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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

NATERA, INC. and DNA)
DIAGNOSTICS CENTER, INC.)
)
) Plaintiff/Counterclaim)
) Defendant,)
)
) v.)
)
) SEQUENOM, INC.)
)
) Defendant/Counterclaim)
) Plaintiff; and)
)
) ISIS INNOVATION LIMITED)
)
) Defendant.)
)
)
)

Case No. 3:12-cv-00132-SI

**STIPULATED [PROPOSED]
DOCUMENT PRODUCTION ORDER**

Judge: Hon. Susan Illston

1 Plaintiffs and Counterclaim-defendants Natera, Inc. (“Natera”) and DNA Diagnostics
2 Center, Inc. (“DDC”), Defendant and Counterclaim-plaintiffs, Sequenom, Inc. and Sequenom
3 Center for Molecular Medicine, LLC and Nominal Counterclaim-defendant Isis Innovation
4 Limited (collectively, the “Parties”) agree that this proposed Document Production Order
5 (“Production Order”) shall govern the Parties in the above-captioned case (the “Litigation”).

6 **I. GENERAL PROVISIONS**

7 **A.** The Parties will make reasonable efforts to prepare responsive and non-privileged
8 data for production in accordance with the agreed-upon specifications set forth below. These
9 specifications apply to hard copy documents or electronically stored information (“ESI”) which
10 are to be produced in this Litigation.

11 **B. SECURITY.** The Parties will make reasonable efforts to ensure that any
12 productions made are free from viruses and may be provided on encrypted media.

13 **C. CONFIDENTIALITY DESIGNATION.** Responsive documents in TIFF format
14 will be stamped with the appropriate confidentiality designations in accordance with the
15 Stipulated Protective Order in this matter. Each responsive document produced in native format
16 will have its confidentiality designation identified in the filename of the native file.

17 **D. PRODUCTION MEDIA.** Documents shall be produced on readily accessible
18 external hard drives, DVD, or CD disks (“Production Media”). When reasonably feasible, each
19 piece of Production Media shall be labeled with (1) the producing Party’s name; (2) the
20 production date; and (3) the Bates Number range of the materials contained on the Production
21 Media.

22 **II. DATA PROCESSING**

23 **A. DEDUPLICATION.** To the extent feasible, the Parties will de-duplicate
24 responsive ESI across Custodians. For each de-duplicated document, to the extent feasible, the
25 names of all custodians that possessed the document shall be produced. De-duplication may be
26 done automatically via standard techniques such as those based on MD5 or SHA-1 hash values.

27 **III. GENERAL PRODUCTION SPECIFICATIONS**

1 **A. FORMAT.** To the extent feasible, documents (whether originating in electronic or
2 hard copy format) shall be produced as single page TIFF files, preserving original color and font
3 to the extent feasible, documents originating in hard copy format shall be converted to TIFF
4 images by scanning with at least 300 dots per inch (dpi). Each TIFF or PDF image shall be
5 named according to the corresponding Bates number associated with the document. Each image
6 shall be branded according to the Bates number and given a confidentiality designation, if
7 applicable. TIFFs shall show all text and images that would be visible to a user of the hard copy
8 documents.

9 **B. TEXT TO BE PROVIDED WITH IMAGE FILES.** For each document,
10 extracted or optical character recognition (“OCR”) text shall be provided. To the extent
11 possible, the text of native files should be extracted directly from the native file. If a document
12 has been redacted, OCR of the redacted document will suffice in lieu of extracted text. Extracted
13 or OCR text may be included in the database load files or in separate files, so long as it is
14 provided in such a manner that it can be loaded into commercially acceptable production software
15 (*e.g.*, Concordance, Summation, Ipro).

16 **C. DATABASE LOAD FILES/CROSS-REFERENCE FILES.** Production shall
17 include a data load file and an image load file in a reasonable format specified by the requesting
18 party, or, if no request is made in a format that can be loaded into commercially acceptable
19 production software (*e.g.*, Concordance, Summation, Ipro).

