

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

NATERA, INC.,

Plaintiff,

v.

NEOGENOMICS LABORATORIES,
INC.,

Defendant.

C.A. No. 1:23-cv-629

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to Local Patent Rule 104.3 and the Court’s Scheduling Order (Doc. 345), Plaintiff Natera, Inc. (“Natera”) and Defendant NeoGenomics Laboratories, Inc. (“NeoGenomics”) (collectively, “the Parties”) hereby submit their Joint Claim Construction Statement with respect to the asserted claims of U.S. Patent Nos. 11,319,596 (the “’596 Patent”).

I. L.P.R. 104.3 (A) – CONSTRUCTIONS OF CLAIMS, TERMS, PHRASES, OR CLAUSES ON WHICH THE PARTIES AGREE

The Parties have met-and-conferred twice and exchanged email correspondence in an effort to reduce the number of terms to be construed and to identify, narrow, and focus any areas of dispute. Natera and NeoGenomics have each withdrawn terms for construction that were previously disclosed in the Parties’ respective Preliminary Identifications of Claim Terms served on December 23, 2024. The Parties may continue to meet and confer regarding the Parties’ claim constructions.

The Parties expressly reserve the right to rely on any evidence identified by the other party, and any evidence obtained, or that may be obtained, through claim construction discovery. The Parties expressly reserve the right to amend, correct, or supplement their claim construction positions and supporting or rebuttal evidence in response to any change of position by the other party, information received during claim construction discovery, supplementation to contentions (*e.g.*, infringement, invalidity) or for other good cause.

II. L.P.R. 104.3(B) – PROPOSED CONSTRUCTIONS OF EACH DISPUTED CLAIM TERM, PHRASE, OR CLAUSE, TOGETHER WITH AN IDENTIFICATION OF SUPPORTING INTRINSIC AND EXTRINSIC EVIDENCE

Natera's and NeoGenomics' proposed construction for each disputed claim term, phrase, or clause, along with citations to the intrinsic and extrinsic evidence each Party intends to rely upon is attached as Exhibit A.

III. L.P.R. 104.3(C) – THE ANTICIPATED LENGTH OF TIME NECESSARY FOR THE CLAIM CONSTRUCTION HEARING

A. Joint Agreement by the Parties

If the Court is to hold a Claim Construction Hearing, the Parties anticipate that a hearing will take no more than 3 hours, with the time divided equally per side. Subject to the Court's preference, the Parties agree to present the disputed claim terms on a term-by-term basis. Subject to the Court's preference, the Parties agree that for each disputed term, Natera, as the patentee, will present its position first, followed by NeoGenomics. The Parties further agree that each Party may reserve time for rebuttal related to each term.

IV. L.P.R. 104.3(D) – IDENTIFICATION OF WITNESSES AND SUMMARY OF OPINIONS

A. Natera's Position

In support of its claim construction briefing, Natera may rely upon prior percipient and expert testimony offered in the pending case and related IPR proceedings, consistent with the identification of such testimony as set forth in Exhibit A, to explain the plain and ordinary meaning for the terms in dispute. Natera may also rely on such testimony to respond to and rebut NeoGenomics' contentions and evidence cited by NeoGenomics, regarding the constructions of any of the claim terms proposed for construction.

Natera may rely on additional live or written testimony of Dr. Michael Metzker to explain the plain and ordinary meaning of the claim term "performing high-throughput sequencing of the amplified DNA comprising the plurality of target loci to obtain sequence reads, wherein an SNV mutation that is present in less than or equal to 0.015% of the cell-free DNA having the SNV locus is detected from the sequence reads" as set forth in Exhibit A.

Natera reserves the right to rely on additional written or live testimony of Dr. Metzker to rebut any claim construction, or the testimony of any expert in support thereof, offered by NeoGenomics.

B. NeoGenomics' Position

NeoGenomics may rely on additional live or written testimony from Dr. Niall Lennon to show that those skilled in the art, read in light of the specification and the prosecution history of the '596 patent, would understand the claim term "wherein an SNV

mutation . . . is detected from the sequence reads” as its plain and ordinary meaning, which is wherein an SNV mutation is determined to be present from the sequence reads.

NeoGenomics reserves the right to rely on additional written or live testimony of Dr. Niall Lennon to rebut any claim construction, or the testimony of any expert in support thereof, offered by Natera.

January 13, 2025

/s/ Robert C. Van Arnam

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**Special Appearance under Local Civil
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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing document to be served via electronic mail on all counsel of record for Defendant.

Dated: January 13, 2025

/s/ Andrew R. Shores

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