

**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-CCE-JLW

**HIGHLY CONFIDENTIAL—
OUTSIDE ATTORNEYS' EYES ONLY**

**NEOGENOMICS LABORATORIES, INC.'S
THIRD SET OF INTERROGATORIES (NOS. 16-25)**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Defendant, NeoGenomics Laboratories, Inc. ("NeoGenomics" or "Defendant") hereby requests that Plaintiff Natera, Inc. ("Natera" or "Plaintiff") answer the following interrogatories separately and fully, in writing and under oath, within thirty (30) days of service.

DEFINITIONS

1. "Natera" or "Plaintiff" mean Natera, Inc. and includes each of its officers, directors, members, managers, agents, consultants, contractors, employees, attorneys, accountants, partners, corporate parents, subsidiaries, affiliates, divisions, predecessors-in-interest (including but not limited to Gene Security Network), or successors-in-interest, and any person or entity, past or present, who acts on Natera, Inc.'s behalf or purports to act on Natera, Inc.'s behalf.

2. "NeoGenomics" or "Defendant" means NeoGenomics Laboratories, Inc.

3. "'454 Patent" means U.S. Patent No. 11,530,454, entitled "Detecting Mutations and Ploidy in Chromosomal Segments."

4. "'035 Patent" means U.S. Patent No. 11,519,035, entitled "Methods for

Simultaneous Amplification of Target Loci.”

5. “Asserted Patents” means the ‘454 Patent and the ‘035 Patent, individually and collectively.

6. “Asserted Claims” means the claims of the Patents-In-Suit that Natera asserts NeoGenomics has infringed.

7. “Related Patent” or “Related Patents” means any U.S. patent, non-U.S. patent, U.S. patent application, including provisionals, or non-U.S. patent application, including provisionals, that claims priority to or from, shares a common claim of priority with, or shares all or substantially all of its specification with the Asserted Patents.

8. “Accused Products” means RaDaR, and any other products, devices, tools, or tests that Natera alleges infringe any asserted claim of the Asserted Patents that NeoGenomics has allegedly made, used, sold, offered for sale in the United States, or imported into the United States.

9. “Lawsuit” means the case styled *Natera, Inc. v. NeoGenomics Laboratories, Inc.*, C.A. No. 1-23-cv-629, pending in the United States District Court for the Middle District of North Carolina.

10. “Prior Art” has the same meaning as used in 35 U.S.C. §§ 102 and 103, and includes any patent, printed publication, prior knowledge, prior use, prior sale or offer for sale, or other act, event, or document defined in 35 U.S.C. §§ 102 and 103, taken singularly or in combination.

11. “MRD” means Minimal Residual Disease.

12. “NeoGenomics Pharmaceutical Customer(s)” means [REDACTED]

[REDACTED]

[REDACTED],
and any other pharmaceutical or biopharmaceutical company with which NeoGenomics has a contract or relationship concerning RaDaR.

13. “NeoGenomics Research Customer(s)” means [REDACTED]
[REDACTED] and any other entity with which NeoGenomics has a contract or relationship concerning RaDaR in connection with development of any pharmaceutical, therapeutic, test, or treatment.

14. “NeoGenomics Clinical Customer(s)” means [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED], and any other pathology and oncology center, hospital, reference lab, or academic institution with which NeoGenomics has a contract or relationship concerning RaDaR.

15. “Tumor Informed Assay” means a minimal residual disease assay that uses a tissue sample from a patient to generate a personalized panel or tumor “fingerprint.”

16. “Tumor Naïve Assay” means a minimal residual disease assay that uses a standardized ctDNA panel, and that does not require a tissue sample from a patient to generate a personalized panel or tumor “fingerprint.”

17. “Molecular Diagnostic Services Program” or “MolDX®” means the Centers for Medicare and Medicaid Services’ program administered by Palmetto GBA to review all new test/assay clinical information to determine if a test meets Medicare’s reasonable and necessary requirement.

18. “Signatera” means Natera’s MRD assay launched in 2017, and all subsequent versions and updates thereto.

19. “RaDaR” means NeoGenomics’ RaDaR assay, and all subsequent versions and updates thereto.

20. “Communication” means the transmittal of information (in the form of facts, ideas, inquiries, opinions, or otherwise) between individuals or entities, whether oral, written, electronic, in-person, telephonically, directly, through an intermediary, or otherwise.

21. “Refer,” “relate,” “relating,” “respecting,” or “concerning” shall be construed in the broadest sense to mean information (a) that contains or comprises any representations, requests, demands, studies, or analyses referred to in these Requests; or (b) information that discusses, mentions, or refers, whether directly or indirectly, to the subject matter of the Request.

22. “Document” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34(a)(1)(A) and includes, without limitation, any written, printed, recorded, electronic, or graphic matter that is or has been in Natera’s actual or constructive possession or control, regardless of the medium on which it is produced, reproduced, or stored, and includes, without limitation, all originals, copies, drafts (sent or unsent) or other non-conforming copies of every kind.

23. When referring to a person, “to identify” means to provide, to the extent known, the person’s full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this subparagraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

INSTRUCTIONS

1. These interrogatories require you to provide all responsive information. If Natera withholds any requested information for any reason, Natera is requested to state the basis for

withholding the information in a manner sufficient to enable NeoGenomics and the Court to adjudicate the validity of its withholding. For any information withheld on the grounds of privilege, work product, or other alleged protection against disclosure, Natera must (a) identify the nature of information being withheld and all persons with knowledge of the information; and (b) specify the nature of the privilege or doctrine you claim and the grounds for claiming it.