20 **D. BATES NUMBERING.** All images must be assigned a unique Bates number
21 that is sequential within a given document and across the production sets.

22 **E. REDACTION OF INFORMATION.** If documents are produced containing
23 redacted information, the producing Party shall supply a list of the documents for any such
24 claim(s) of redaction, indicating the grounds for the redaction and the nature of the redacted
25 material. During the course of the Litigation, an electronic copy of the original, unredacted data
26 shall be securely preserved in such a manner so as to preserve without modification, alteration
27 or addition the content of such data including any metadata therewith. The Stipulated
28

1 Protective Order and rules of the Court in this case set forth the basis for the redaction of
2 information.

3 **F. UNITIZING OF DOCUMENTS.** Distinct documents should not be merged
4 into a single record, and single documents should not be split into multiple records (*i.e.*,
5 documents should be unitized as kept in the ordinary course of business). The Parties will use
6 reasonable efforts to unitize documents correctly.

7 **IV. PRODUCTION OF ELECTRONICALLY STORED INFORMATION**

8 **A. METADATA FIELDS AND PROCESSING.** E-discovery production requests
9 under Federal Rules of Civil Procedure 34 and 45 shall not require metadata, other than as
10 specified on Exhibit A attached, absent a showing of good cause. Any Metadata that is produced
11 shall be formatted into a basic .txt, .dat or .csv file with delimiters appropriate for use with
12 commercially acceptable review software (*i.e.*, a load file). Parties may request other native files
13 be produced as described in Section IV.D. below.

14 **B. SPREADSHEETS.** Spreadsheets must be produced in native format.

15 **C. PROPRIETARY FILES.** To the extent a response to discovery requires
16 production of ESI accessible only through proprietary software, the Parties should continue to
17 preserve each version of such information. The Parties shall meet and confer to finalize the
18 appropriate production format.

19 **D. REQUEST(S) FOR ADDITIONAL NATIVE FILES.** If good cause exists to
20 request production of specified files, other than those specifically set forth above, in native
21 format, the Party shall request such production and provide an explanation of the need for native
22 file review. The Parties shall work together to provide documents in reasonable useful format.

23 **V. PROCESSING OF THIRD-PARTY DOCUMENTS**

24 **A.** A Party that issues a subpoena requesting the production of documents (“Issuing
25 Party”) shall include a copy of this Document Production Order with the subpoena and state that
26 the Parties to the Litigation have requested that third-parties produce documents in accordance
27 with the specifications set forth herein.
28

1 **B.** The Issuing Party shall ensure that any documents it obtains pursuant to a subpoena
2 are produced to all Parties.

3 **C.** If the non-party production is not Bates-stamped, the Issuing Party will endorse the
4 non-party production with unique prefixes and Bates numbers prior to producing them to other
5 Parties.

6 **D.** Nothing in this stipulation is intended to or should be interpreted as narrowing,
7 expanding, or otherwise affecting the rights of the Parties or third parties to object to a subpoena.

8 **VI. SEARCHING AND SCOPE OF PRODUCTION**

9 **A. SOURCES.** In responding to general requests under Federal Rules of Civil
10 Procedure 34 and 45 that call for the production of ESI, the Parties will search central
11 repositories, such as shared network drives, document databases, and shared documents and files
12 held by individuals who are designated as being responsible for the maintenance and safekeeping
13 of such documents on behalf of the company. In general, the Parties shall not be required to
14 search email or other forms of electronic correspondence or custodial ESI in responding to such
15 requests.¹

16 **B. SOURCES THAT NEED NOT BE SEARCHED.** The following locations will
17 not be searched under any circumstances, and as such need not be preserved, absent a Court order
18 upon showing of good cause: personal digital assistants, mobile phones, voicemail systems,
19 instant messaging logs, and automated disaster recovery backup systems and/or disaster recovery
20 backup tapes. In addition, the parties agree that with respect to documents that automatically
21 “autosave,” only the most recent version of such documents need be searched.

