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HealthCare Technologies Inc.*

13 **UNITED STATES DISTRICT COURT**

14 **NORTHERN DISTRICT OF CALIFORNIA**

15 UNIVERSITY OF BRITISH COLUMBIA,

16 Plaintiff,

17 v.

18 CAPTION HEALTH, INC.; GE
19 HEALTHCARE TECHNOLOGIES INC.,

20 Defendants.

Case No. 5:24-cv-03200-EKL

**DEFENDANT CAPTION HEALTH'S
RESPONSES TO UBC'S THIRD SET OF
REQUESTS FOR PRODUCTION TO
DEFENDANT CAPTION HEALTH (NOS.
30-54)**

Judge: Eumi K. Lee

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22 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendant Caption Health,
23 Inc. ("Caption Health"), hereby sets forth its responses and objections to Plaintiff University of
24 British Columbia's ("Plaintiff") Third Set of Requests for Production of Documents and Things
25 (Nos. 30-54) ("Requests") as follows.

26 Caption Health makes these Responses and Objections without waiving any rights,
27 arguments, positions or defenses, including those available to Defendant GE HealthCare
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1 Technologies, Inc. (“GE HealthCare”). Caption Health also reserves the right to revise,
2 supplement, or correct these Responses and Objections.

3 Without waiver of any of the objections set forth herein, Caption Health is prepared to meet
4 and confer with Plaintiff’s counsel concerning Plaintiff’s requests and Caption Health’s objections.

5 **GENERAL OBJECTIONS**

6 Caption Health asserts the following General Objections, which are hereby specifically
7 incorporated into each and every numbered response. For emphasis, any particular numbered
8 response may repeat or refer to all or a portion of the objections contained in these General
9 Objections, but such repetition or reference is in no way intended to limit the incorporation of all
10 of the General Objections into such numbered response.

11 1. Caption Health objects to each of Plaintiff’s Requests to the extent they seek
12 additional disclosure of technical details of any of Caption Health’s devices while Plaintiff has still
13 failed to adequately and specifically plead patent infringement as to said device.

14 2. Caption Health objects to these Requests to the extent they seek information and/or
15 documents protected by the attorney-client privilege, the attorney work-product doctrine, or any
16 other applicable privilege or protection. Any disclosure of privileged or work-product protected
17 information is inadvertent and shall not be deemed a waiver of any privilege, doctrine, or
18 immunity.

19 3. Caption Health objects to these Requests (as well as the instructions and
20 definitions) to the extent they seek to impose obligations on Caption Health not otherwise imposed
21 by the Federal Rules of Civil Procedure, the local rules, or the orders of this Court.

22 4. Caption Health objects to these Requests to the extent they seek information or
23 materials neither relevant to this action nor proportional to the needs of the case.

24 5. Nothing contained herein shall be construed as an admission relative to the
25 existence or possession of any document. No response, or document produced in response to these
26 Requests, is an admission as to the relevance or admissibility of any document or the truth or
27 accuracy of any statement or characterization contained in the Request.

1 6. Caption Health objects to each Request to the extent it seeks documents and/or
2 information already within Plaintiff’s possession, already known and/or disclosed to Plaintiff, or
3 which is equally available to Plaintiff, on the grounds that it subjects Caption Health to
4 unreasonable and undue burden and expense.

5 7. Caption Health object to these Requests to the extent they seek documents and/or
6 information outside of Caption Health’s possession, custody, or control.

7 8. Caption Health objects to these Requests to the extent they are unreasonably
8 cumulative or duplicative, or to the extent that the information sought may be obtained from
9 another source in a more convenient, less burdensome, or less expensive manner.

10 9. Caption Health objects to these Requests to the extent that they are confusing,
11 vague, or ambiguous.

12 10. Caption Health objects to these Requests to the extent they seek confidential,
13 personally identifiable information in violation of applicable privacy acts or statutes.

14 11. Caption Health objects to Plaintiff’s definition of “Related Patents” as irrelevant,
15 unreasonably broad, vague, unduly burdensome, and disproportionate to the needs of the case
16 because it includes patents for which Plaintiff has not alleged infringement in this Litigation and
17 contains the extremely broad qualification of patents that “relate to any of the Patents-in-Suit by
18 way of subject matter.”

19 12. Caption Health objects to Plaintiff’s definition of “Accused Products” as
20 unreasonably vague because it is “not limited to” the products listed in the definition. Caption
21 Health further objects to this definition as overly broad, unduly burdensome, and disproportionate
22 to the needs of the case because it includes the following products and technologies that Plaintiff
23 still has not adequately alleged infringe any claim of the Patents in Suit in either Plaintiff’s
24 pleadings or its Disclosure of Asserted Claims and Infringement Contentions: “Butterfly iQ+
25 device with Butterfly iQ app[] and Terason uSmart 3200T Plus.”

