

ORAL ORDER: Having reviewed the parties' filings relating to discovery disputes (see, e.g., D.I. 107, 109, 111, 114), IT IS HEREBY ORDERED that: (i) Archer's request for an order compelling Natera to respond to interrogatory No. 1 (regarding conception and reduction to practice of the patents-in-suit and names of inventors on a claim-by-claim basis) is GRANTED to the following extent: the Court finds that given the totality of circumstances - including the many patents, many claims, many inventors, lack of clarity as to what Natera believes are the dates of conception and reduction to practice or even who Natera believes are its inventors, all of which Natera must have had a good faith understanding of prior to suit, and all of which will need evolving clarity soon to permit this case to proceed efficiently - the parties need to figure out a schedule and procedure for Natera to disclose information (which the Court finds to be relevant and proportional to the needs of this case) while retaining on Archer the burden of proof and production with respect to invalidity. (See, e.g., D.I. 107 at 2-3) (citing cases); (ii) Archer's request to compel responses to interrogatory Nos. 3 (secondary considerations of non-obviousness), 4-5 (regarding damages), and 7 (bases for case being exceptional) is DENIED, as all of these seek discovery that is premature at this time, given Natera's commitment to continue supplementing and (eventually) disclose positions through expert reports; (iii) Natera's request for an order compelling a response to interrogatory No. 2 (relating to "every instance" of the use of accused products by Archer) is DENIED WITHOUT PREJUDICE to renew if Natera serves a narrower interrogatory and Archer continues to refuse to substantively and meaningfully respond; and (iv) Natera's request to compel production of certain core technical documents and documents responsive to certain requests for production is DENIED except to the extent that Archer shall produce such documents as soon as reasonable and feasible, on a rolling basis, without unnecessarily waiting for the deadline for substantial completion of production. The Court has also reviewed the submissions regarding Natera's motion to substitute and file an amended complaint. (See D.I. 79, 85, 94, 104) The motion (D.I. 78) is GRANTED to the extent it is not opposed (i.e., ArcherDX, LLC is substituted for ArcherDX, Inc., and Natera may file an amended complaint adding Invitae Corporation as an additional party). ArcherDX, Inc. shall remain a defendant. The Court will DENY the portion of the motion substituting Invitae Corp. for ArcherDX, Inc. Substitution under F.R.C.P. 25 is discretionary. Natera has failed to show that corporate formalities are not observed between parent corporation Invitae Corp. and subsidiary ArcherDX, LLC such that a transfer of interest from ArcherDX, Inc. to ArcherDX, LLC simultaneously constitutes a transfer of interest to Invitae Corp. In light of that finding, it is appropriate to preserve Invitae Corp.'s right to move to dismiss and assert defenses after Natera files its amended complaint (which Natera shall do in a timely manner). IT IS FURTHER ORDERED that the teleconference scheduled for tomorrow, January 13, is CANCELLED and the parties shall meet and confer and, no later than January 15, submit a proposal for how they will comply with this Order. ORDERED by Judge Leonard P. Stark on 1/12/21. (ntl) (Entered: 01/12/2021)

As of January 12, 2021, PACER did not contain a publicly available document associated with this docket entry. The text of the docket entry is shown above.

*Natera, Inc. v. ArcherDX, Inc.*

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