22 **C. EMAIL AND CUSTODIAL ESI REQUESTS.** To obtain email or custodial ESI
23 beyond that stated in section VI(A) above, Parties must propound specific email or custodial ESI
24 production requests. Such requests shall be propounded for specific issues (rather than general
25 discovery of a product or business) and shall identify the requested custodian, search
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27 ¹ As used herein, “custodial ESI” refers to ESI that is in the possession of an individual
28 custodian, rather than in central repositories.

1 terms/phrases, and time frame. The Parties shall cooperate to identify the proper custodians
2 subject to these requests and proper search terms/phrases. Email and custodial ESI production
3 shall be limited to a total of no more than ten custodians and ten search terms/phrases per
4 custodian per Party. The Parties may jointly agree to modify this limit without the Court's leave.
5 The search terms/phrases shall be narrowly tailored to the particular issues addressed by the email
6 or custodial ESI request. Indiscriminate terms/phrases, such as the producing company's name or
7 its product name, are inappropriate unless combined with narrowing search criteria that
8 sufficiently reduce the risk of overproduction. A conjunctive combination of multiple words or
9 phrases narrows the search and shall count as a single search term/phrase. A disjunctive
10 combination of multiple words or phrases broadens the search, and thus each word or phrase shall
11 count as a separate search term unless they are variants of the same word. Use of narrowing
12 search criteria (*e.g.*, "and," "but not," "w/x") is encouraged to limit the production and shall be
13 considered when determining whether to shift costs for disproportionate discovery.
14

15 **D. COLLECTION METHODS.** The producing party need not employ forensic data
16 collection or tracking methods and technologies, but instead may make electronic copies for
17 collection and processing purposes using widely-accepted methods or methods described in
18 manufacturers' and/or programmers' instructions, help menus, websites, and the like (*e.g.*, .pst's,
19 .zip's, etc.), except when and to the extent there is good cause to believe specific, material
20 concerns about authenticity exist with respect to specific documents and materials. If the
21 receiving party believes that there is such good cause, then the producing party and the receiving
22 party shall meet and confer in good faith to determine the extent to which forensic and other data
23 associated with the specific documents and materials should be produced.
24

25 **VII. MISCELLANEOUS PROVISIONS**

26 **A. Objections Preserved.** Nothing in this Document Production Order shall be
27 interpreted to require disclosure information protected by the attorney-client privilege, work-
28 product doctrine, or any other applicable privilege or immunity. The Parties do not waive any

1 objections as to the production, discoverability, admissibility, or confidentiality of documents and
2 ESI.

3 **B.** Except as expressly stated, nothing in this order affects the Parties' discovery
4 obligations under the Federal or local rules.
5

6 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**
7

8 Dated: July 27, 2012

Respectfully submitted,

9 **KAYE SCHOLER LLP**

10 Michael J. Malecek (SBN 171034)

11 michael.malecek@kayescholer.com

12 Peter E. Root (SBN 142348)

13 peter.root@kayescholer.com

14 Stephen C. Holmes (SBN 200727)

15 Two Palo Alto Square, Suite 400

16 3000 El Camino Real

17 Palo Alto, California 94306

18 Tel: (650) 319-4500

19 Fax: (650) 319-4700

20 By: _____ \s\

21 Peter E. Root

22 Attorneys for Defendant

23 SEQUENOM, INC.
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3 **Exhibit A**

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Field	Applicable Record Types	Notes
BEGBATES	All	
ENDBATES	All	
BEGATTACH	All	Describes range of related documents from email/attachment family or reflects logical document boundaries from scanned docs.
ENDATTACH	All	
CUSTODIAN	All	To the extent feasible, multiple values to account for deduplication.
SENT DATE	Email	
SENT TIME	Email	
TITLE	E-Docs	
SUBJECT	Email	
AUTHOR	Email and, to the extent available, E-Docs	
RECIPIENT	Email	
CC	Email	
BCC	Email	
FULLTEXT	All	Printed or extracted text for e-mail and e-docs, OCR for scanned docs.

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