

## Illumina-Grail deal not illegal, US FTC judge rules (update\*)

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By [Nicholas Hirst](#), [Natalie McNelis](#) and [Michael Acton](#)

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The ruling by Chief Administrative Law Judge D. Michael Chappell will be seen as a blow to the FTC's merger enforcement agenda, which was found to not have properly made its case.

"As we've stated from the outset, this transaction is procompetitive, will advance innovation, lower healthcare costs and save lives," said Charles Dadswell, General Counsel of Illumina.\* We are pleased that, after considering the evidence, the ALJ has reached the same conclusion."

Holly Vedova, Director of the FTC's Bureau of Competition, said the agency was disappointed with the decision.\*\*

"We are reviewing the opinion and evaluating our options," Vedova said. "We remain incredibly grateful to our talented staff, who put on an a strong case."

The trial at the FTC's administrative court started last August, with the agency arguing that Illumina's acquisition of the cancer blood testing startup would harm innovation from Grail's competitors. Closing arguments were held in June.

In a rare challenge to a vertical merger, the FTC argued that as the only viable provider of DNA sequencing for the multi-cancer early detection (MCED) tests, Illumina would lock down the market for testing.

Today, Judge Chappell rejected the FTC's position that the deal would adversely affect competition in the market for MCED tests.

An in-depth European Commission probe of the deal is still ongoing, with a decision anticipated next week, in advance of the Sept. 12 deadline.

Illumina already closed its acquisition of Grail last August, drawing formal gun-jumping charges from the EU regulator. The company has set aside \$453 million in anticipation of an EU fine (see [here](#)).

*\*Updated Sept. 1, 2022, at 18:45 GMT; adds Illumina statement and details from the judge's ruling.*

*\*\*Updated Sept. 1, 2022, at 20:33 GMT; adds FTC statement.*

*Please e-mail [editors@mlex.com](mailto:editors@mlex.com) to contact the editorial staff regarding this story, or to submit the names of lawyers and advisers.*

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