A. Shipp and Magistrate Judge Douglas E. Arpert added. (mg) (Entered: 06/23/2020)
06/23/2020	2	NOTICE of Appearance by THOMAS MICHAEL KENNY on behalf of Monib Zirvi (KENNY, THOMAS) (Entered: 06/23/2020)
06/23/2020	3	SUMMONS ISSUED as to UNITED STATES NATIONAL INSTITUTE OF HEALTH, UNITED STATES NATIONAL INSTITUTES OF STANDARDS AND TECHNOLOGY, UNITED STATES PATENT AND TRADEMARK OFFICE. Attached is the official court Summons, please fill out Defendant and Plaintiffs attorney information and serve. (mg) (Entered: 06/23/2020)
07/02/2020	4	MOTION for Leave to Appear Pro Hac Vice <i>Timothy M. Kolman</i> by MONIB ZIRVI. (Attachments: # 1 Declaration of Jason C. Spiro, # 2 Declaration of Timothy M. Kolman, # 3 Text of Proposed Order to Admit Timothy M. Kolman Pro Hac Vice)(SPIRO, JASON) (Entered: 07/02/2020)
07/02/2020		Set Deadlines as to 4 MOTION for Leave to Appear Pro Hac Vice <i>Timothy M. Kolman</i> . Motion set for 8/3/2020 before Magistrate Judge Douglas E. Arpert. Unless otherwise directed by the Court, this motion will be decided on the papers and no appearances are required. Note that this is an automatically generated message from the Clerk's Office and does not supersede any previous or subsequent orders from the Court. (jem) (Entered: 07/02/2020)

07/22/2020	5	AMENDED DOCUMENT by MONIB ZIRVI. Amendment to 4 MOTION for Leave to Appear Pro Hac Vice <i>Timothy M. Kolman Revised Declaration of Timothy M. Kolman.</i> (SPIRO, JASON) (Entered: 07/22/2020)
07/23/2020	6	Application and Proposed Order for Clerk's Order to extend time to answer as to Defendants NIH, NIST, and USPTO. Attorney KRISTIN LYNN VASSALLO for UNITED STATES NATIONAL INSTITUTE OF HEALTH, KRISTIN LYNN VASSALLO for UNITED STATES NATIONAL INSTITUTES OF STANDARDS AND TECHNOLOGY, KRISTIN LYNN VASSALLO for UNITED STATES PATENT AND TRADEMARK OFFICE added. (Attachments: # 1 Certificate of Service) (VASSALLO, KRISTIN) (Entered: 07/23/2020)
07/23/2020	7	ORDER granting 4 Motion for Leave to Appear Pro Hac Vice as to Timothy Kolman. Signed by Magistrate Judge Douglas E. Arpert on 7/23/2020. (jmh) (Entered: 07/23/2020)
07/23/2020		Clerk's Text Order - The document 6 Application for Clerk's Order to Ext Answer/Proposed Order, submitted by UNITED STATES PATENT AND TRADEMARK OFFICE, UNITED STATES NATIONAL INSTITUTES OF STANDARDS AND TECHNOLOGY, UNITED STATES NATIONAL INSTITUTE OF HEALTH has been GRANTED. The answer due date has been set for 8/10/2020. (jem) (Entered: 07/23/2020)
08/07/2020	8	NOTICE of Appearance by PETER GREGORY VIZCARRONDO on behalf of UNITED STATES NATIONAL INSTITUTE OF HEALTH, UNITED STATES NATIONAL INSTITUTES OF STANDARDS AND TECHNOLOGY, UNITED STATES PATENT AND TRADEMARK OFFICE (VIZCARRONDO, PETER) (Entered: 08/07/2020)
08/07/2020	9	Letter from Defendants Requesting an Extension of Time Until August 24, 2020 to Respond to the Complaint. (Attachments: # 1 Text of Proposed Order)(VIZCARRONDO, PETER) (Entered: 08/07/2020)
08/10/2020	10	ORDER granting Defendants' 9 application for an extension of time to answer or otherwise respond to the Complaint. Defendants shall file their response to the Complaint 1 by 8/24/2020. Signed by Magistrate Judge Douglas E. Arpert on 8/10/2020. (jem) (Entered: 08/10/2020)
