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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

APPLERA CORPORATION-APPLIED
BIOSYSTEMS GROUP, a Delaware
corporation,

No. C 07-02845 WHA

Plaintiff,

v.


**ORDER VACATING
BRIEFING-SCHEDULE
ORDER**

ILLUMINA, INC., a Delaware corporation,
SOLEA INC., a Delaware corporation, and
STEPHEN C. MACEVICZ, an individual,

Defendants.

At the time the Court issued its recent order regarding the briefing schedule for claim construction, it was under the misapprehension that the further claim construction briefing was based on more of a stipulated agreement than it now appears after receiving yesterday's letter from opposing counsel. Accordingly, the order setting the briefing schedule for the additional terms (Dkt. 311) is hereby **VACATED**. The Court does not intend to construe any terms until the second-phase jury instructions are given. If the parties wish to propose constructions for terms they may do so in their proposed jury instructions. The parties may also submit trial briefs addressing the terms. But the Court will not entertain supplemental claim constructions apart from the jury instructions which will be given to counsel two or three days before closing arguments. Once again the Court requests that counsel agree upon a submission of this case for trial to a magistrate judge.

Dated: October 7, 2008.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

United States District Court
For the Northern District of California