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Plaintiffs Caption Health, Inc. & GE
HealthCare Technologies, Inc.*

24 **UNITED STATES DISTRICT COURT**
25 **NORTHERN DISTRICT OF CALIFORNIA**

27 UNIVERSITY OF BRITISH COLUMBIA,
28 Plaintiff,

JOINT CASE

CAPTION HEALTH Ex1029
Caption Health, Inc. v.
University of British Columbia
Trial IPR2025-01066

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24 **UNITED STATES DISTRICT COURT**
25 **NORTHERN DISTRICT OF CALIFORNIA**

27 UNIVERSITY OF BRITISH COLUMBIA,
28 Plaintiff,

Case No. 5:24-cv-3200-E

JOINT CASE MANAGEMENT

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v.
CAPTION HEALTH, INC.,
GE HEALTHCARE TECHNOLOGIES INC.,
Defendants.

STATEMENT

Date: TBD
Time: TBD
Location: Zoom webinar
Judge: Hon. Eumi K. Lee

Plaintiff University of British Columbia (“UBC” or “Plaintiff”) and Defendants Caption Health, Inc. and GE HealthCare Technologies Inc. (“Caption Health and “GE Healthcare” or collectively “Defendants”) submit this Joint Case Management Statement under Federal Rule of Civil Procedure 26(f), Civil Local Rule 16-9, Patent Local Rule 2-1, and the Standing Order for All Judges of the Northern District of California titled “Contents of Joint Case Management Statement.”

1. Jurisdiction and Service

This Court has subject matter jurisdiction over this patent infringement action under 28 U.S.C. §§ 1331 and 1338(a) because the action arises under the U.S. Patent Act, 35 U.S.C. § 1 et seq., including 35 U.S.C. § 271. No party contests personal jurisdiction or service. Venue is also proper.

2. Facts

On May 28, 2024, UBC filed a Complaint against Defendants in this District asserting U.S. Patent No. 11,129,591 (“the ’591 Patent”). *See* Case No. 3:24-cv-03200-VC, Dkt. No. 1. UBC seeks judgment that Defendants have infringed, and continue to infringe, the ’591 patent based on Defendants’ commercialization of certain accused products. *Id.* While this case was originally assigned to Magistrate Judge Kandis A. Westmore, it was reassigned to Judge Vince Chhabria on June 13, 2024 and then to Judge Eumi K. Lee on August 20, 2024. *See id.*, Dkt. Nos. 5, 13, 28.

On July 22, 2024, Judge Chhabria granted the parties’ stipulation providing Defendants an extension of time to respond to the Complaint and continuing the Initial Case Management Conference. *See id.*, Dkt. No. 20. The deadline to answer or otherwise respond to the Complaint was Friday, August 30, 2024. Defendants filed their Answer, Affirmative Defenses, and Counterclaims on August 30, 2024. *See id.*, Dkt. No. 33.

An Initial Case Management Conference was previously set for September 13, 2024. *See*

1 *id.*, Dkt. No. 20. The Conference has been vacated and not yet reset. *See id.*, Dkt. 28.

2 **3. Legal Issues**

3 The parties currently believe that the principal disputed legal issues are:

- 4
- 5 • The proper construction of any disputed claim terms;
 - 6 • Whether Defendants infringe any claims of the '591 Patent under 35 U.S.C. § 271;
 - 7 • Whether the '591 Patent is invalid, including under one or more provisions of 35
8 U.S.C. §§ 101, 102, 103, and/or 112; and
 - 9 • Whether UBC is entitled to damages as a result of the alleged infringement of the
'591 Patent under 35 U.S.C. § 284, and if so, the amount.

10 The parties reserve the right to raise additional factual or legal issues that may arise through
11 the course of this action.

12 **4. Motions**

13 There are no pending motions at this time. The parties anticipate possibly moving for
14 summary judgment and may file other dispositive and non-dispositive motions as appropriate as
15 the case progresses.

16 **5. Amendment of Pleadings**

17 The parties do not expect additional parties to appear in this action. The parties agree that
18 the deadline for joining parties and amending the pleadings should be in accordance with the
19 proposed schedule set forth in Appendix A.