08/24/2020	11	ANSWER to Complaint <i>and Separate Defenses</i> by All Defendants. (Attachments: # 1 Certificate of Service)(VIZCARRONDO, PETER) (Entered: 08/24/2020)
09/01/2020	12	MOTION to Intervene by ILLUMINA, INC.. (Attachments: # 1 Declaration, # 2 Appendix Proposed Answer, # 3 Text of Proposed Order)(HANEY, ROBERT) (Entered: 09/01/2020)
09/01/2020	13	Corporate Disclosure Statement by ILLUMINA, INC.. (HANEY, ROBERT) (Entered: 09/01/2020)
09/01/2020		Set Deadlines as to 12 MOTION to Intervene . Motion set for 10/5/2020 before Magistrate Judge Douglas E. Arpert. Unless otherwise directed by the Court, this motion will be decided on the papers and no appearances are required. Note that this is an automatically generated message from the Clerk's Office and does not supersede any previous or subsequent orders from the Court. (jem) (Entered: 09/01/2020)
09/11/2020	14	Ordered Initial Conference set for 10/6/2020 at 2:30 PM via telephone before Magistrate Judge Douglas E. Arpert. Plaintiff is to set up and initiate the call to chambers (609-989-2144). Attention Counsel: The Joint Discovery Plan is due (7) days prior to the conference. Please email the Joint Discovery Plan to dea_orders@njd.uscourts.gov. (Attachment: JDP Instructions) Signed by Magistrate Judge Douglas E. Arpert on 9/11/2020. (eh,) (Entered: 09/11/2020)
09/22/2020	15	NOTICE of Appearance by ERIC H. JASO on behalf of MONIB ZIRVI (JASO, ERIC) (Entered: 09/22/2020)
09/29/2020	16	MOTION for Leave to Appear Pro Hac Vice <i>for Kevin Barnett</i> by ILLUMINA, INC.. (Attachments: # 1 Declaration of Kevin T. Barnett, # 2 Declaration of Robert P. Haney, Jr., # 3 Text of Proposed Order) (HANEY, ROBERT) (Entered: 09/29/2020)
09/29/2020		Set Deadlines as to 16 MOTION for Leave to Appear Pro Hac Vice <i>for Kevin Barnett</i> . Motion set for 11/2/2020 before Magistrate Judge Douglas E. Arpert. Unless otherwise directed by the Court, this motion will be decided on the papers and no appearances are required. Note that this is an automatically generated message from the Clerk's Office and does not supersede any previous or subsequent orders from the Court. (jem) (Entered: 09/29/2020)
10/06/2020		TEXT Minute Entry for proceedings held before Magistrate Judge Douglas E. Arpert: Initial Pretrial Conference held on 10/6/2020, via telephone. (eh,) (Entered: 10/07/2020)

10/08/2020	17	TEXT ORDER: The parties are to submit a joint status report by 10/13/2020. So Ordered by Magistrate Judge Douglas E. Arpert on 10/8/2020. (eh,) (Entered: 10/08/2020)
10/13/2020	18	Letter from the Agency Defendants, on behalf of all parties, respectfully enclosing a proposed motion schedule. (VASSALLO, KRISTIN) (Entered: 10/13/2020)
10/14/2020	19	ORDER that the Agency Defendants and Intervenor Illumina will file motions for summary judgment/partial summary judgment by 12/11/2020; Plaintiff's opposition to these motions are due 1/20/2021; the Agency Defendants and Intervenor Illumina's reply briefs are due 2/05/2021. Telephone Status Conference set for 2/8/2021 at 11:00 AM before Magistrate Judge Douglas E. Arpert. Plaintiff's counsel is to initiate the call to 609-989-2144. Signed by Magistrate Judge Douglas E. Arpert on 10/14/2020. (jem) (Entered: 10/14/2020)
10/15/2020	20	ORDER granting 16 Motion for Leave to Appear Pro Hac Vice as to Kevin Barnett. Signed by Magistrate Judge Douglas E. Arpert on 10/15/2020. (abr) (Entered: 10/15/2020)