26 13. Caption Health, along with GE HealthCare, further objects to these Requests
27 inasmuch as they are unduly burdensome as a result of Plaintiff’s decision to serve separate sets
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1 of similar discovery requests on Caption Health and GE HealthCare, such that Defendants must
2 review, object to, and respond to two sets of definitions, instructions, and requests rather than one.

3 14. Caption Health objects to Plaintiff’s definition of “Accused Functionalities” to the
4 extent that it makes reference to the positions that Plaintiff has taken in its Second Supplemental
5 Disclosure of Asserted Claims and Preliminary Infringement Contentions and that are the subject
6 of a discovery dispute that the parties have submitted to the Court for resolution.

7 15. Caption Health reserve the right to supplement these responses at a later date.
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1 **RESPONSES TO REQUESTS FOR PRODUCTION**

2 **REQUEST FOR PRODUCTION NO. 30:**

3 Documents sufficient to indicate when You had knowledge of UBC's or the individual
4 named inventor's work or research on medical image interpretation or analysis including, without
5 limitation, the first time that You became aware of any publication referring to such work or
6 research.

7 **RESPONSE:**

8 Caption Health objects to this request because "the individual named inventor's" is vague
9 and ambiguous. Caption Health assumes that it should be "the Patents-in-Suit's individual named
10 inventors'." Caption Health further objects to this request as overly broad, unduly burdensome,
11 and not proportional to the needs of the case because it seeks information based on the broad
12 designation of "work or research on medical image interpretation or analysis," which includes
13 subject matter that is irrelevant to the claims and defenses in this Litigation.

14 Therefore, Caption Health will produce on a rolling basis non-privileged documents
15 sufficient to show to its knowledge of research on echocardiogram interpretation or analysis using
16 artificial intelligence from UBC or the named inventors of the Patents-in-Suit.

17 **REQUEST FOR PRODUCTION NO. 31:**

18 All records of any changes, enhancements, and/or corrections to the source code and
19 software for the Accused Products and/or Accused Functionalities.

20 **RESPONSE:**

21 Caption Health objects to this request because the term "enhancements" is vague and
22 ambiguous. Caption Health further objects to this request as overly broad, unduly burdensome,
23 and disproportionate to the needs of the case inasmuch as it seeks "all records." As noted above,
24 Caption Health also objects to Plaintiff's definition of "Accused Products" as unreasonably vague
25 because it is "not limited to" the products listed in the definition. Caption Health further objects to
26 this definition as overly broad, unduly burdensome, and disproportionate to the needs of the case
27 because it includes the following products and technologies that Plaintiff has not adequately
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1 alleged infringe any claim of the Patents in Suit in either Plaintiff’s pleadings or its Disclosure of
2 Asserted Claims and Infringement Contentions: “Butterfly iQ+ device with Butterfly iQ app[] and
3 Terason uSmart 3200T Plus.” In responding to this request, Caption Health will treat “Accused
4 Products” as limited to the Caption AI software for use on Venue and Vscan Air SL. Caption
5 Health further objects to Plaintiff’s definition of “Accused Functionalities” to the extent that it
6 makes reference to the positions that Plaintiff has taken in its Second Supplemental Disclosure of
7 Asserted Claims and Preliminary Infringement Contentions and that are the subject of a discovery
8 dispute that the parties have submitted to the Court for resolution. Finally, Caption Health objects
9 to this request as duplicative of Plaintiff’s Requests Nos. 1–8.

10 Caption Health will produce, or make available for inspection, documents or source code
11 sufficient to show changes or corrections to source code and software for Caption AI for use on
12 Venue and Vscan Air SL.

13 **REQUEST FOR PRODUCTION NO. 32:**

14 All documents related to negotiations of any patent license produced or identified by You
15 in this case.

16 **RESPONSE:**

17 Caption Health objects to this request as overly broad, unduly burdensome, and
18 disproportionate to the needs of the case inasmuch as it seeks “all documents.” Caption Health
19 objects to this request because it seeks documents within the scope of the attorney–client privilege
20 and the work-product doctrine. Caption Health will not produce such documents.

21 Therefore, Caption Health will produce on a rolling basis non-privileged documents related
22 to negotiations of licenses that it has produced in this litigation to the extent these documents have
23 not already been produced in response to another request.

24 **REQUEST FOR PRODUCTION NO. 33:**

25 All documents related to the circumstances surrounding the negotiation of any patent
26 license produced or identified by You in this case.