20 **6. Evidence Preservation**

21 The parties have reviewed the Northern District of California's Guidelines for Discovery of
22 Electronically Stored Information ("ESI") and Checklist for Rule 26(f) Meet and Confer Regarding
23 ESI, including those portions related to evidence preservation. The parties met and conferred at
24 their Rule 26(f) conference regarding evidence preservation. The parties have discussed the need
25 for preservation of all potentially relevant data and have agreed to preserve the same.

26 **7. Disclosures**

27 The parties exchanged initial disclosures under Fed. R. Civ. P. 26 on August 20, 2024.
28

1 **8. Discovery**

2 **a. Protective Order**

3 The parties agree that a protective order will be necessary in this case in light of the sensitive
4 and proprietary information that will be exchanged during discovery. The parties are in the process
5 of deciding whether to make any amendments to the Court's Stipulated Protective Order for
6 Litigation Involving Patents, Highly Sensitive Information, and/or Trade Secrets. They will submit
7 a final proposed order in accordance with the Court's Standing Order and the dates set forth in
8 Appendix A. In the meantime, the Court's Stipulated Protective Order for Litigation Involving
9 Patents, Highly Sensitive Information, and/or Trade Secrets governs this action pursuant to Patent
10 Local Rule 2-2.

11 **b. Limits to Discovery Requests and Depositions**

12 At this time, the parties do not anticipate a need to modify the limits on discovery set by the
13 Federal Rules of Civil Procedure or to adopt additional limits. The parties agree that discovery
14 limits will be applied per side, meaning that plaintiff will be treated as one side and defendants
15 treated as one side.

16 **c. Electronically Stored Information (ESI)**

17 The parties will meet and confer in good faith regarding the appropriate format for ESI
18 production (e.g., the proper metadata fields to include, etc.). The parties agree to the Model
19 Stipulated Order re: Discovery of Electronically Stored Info (Patent Cases) and will submit a
20 proposed order to that effect in accordance with the due dates set forth in Appendix A.

21 **d. Electronic Service**

22 The parties agree to accept service by email. Each counsel will establish an email
23 distribution list accessible through a single external email address. Service by email will be treated
24 as service by hand delivery. The parties agree that service by email by 11:59 p.m. Pacific time on
25 a given day will be treated as service by personal delivery that day, and further agree to a deadline
26 of 6:00 p.m. Pacific time for any joint filings. The parties further agree that documents filed
27 publicly through the Court's ECF system need not be separately served by email or otherwise and
28 that ECF filing constitutes personal service as of the date and time such document was filed. The

1 parties agree that documents filed under seal or manually must be served by email or other
2 electronic means including FTP transfer immediately following a related ECF filing, and that the
3 email service of such documents shall relate back to the time of the related ECF filing.

4 **e. Privilege Logs**

5 The parties agree that privileged communications and documents covered by work product
6 protection that are dated on or after May 28, 2024, need not be included in any privilege log. This
7 applies only to the parties and their counsel of record in this action or their in-house counsel. In
8 addition, nothing herein precludes any party from arguing any alleged waiver of the attorney-client
9 privilege by the other party.

10 The parties further agree that, pursuant to Fed. R. Evid. 502(d), the production of a
11 privileged or work-product-protected document, whether inadvertent or otherwise, is not
12 necessarily a waiver of privilege or protection from discovery in this case or in any other federal or
13 state proceeding. For example, the mere production of privileged or work-product-protected
14 documents in this case as part of a mass production is not necessarily itself a waiver in this case or
15 in any other federal or state proceeding.

16 **f. Expert Discovery**

17 The parties agree that the protections from discovery provided in Fed. R. Civ. P. 26(b)(4)(B)
18 and (C) will apply equally to expert declarations as they do to expert reports, including both drafts
19 of declarations and communications related to declarations. In accordance with Fed. R. Civ.
20 P. 26(b)(4), draft expert reports, notes, outlines, and any other writings leading up to an expert's
21 final report(s) are exempt from discovery. In addition, all communications with and all materials
22 generated by an expert with respect to his or her work on this action are exempt from discovery
23 unless considered by the expert in forming his or her opinions. If an expert produces a report, the
24 expert must produce his or her final report and all materials which he or she considered (other than
25 documents produced in discovery).