10/15/2020	21	ORDER that Illumina, Inc.'s unopposed 12 Motion to Intervene is granted. Signed by Magistrate Judge Douglas E. Arpert on 10/15/2020. (abr) (Entered: 10/15/2020)
11/02/2020	22	Notice of Request by Pro Hac Vice Kevin T. Barnett to receive Notices of Electronic Filings. (Pro Hac Vice fee \$ 150 receipt number ANJDC-11595350.) (HANEY, ROBERT) (Entered: 11/02/2020)
11/02/2020		Pro Hac Vice counsel, KEVIN T. BARNETT, has been added to receive Notices of Electronic Filing. Pursuant to L.Civ.R. 101.1, only local counsel are entitled to sign and file papers, enter appearances and receive payments on judgments, decrees or orders. (jem) (Entered: 11/02/2020)
11/24/2020	23	Letter from the Agency Defendants, on behalf of all parties, respectfully seeking a one-week extension of the motion schedule. (VASSALLO, KRISTIN) (Entered: 11/24/2020)
11/25/2020	24	LETTER ORDER granting request for a one week extension of the Motion for Summary Judgment schedule. Signed by Magistrate Judge Douglas E. Arpert on 11/25/2020. (jmh) (Entered: 11/25/2020)
12/07/2020	25	NOTICE of Appearance by DAVID A. LUTTINGER on behalf of ILLUMINA, INC. (LUTTINGER, DAVID) (Entered: 12/07/2020)
12/10/2020	26	Letter from Agency Defendants seeking 30-day extension of motion schedule. (VIZCARRONDO, PETER) (Entered: 12/10/2020)
12/14/2020	27	LETTER ORDER granting the request that the Agency Defendants and Intervenor Illumina shall file motions for summary judgment/partial summary judgment by 1/18/2021; Plaintiff's oppositions due 2/26/2021; Reply briefs due 3/15/2021. Signed by Magistrate Judge Douglas E. Arpert on 12/14/2020. (jem) (Entered: 12/14/2020)
01/11/2021	28	Letter from the Agency Defendants, with the consent of all parties, respectfully requesting additional time to submit summary judgment motion. (VASSALLO, KRISTIN) (Entered: 01/11/2021)
01/12/2021	29	LETTER ORDER granting the request 28 for an additional two-week extension of the motion schedule in this case. Signed by Magistrate Judge Douglas E. Arpert on 1/12/2021. (jem) (Entered: 01/12/2021)
01/20/2021	30	Letter from the Agency Defendants, on behalf of all parties, setting out the redactions/withholdings that remain at issue in this case. (VASSALLO, KRISTIN) (Entered: 01/20/2021)
02/01/2021	31	MOTION for Summary Judgment by ILLUMINA, INC.. Responses due by 3/12/2021 (Attachments: # 1 Brief, # 2 Statement, # 3 Declaration of A McCourt, # 4 Declaration of J. Picuri, # 5 Declaration of K. Barnett, # 6 Declaration of P. Pannala, # 7 Text of Proposed Order)(LUTTINGER, DAVID) (Entered: 02/01/2021)
02/01/2021	32	MOTION for Summary Judgment by UNITED STATES NATIONAL INSTITUTE OF HEALTH, UNITED STATES NATIONAL INSTITUTES OF STANDARDS AND TECHNOLOGY, UNITED STATES PATENT AND TRADEMARK OFFICE. Responses due by 3/12/2021 (Attachments: # 1 Brief in Support of Defendants' Motion for Summary Judgment, # 2 Statement Rule 56.1 Statement, # 3 Declaration of Louis J. Boston Jr., # 4 Exhibit to Boston Declaration, # 5 Declaration of Allyson Deitrick, # 6 Exhibit to Deitrick Declaration, # 7 Declaration of Suzanne Milliard, # 8 Exhibit to Milliard Declaration, # 9 Declaration of Marianne Manheim, # 10 Exhibit 1-7 to Manheim Declaration, # 11 Declaration of Michael Shapero, # 12 Text of Proposed Order)(VIZCARRONDO, PETER) (Entered: 02/01/2021)