2. Each interrogatory shall be answered fully unless it is in good faith objected to, in which event the reasons for Natera's objections shall be stated in detail. If any objection pertains to only a portion of an interrogatory or to a word, phrase, or clause contained in it, Natera shall state its objection to that portion and respond to the remainder of the interrogatory, using good faith efforts to do so.

3. If Natera elects to avail itself of the procedure authorized by Federal Rule of Civil Procedure 33(d) for answering interrogatories, Natera shall specify the production numbers or other identifying information of the documents from which the answer may be derived or ascertained.

4. None of the definitions and instructions or the interrogatories should be construed as an admission relating to the existence of any evidence, to the relevance as an admission relating to the existence of any evidence, to the relevance or admissibility of any evidence, or to the truth or accuracy of any statement or characterization in any definition, instruction, or interrogatory.

5. Natera's answers hereto are to be signed and verified by the person making them, and objections signed by the attorney making them.

6. These interrogatories are ongoing and continuing in nature. Natera is requested to promptly supplement its responses in accordance with Fed. R. Civ. P. 26(e).

INTERROGATORIES

INTERROGATORY NO. 16:

If you contend that NeoGenomics' sale and distribution of RaDaR has irreparably harmed and, if not enjoined, will continue to irreparably harm Natera, then describe with particularity the factual and legal bases for that contention by, without limitation, stating all facts supporting that contention and identifying all documents concerning, and the persons most knowledgeable about, those facts.

INTERROGATORY NO. 17:

If you contend that the public interest will not be harmed by an injunction of NeoGenomics' manufacture, use, sale, or offer to sell RaDaR, then describe with particularity the factual and legal basis for that contention by, without limitation, stating all facts supporting that contention and identifying all documents concerning, and the persons most knowledgeable about, those facts.

INTERROGATORY NO. 18:

If you contend that Tumor-Informed Assays (including Signatera) do not compete against Tumor-Naïve Assays, then describe with particularity the factual and legal bases for that contention by, without limitation, stating all facts supporting that contention and identifying all documents concerning, and the persons most knowledgeable about, those facts.

INTERROGATORY NO. 19:

If you contend that Signatera does not compete against any other MRD assay, then describe with particularity the factual and legal bases for that contention by, without limitation, stating all facts supporting that contention and identifying all documents concerning, and the persons most knowledgeable about, those facts.

INTERROGATORY NO. 20:

If you contend that Signatera competes with RaDaR, then describe with particularity the factual and legal bases for that contention by, without limitation, stating all facts supporting that contention and identifying all documents concerning, and the persons most knowledgeable about, those facts.

INTERROGATORY NO. 21:

Describe revenue, costs, and profits of Signatera by, on a monthly basis separately for the United States and worldwide, stating the sales (units), revenue, gross profit, fixed and variable costs, net profits, gross and net margins (and any other forms, treatments or characterizations of revenue, cost, or profit information generated, maintained, or analyzed by Natera) realized by Natera from any business operations (domestic and worldwide) relating to Signatera.

INTERROGATORY NO. 22:

Describe Signatera's private insurance and Medicare coverage by, without limitation, separately describing all indications for which Signatera has active private insurance approval, active Medicare approval, pending application(s) for private insurance approval, and pending application(s) for Medicare approval.

INTERROGATORY NO. 23:

Describe Natera's delay in seeking a preliminary injunction against NeoGenomics' sale and distribution of RaDaR by stating the date and describing the circumstances of Natera's first knowledge of RaDaR's clinical trial or research use (RUO), stating the date and describing the circumstances of Natera's knowledge or RaDaR's first commercial use, stating the reasons that Natera did not seek a preliminary injunction until July 31, 2024, stating all facts concerning those reasons, and identifying all documents concerning, and the persons most knowledgeable

about, those facts.

INTERROGATORY NO. 24:

Describe with particularity Natera's efforts to enter into a contract or relationship concerning Signatera with any entity who has, or had, a contract or relationship with NeoGenomics (including any NeoGenomics Pharmaceutical Customer, Research Customer, or Clinical Customer) by, without limitation, identifying each such entity and for each describing the nature of the proposed contract or relationship and identifying all documents concerning, and the persons most knowledgeable about, the proposed contract or relationship.

INTERROGATORY NO. 25:

If you contend that any of the Asserted Claims of the '035 patent are entitled to a priority date earlier than October 20, 2015 (filing date of Application No. 14/918,544), then please identify the factual and legal bases for any such contention by, without limitation, identifying all disclosures in the specification that you contend provide written description support for the cancer-related limitations requiring that the cell-free DNA is isolated from a blood sample collected "from a subject who is not a pregnant women" and that the SNP loci are "associated with cancer" and the applications or provisional applications that include those disclosures and to which U.S. Patent Application No. 14/918,544 claims priority.

June 18, 2024

/s/ Matthew I. Kreeger

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**Special Appearance under Local Civil Rule 83.1(d)*

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on June 18, 2024, a true and correct copy of the foregoing **NEOGENOMICS LABORATORIES, INC.'S THIRD SET OF INTERROGATORIES (NOS. 16–25)** was served via electronic mail upon the following:

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