26 **9. Class Actions**

27 This litigation is not a class action.
28

1 **10. Related Cases**

2 There are no known pending related cases or proceedings.

3 **11. Relief**

4 UBC seeks entry of judgment finding that Defendants infringed and continues to infringe
5 the '591 Patent. UBC seeks an order enjoining Defendants from further infringement of the '591
6 patent and monetary damages, including damages based an amount no less than a reasonable
7 royalty. UBC further seeks an award of pre-judgment and post-judgment interest and costs. UBC
8 seeks other relief available under applicable law.

9 Defendants seek entry of judgment in their favor on all of UBC's claims, a declaration that
10 the '591 Patent is invalid, a declaration that they do not infringe the '591 Patent, and other relief
11 available under applicable law.

12 **12. Settlement and ADR**

13 As required by ADR L.R. 3-5, the parties have reviewed the Court's ADR handbook,
14 discussed the available ADR procedures, and considered whether this case would benefit from an
15 ADR procedure. *See* Case No. 3:24-cv-03200-VC, Dkt. Nos. 31–32 (ADR Certifications). The
16 parties have indicated their intent to stipulate to an ADR process. *See id.*

17 **13. Other References**

18 The parties agree that at this time this case is not suitable for reference to binding arbitration,
19 a special master, or the Judicial Panel on Multidistrict Litigation.

20 **14. Narrowing of Issues**

21 Given the early stage of this case and the fact that discovery has only recently begun, the
22 parties have not at this time identified issues that can be narrowed by motion or stipulation, although
23 the parties do anticipate filing dispositive motions seeking to narrow the issues for trial. The parties
24 may also be able to narrow certain issues via stipulated facts once discovery has progressed.

25 **15. Scheduling**

26 The parties' joint scheduling proposals are set forth in the chart attached hereto as
27 Appendix A.

28

1 **16. Trial**

2 The parties request trial by jury and anticipate the trial will require approximately 7 court
3 days.

4 **17. Disclosure of Non-party Interested Entities or Persons**

5 Each party has filed a Certification of Interested Entities or Persons under Civil Local Rule
6 3-15. *See id.*, Dkt. Nos. 3, 23.

7 **18. Professional Conduct**

8 The parties have confirmed that all attorneys of record for the parties have reviewed the
9 Guidelines for Professional Conduct for the Northern District of California.

10 **19. Other Matters**

11 Pursuant to Patent Local Rule 2-1, the parties have also met and conferred regarding the
12 following additional matters:

13 **a. Proposed modification of the obligations or deadlines set forth in the Patent
14 Local Rules**

15 The Parties propose the deadlines set forth in the attached proposed case schedule in
16 Appendix A.

17 **b. Claim Construction Discovery**

18 The parties' proposed schedule (Appendix A) address timing of fact discovery (including
19 damages discovery), as well as the timing of claim construction discovery required under the Patent
20 Local Rules.

21 **c. Format for Claim Construction Hearing**

22 With respect to the format of any hearing on claim construction, the parties reserve the right
23 to provide live testimony from experts during the hearing pursuant to the procedures described in
24 the Standing Order for Patent Cases Before Judge Eumi K. Lee at § V.C.

25 **d. How the Parties Intend to Educate the Court on the Technology**

26 If the Court deems it necessary, the parties will provide a technology tutorial, to allow the
27 parties and potential experts to educate the Court regarding the subject matter of the '591 Patent.

28 **e. Damages Estimate**

 UBC seeks monetary damages, including damages based on an amount no less than a

1 reasonable royalty. UBC further seeks an award of pre-judgment and post-judgment interest and
2 costs. UBC seeks other relief available under applicable law.

3 **20. Additional Items Set Out in Order Reassigning Case (Dkt. No. 28)**

4 **a. List or Description of Each Party**

5 Plaintiff is University of British Columbia, and Defendants are Caption Health, Inc. and GE
6 HealthCare Technologies Inc.

7 **b. Summary and Dates of All Claims**

8 UBC filed its Complaint on May 28, 2024 seeking judgment that Defendants have infringed,
9 and continue to infringe, the '591 Patent based on Defendants' commercialization of certain
10 accused products. *See* Dkt. No. 1. On August 30, 2024, Defendants filed their Counterclaims for
11 noninfringement and invalidity of the '591 Patent. *See* Dkt. No. 33.