27 **RESPONSE:**

1 Caption Health objects to this request as overly broad, unduly burdensome, and
2 disproportionate to the needs of the case inasmuch as it seeks “all documents.” Caption Health
3 also objects to this request because “circumstances surrounding the negotiation” is vague and
4 ambiguous. Caption Health further objects to this request because it seeks documents within the
5 scope of the attorney–client privilege and the work-product doctrine. Caption Health will not
6 produce such documents.

7 Therefore, Caption Health will produce on a rolling basis non-privileged documents related
8 to negotiations of licenses that it has produced in this litigation to the extent these documents have
9 not already been produced in response to another request.

10 **REQUEST FOR PRODUCTION NO. 34:**

11 All documents related to any established policy, procedure, or program related to licensing
12 (in-bound or out-bound) or use of intellectual property by You, including but not limited to out-
13 bound and in-bound patent licensing efforts and the criteria for licensing a patent.

14 **RESPONSE:**

15 Caption Health objects to this request as overly broad, unduly burdensome, and not
16 proportional to the needs of the case inasmuch as it seeks “all documents” and inasmuch as it seeks
17 information about policies, procedures, or programs that do not apply to Caption AI software.
18 Also, Caption Health objects to this request as vague as to the term “use of intellectual property.”
19 Caption Health will disregard this language.

20 Therefore, Caption Health will produce on a rolling basis non-privileged documents, if any,
21 related to any established policy, procedure, or program related to licensing (in-bound or out-
22 bound) by Caption Health that applies to Caption AI software.

23 **REQUEST FOR PRODUCTION NO. 35:**

24 All documents related to Your patent-clearing policies and procedures, as well as policies
25 and procedures for reviewing potential licensing needs.

26 **RESPONSE:**

1 Caption Health objects to this request as overly broad, unduly burdensome, and not
2 proportional to the needs of the case inasmuch as it seeks “all documents.” Also, Caption Health
3 objects to this request as vague and ambiguous as to the terms “patent-clearing policies and
4 procedures” and “licensing needs.” Finally, Caption Health objects to this request because seeks
5 to impermissibly discover irrelevant and sensitive information in the form of Caption Health’s
6 broader business practices. The breadth and vagueness of this request make it impossible for
7 Caption Health to respond at this time.

8 Therefore, Caption Health is willing to meet and confer with Plaintiff regarding the scope
9 of this request.

10 **REQUEST FOR PRODUCTION NO. 36:**

11 All documents relating to any attempts to design around or modify any product to avoid
12 infringement of any of the Patents-in-Suit.

13 **RESPONSE:**

14 Caption Health objects to this request as overly broad, unduly burdensome, and not
15 proportional to the needs of the case inasmuch as it seeks “all documents” and inasmuch as it seeks
16 information regarding “any product” rather than specifying a product that Plaintiff has properly
17 alleged infringes the Patents-in-Suit. Thus, Caption Health further objects that this request seeks
18 to shift Plaintiff’s burden for alleging infringement of specific products to Caption Health. Caption
19 Health further objects to this request because it seeks documents within the scope of the attorney–
20 client privilege and the work-product doctrine. Caption Health will not produce such documents.

21 Therefore, Caption Health will produce on a rolling basis non-privileged documents, if any,
22 related to Caption AI software that are responsive to this request.

23 **REQUEST FOR PRODUCTION NO. 37:**

24 All documents related to any allegedly non-infringing alternatives to the inventions
25 claimed in the Patents-in-Suit and the availability, acceptability, and costs of such allegedly non-
26 infringing alternatives in the marketplace.

27 **RESPONSE:**

1 Caption Health objects to this request as overly broad, unduly burdensome, and not
2 proportional to the needs of the case inasmuch as it seeks “all documents.” Caption Health also
3 objects to this request because it seeks documents within the scope of the attorney–client privilege
4 and the work-product doctrine. Caption Health will not produce such documents. Caption Health
5 further objects to this request as overly broad, unduly burdensome, and not proportional to the
6 needs of the case to the extent it seeks information that is equally publicly available to Plaintiff.
7 Thus, Plaintiff can access the documents from a source, other than Caption Health, that is more
8 convenient, less burdensome, and less expensive. Finally, Caption Health objects to this request
9 as premature to the extent that it seeks expert discovery. Caption Health will produce such
10 materials when required to do so under the Federal Rules of Civil Procedure, the Local Rules, and
11 the Court’s orders.

12 Therefore, Caption Health will produce on a rolling basis non-privileged documents
13 responsive to this request.

14 **REQUEST FOR PRODUCTION NO. 38:**

15 All documents related to, concerning, and/or describing any instance in which You
16 considered adopting an asserted prior art system or implementing the teaching of an asserted prior
17 art reference instead of or as a replacement for the Accused Functionalities in the Accused
18 Products.