02/01/2021	33	Exhibit to 32 Motion for Summary Judgment,, <i>Exhibit 8 to Manheim Declaration</i> by UNITED STATES NATIONAL INSTITUTE OF HEALTH, UNITED STATES NATIONAL INSTITUTES OF STANDARDS AND TECHNOLOGY, UNITED STATES PATENT AND TRADEMARK OFFICE. (VIZCARRONDO, PETER) (Entered: 02/01/2021)
02/02/2021		Set Deadlines as to 32 MOTION for Summary Judgment , 31 MOTION for Summary Judgment . Motions set for 3/1/2021 before Judge Michael A. Shipp. Unless otherwise directed by the Court, this motion will be decided on the papers and no appearances are required. Note that this is an automatically generated message from the Clerk`s Office and does not supersede any previous or subsequent orders from the Court. (jem) (Entered: 02/02/2021)
02/05/2021	34	ORDER that the Telephone Status Conference presently scheduled for 2/08/2021 is adjourned and rescheduled to 4/12/2021 at 2:30 PM before Magistrate Judge Douglas E. Arpert. Signed by Magistrate Judge Douglas E. Arpert on 2/05/2021. (jem) (Entered: 02/05/2021)
03/03/2021	35	Letter from Plaintiff to Request an Increase of the Page Limit in its Summary Judgment Opposition Brief. (KENNY, THOMAS) (Entered: 03/03/2021)
03/04/2021	36	LETTER ORDER granting Plaintiff's request to increase the page limit for Plaintiff's opposition brief to 50 pages from the 40-page limit. Signed by Judge Michael A. Shipp on 03/04/2021. (jdb) (Entered: 03/04/2021)
03/11/2021	37	Cross MOTION for Summary Judgment <i>or, in the Alternative, to Authorize Plaintiff to Conduct Limited Discovery</i> by All Plaintiffs. Responses due by 3/29/2021 (Attachments: # 1 Brief in Opposition to Motions for Summary Judgment and in Support of Cross-Motion, # 2 Statement of Material Facts in Support of Cross-Motion for Summary Judgment, # 3 Statement Response to Defendants' and Defendant-Intervenor's Statement of Material Facts, # 4 Declaration of Eric H. Jaso, # 5 Exhibit A to Jaso Declaration, # 6 Exhibit B to Jaso Declaration, # 7 Exhibit C to Jaso Declaration, # 8 Exhibit D to Jaso Declaration, # 9 Exhibit E to Jaso Declaration, # 10 Exhibit F to Jaso Declaration, # 11 Exhibit G to Jaso Declaration, # 12 Exhibit H to Jaso Declaration, # 13 Exhibit I to Jaso Declaration, # 14 Exhibit J to Jaso Declaration, # 15 Text of Proposed Order, # 16 Certificate of Service)(JASO, ERIC) (Entered: 03/11/2021)
03/12/2021		Set Deadlines as to 37 Cross MOTION for Summary Judgment <i>or, in the Alternative, to Authorize Plaintiff to Conduct Limited Discovery</i> . Motion set for 4/5/2021 before Judge Michael A. Shipp. Unless otherwise directed by the Court, this motion will be decided on the papers and no appearances are required. Note that this is an automatically generated message from the Clerk`s Office and does not supersede any previous or subsequent orders from the Court. (jem) (Entered: 03/12/2021)
03/29/2021	38	REPLY BRIEF to Opposition to Motion filed by ILLUMINA, INC. re 37 Cross MOTION for Summary Judgment <i>or, in the Alternative, to Authorize Plaintiff to Conduct Limited Discovery</i> , 31 MOTION for Summary Judgment <i>and Opposition to Plaintiff's Cross-Motion for Summary Judgment</i> (Attachments: # 1 Statement Response to Plaintiff's Statement of Facts)(LUTTINGER, DAVID) (Entered: 03/29/2021)