12 **c. Brief Procedural History of the Case Including ADR Proceedings or
13 Settlement Conferences**

14 See Section 2 above. Additionally, no ADR proceedings, settlement conferences, or
15 appellate proceedings have been scheduled or concluded in this case.
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1 Dated: September 16, 2024

2 **PERKINS COIE LLP**

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Appendix A:
Proposed Case Schedule

Event	Proposed Deadlines
Fed. R. Civ. P. 26(a)(1) Initial Disclosures	August 20, 2024
Deadline to Answer or Otherwise Respond to Complaint	August 30, 2024
Dkt. No. 20 (Order granting Stipulation)	August 30, 2024
Deadline to Answer Counterclaims	September 20, 2024
Fed. R. Civ. P. 12(a)(1)(B) Initial Case Management Conference	TBD
Dkt. No. 28	TBD
Infringement Contentions & Accompanying Production	14 days after Initial Case Management Conference
Pat. L.R. 3-1 & 3-2	14 days after Initial Case Management Conference
Proposed Joint Protective Order and Proposed Order for Discovery of Electronically Stored Information.	30 days after Initial Case Management Conference
Invalidity Contentions & Accompanying Production	45 days after service of Infringement Contentions
Pat. L.R. 3-3 & 3-4	45 days after service of Infringement Contentions
Deadline to Amend Pleadings Without Leave of Court	60 days after Initial Case Management Conference
FRCP 15(a)(2); Standing Order for Civil Cases Before Judge Eumi K. Lee, § VI	60 days after Initial Case Management Conference
Exchange of Terms for Construction	14 days after service of Invalidity Contentions
Pat. L.R. 4-1	14 days after service of Invalidity Contentions
ADR Deadline	90 days after Initial Case Management Conference
Standing Order for Civil Cases Before Judge Eumi K. Lee, § VI	90 days after Initial Case Management Conference

Event	Proposed Deadlines
Exchange of Preliminary Constructions and Extrinsic Evidence Pat. L.R. 4-2	21 days after Exchange of Terms for Construction
Plaintiff's Damages Contentions Pat. L.R. 3-8	50 days after service of Invalidity Contentions
Joint Claim Construction & Prehearing Statement Pat. L.R. 4-3	60 days after service of Invalidity Contentions
Defendants' Responsive Damages Contentions Pat. L.R. 3-9	30 days after service of Damages Contentions
Completion of Claim Construction Discovery Pat. L.R. 4-4	30 days after service and filing of Joint Claim Construction & Prehearing Statement
Plaintiff's Opening Claim Construction Brief Pat. L.R. 4-5(a)	45 days after service and filing of Joint Claim Construction & Prehearing Statement
Defendants' Responsive Claim Construction Brief Pat. L.R. 4-5(b)	14 days after service of Plaintiff's Opening Claim Construction Brief
Plaintiff's Reply Claim Construction Brief Pat. L.R. 4-5(c)	7 days after service of Defendant's Responsive Claim Construction Brief
Claim Construction Tutorial Standing Order for Patent Cases Before Judge Eumi K. Lee, § V.A.	At the Court's convenience, one to two weeks prior to the Claim Construction Hearing
Claim Construction Hearing Pat. L.R. 4-6	2 weeks after submission of last Reply Claim Construction Brief
Final Case Management Conference Standing Order for Civil Cases Before Judge Eumi K. Lee, § VI	At the convenience of the Court

Event	Proposed Deadlines
Advice of Counsel Production Pat. L.R. 3-7	30 days after service of the Court's Claim Construction Ruling
Close of Fact Discovery	60 days after service of the Court's Claim Construction Ruling
Opening Expert Reports	45 days after close of fact discovery
Rebuttal Expert Reports	30 days after opening expert reports
Close of Expert Discovery Standing Order for Civil Cases Before Judge Eumi K. Lee, § VI	30 days after rebuttal expert reports
Opening Summary Judgment Briefs Standing Order for Civil Cases Before Judge Eumi K. Lee, §§ VI, IX	35 days after close of expert discovery
Responsive Summary Judgment Briefs	21 days after opening summary judgment briefs
Reply Summary Judgment Briefs	14 days after responsive summary judgment briefs
Summary Judgment Hearing	At the convenience of the Court
Pretrial Conference	At the convenience of the Court
Trial	At the convenience of the Court

ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3), I hereby attest that all signatories to this document

1 concur in its filing.

2

3 Dated: September 16, 2024

/s/ Ramsey M. Al-Salam
Ramsey M. Al-Salam

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