

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

THE RESEARCH INSTITUTE AT
NATIONWIDE CHILDREN'S HOSPITAL,

Plaintiff, Counterclaim-Defendant,

v.

ILLUMINA, INC.,

Defendant, Counterclaim-Plaintiff.

C.A. No. 25-683-JLH-EGT

ORDER

At Wilmington this 9th day of October, 2026;

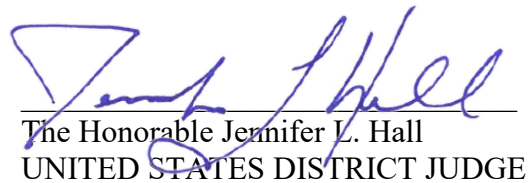
WHEREAS, Magistrate Judge Tennyson issued a Report & Recommendation on September 18, 2026 (D.I. 116, the "R&R"), recommending that the Court grant-in-part and deny-in-part Plaintiff's Renewed Motion to Dismiss Counterclaims and to Strike Affirmative Defenses Based on Equitable Estoppel, Implied License, Waiver, and Patent Misuse (D.I. 23);

WHEREAS, no party filed objections to the R&R pursuant to Rule 72(b)(2) of the Federal Rules of Civil Procedure in the prescribed period, and the Court finding no clear error on the face of the record;

NOW, THEREFORE, IT IS HEREBY ORDERED that

1. The R&R (D.I. 116) is ADOPTED.
2. Plaintiff's Renewed Motion to Dismiss Counterclaims and to Strike Affirmative Defenses Based on Equitable Estoppel, Implied License, Waiver, and Patent Misuse (D.I. 23) is GRANTED-IN-PART and DENIED-IN-PART.
3. The Motion is GRANTED insofar as it seeks to Dismiss Counterclaim Count III (equitable estoppel), Count IV (implied license), and Count V (patent misuse) (D.I.

- 21). Counterclaim Counts III and IV are DISMISSED WITHOUT PREJUDICE, and Counterclaim Count V is DISMISSED WITH PREJUDICE.
4. The Motion is GRANTED insofar as it seeks to strike Counterclaim-Plaintiff's Seventh Affirmative Defense of Patent Misuse. Counterclaim-Plaintiff's Seventh Affirmative Defense of Patent Misuse is STRICKEN.
5. The Motion is DENIED in all other respects.
6. Any motion for leave to amend Counterclaim-Plaintiff's counterclaim pleading shall be filed within 14 days.



The Honorable Jennifer L. Hall
UNITED STATES DISTRICT JUDGE