03/29/2021	39	MEMORANDUM in Opposition filed by UNITED STATES NATIONAL INSTITUTE OF HEALTH, UNITED STATES NATIONAL INSTITUTES OF STANDARDS AND TECHNOLOGY, UNITED STATES PATENT AND TRADEMARK OFFICE re 37 Cross MOTION for Summary Judgment <i>or, in the Alternative, to Authorize Plaintiff to Conduct Limited Discovery and in Further Support of Defendants' Motion for Summary Judgment</i> (Attachments: # 1 Statement in response to Plaintiff's 56.1 Statement, # 2 Declaration of Gorka Garcia-Malene, # 3 Exhibit 1 to Garcia-Malene Declaration, # 4 Exhibit 2 to Garcia-Malene Declaration, # 5 Exhibit 3 to Garcia-Malene Declaration)(VIZCARRONDO, PETER) (Entered: 03/29/2021)
04/09/2021	40	TEXT ORDER: Cancelling the Telephone Status conference previously set for 4/12/21 has been cancelled by consent. So Ordered by Magistrate Judge Douglas E. Arpert on 4/9/2021. (eh,) (Entered: 04/09/2021)
04/23/2021	41	MOTION to Withdraw as Attorney <i>for Kevin Barnett</i> , MOTION to Withdraw by ILLUMINA, INC.. (LUTTINGER, DAVID) (Entered: 04/23/2021)
04/23/2021		Set Deadlines as to 41 MOTION to Withdraw as Attorney <i>for Kevin Barnett</i> MOTION to Withdraw . Motion set for 5/17/2021 before Magistrate Judge Douglas E. Arpert. Unless otherwise directed by the Court, this motion will be decided on the papers and no appearances are required. Note that this is an automatically generated message from the Clerk`s Office and does not supersede any previous or subsequent orders from the Court. (jem) (Entered: 04/23/2021)

06/23/2021	42	ORDER granting 41 Motion to Withdraw Pro Hac Vice admission of Kevin T. Barnett. Signed by Magistrate Judge Douglas E. Arpert on 6/23/2021. (jem) (Entered: 06/23/2021)
06/24/2021	43	Notice to be terminated and withdraw from Notices of Electronic filing as to case. Attorney ROBERT PATRICK HANEY, JR terminated. (LUTTINGER, DAVID) (Entered: 06/24/2021)
06/25/2021	44	TEXT ORDER REASSIGNING CASE. Case reassigned to Judge Zahid N. Quraishi for all further proceedings. Judge Michael A. Shipp no longer assigned to case. So Ordered by Chief Judge Freda L. Wolfson on 6/25/2021. (jem) (Entered: 06/25/2021)
07/28/2021	45	Third Party Litigation Funding disclosure statement pursuant to L.Civ.R 7.1.1(a)(1-3) filed by UNITED STATES NATIONAL INSTITUTE OF HEALTH, UNITED STATES NATIONAL INSTITUTES OF STANDARDS AND TECHNOLOGY, UNITED STATES PATENT AND TRADEMARK OFFICE. (VASSALLO, KRISTIN) (Entered: 07/28/2021)
08/02/2021	46	Third Party Litigation Funding disclosure statement pursuant to L.Civ.R 7.1.1(a)(1-3) filed by All Plaintiffs. (KENNY, THOMAS) (Entered: 08/02/2021)
04/28/2022	47	OPINION Filed. Signed by Judge Zahid N. Quraishi on 4/28/2022. (jal,) (Entered: 04/28/2022)
04/28/2022	48	ORDER granting 31 Defendant Illumina, Inc.'s motion for Summary Judgement; Granting 32 motion for Summary Judgment filed by Defendants the United States Patent and Trademark Office, the National Institutes of Health, the National Cancer Institute, the National Institute of Standards and Technology, and the National Human Genome Research Institute; Denying 37 cross motion for Summary Judgement filed by Plaintiff Dr. Monib Zirvi; The Clerk shall close this case. Signed by Judge Zahid N. Quraishi on 4/28/2022. (jal,) (Entered: 04/28/2022)