

NOTE: This disposition is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**ARIOSIA DIAGNOSTICS, INC.,**  
*Appellant*

v.

**ILLUMINA, INC.,**  
*Appellee*

**JOSEPH MATAL, PERFORMING THE FUNCTIONS  
AND DUTIES OF THE UNDER SECRETARY OF  
COMMERCE FOR INTELLECTUAL PROPERTY  
AND DIRECTOR, U.S. PATENT AND TRADEMARK  
OFFICE,**  
*Intervenor*

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2016-2388, 2017-1020

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Appeals from the United States Patent and Trade-  
mark Office, Patent Trial and Appeal Board in No.  
IPR2014-01093.

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Decided: December 11, 2017

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THOMAS SAUNDERS, Wilmer Cutler Pickering Hale and  
Dorr LLP, Washington, DC, argued for appellant. Also  
represented by JOSHUA LLOYD STERN, DAVID LANGDON

CAVANAUGH, JOSHUA KOPPEL, HEATHER M. PETRUZZI;  
ROBERT J. GUNTHER, JR., New York, NY.

EDWARD R. REINES, Weil, Gotshal & Manges LLP,  
Redwood Shores, CA, argued for appellee. Also repre-  
sented by DEREK C. WALTER.

BENJAMIN T. HICKMAN, Office of the Solicitor, United  
States Patent and Trademark Office, Alexandria, VA,  
argued for intervenor. Also represented by NATHAN K.  
KELLEY, MICHAEL SUMNER FORMAN, THOMAS W. KRAUSE,  
SCOTT WEIDENFELLER.

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Before MOORE, BRYSON, and HUGHES, *Circuit Judges*.

MOORE, *Circuit Judge*.

Ariosa appeals the Patent Trial and Appeal Board's ("Board") inter partes review decision holding claims 1–22 of U.S. Patent No. 7,955,794 were not anticipated by U.S. Patent Publication No. 2002/0172946 ("Fan") because Fan was not prior art. Because the Board did not err in determining that Fan is not prior art and did not abuse its discretion in denying Ariosa's request for rehearing, we *affirm* the Board's decision. Because we lack jurisdiction to review the termination of the ex parte reexamination proceedings, we *dismiss* the appeal of the termination of those proceedings.

**AFFIRMED IN PART AND DISMISSED IN PART**

COSTS

No costs.