19 **RESPONSE:**

20 Caption Health objects to this request as overly broad, unduly burdensome, and not
21 proportional to the needs of the case inasmuch as it seeks “all documents.” As noted above, Caption
22 Health also objects to Plaintiff’s definition of “Accused Products” as unreasonably vague because
23 it is “not limited to” the products listed in the definition. Caption Health further objects to this
24 definition as overly broad, unduly burdensome, and disproportionate to the needs of the case
25 because it includes the following products and technologies that Plaintiff has not adequately
26 alleged infringe any claim of the Patents in Suit in either Plaintiff’s pleadings or its Disclosure of
27 Asserted Claims and Infringement Contentions: “Butterfly iQ+ device with Butterfly iQ app[] and
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1 Terason uSmart 3200T Plus.” In responding to this request, Caption Health will treat “Accused
2 Products” as limited to the Caption AI software for use on Venue and Vscan Air SL. Caption
3 Health further objects to Plaintiff’s definition of “Accused Functionalities” to the extent that it
4 makes reference to the positions that Plaintiff has taken in its Second Supplemental Disclosure of
5 Asserted Claims and Preliminary Infringement Contentions and that are the subject of a discovery
6 dispute that the parties have submitted to the Court for resolution.

7 Therefore, Caption Health will produce on a rolling basis non-privileged documents, if any,
8 related to Caption AI software that are responsive to this request.

9 **REQUEST FOR PRODUCTION NO. 39:**

10 All documents relating to any studies and analyses, including any customer surveys,
11 concerning demand for the Accused Functionalities or the importance of the Accused
12 Functionalities in promoting sales of the Accused Products.

13 **RESPONSE:**

14 Caption Health objects to this request as overly broad, unduly burdensome, and not
15 proportional to the needs of the case inasmuch as it seeks “all documents” and inasmuch as it seeks
16 documentation and information on products other than Caption AI software. As noted above,
17 Caption Health also objects to Plaintiff’s definition of “Accused Products” as unreasonably vague
18 because it is “not limited to” the products listed in the definition. Caption Health further objects to
19 this definition as overly broad, unduly burdensome, and disproportionate to the needs of the case
20 because it includes the following products and technologies that Plaintiff has not adequately
21 alleged infringe any claim of the Patents in Suit in either Plaintiff’s pleadings or its Disclosure of
22 Asserted Claims and Infringement Contentions: “Butterfly iQ+ device with Butterfly iQ app[] and
23 Terason uSmart 3200T Plus.” In responding to this request, Caption Health will treat “Accused
24 Products” as limited to the Caption AI software for use on Venue and Vscan Air SL. Caption
25 Health further objects to Plaintiff’s definition of “Accused Functionalities” to the extent that it
26 makes reference to the positions that Plaintiff has taken in its Second Supplemental Disclosure of
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1 Asserted Claims and Preliminary Infringement Contentions and that are the subject of a discovery
2 dispute that the parties have submitted to the Court for resolution.

3 Therefore, Caption Health will produce on a rolling basis non-privileged documents, if any,
4 related to Caption AI software that are responsive to this request.

5 **REQUEST FOR PRODUCTION NO. 40:**

6 All documents related to analyses or summaries of customer feedback regarding the
7 performance of the Accused Functionalities in Your products and Your response to this feedback,
8 whether formal, informal, public, non-public, or otherwise.

9 **RESPONSE:**

10 Caption Health objects to this request as overly broad, unduly burdensome, and not
11 proportional to the needs of the case inasmuch as it seeks “all documents” and inasmuch as it seeks
12 documentation and information on products other than Caption AI software. As noted above,
13 Caption Health also objects to Plaintiff’s definition of “Accused Products” as unreasonably vague
14 because it is “not limited to” the products listed in the definition. Caption Health further objects to
15 this definition as overly broad, unduly burdensome, and disproportionate to the needs of the case
16 because it includes the following products and technologies that Plaintiff has not adequately
17 alleged infringe any claim of the Patents in Suit in either Plaintiff’s pleadings or its Disclosure of
18 Asserted Claims and Infringement Contentions: “Butterfly iQ+ device with Butterfly iQ app[] and
19 Terason uSmart 3200T Plus.” In responding to this request, Caption Health will treat “Accused
20 Products” as limited to the Caption AI software for use on Venue and Vscan Air SL. Caption
21 Health further objects to Plaintiff’s definition of “Accused Functionalities” to the extent that it
22 makes reference to the positions that Plaintiff has taken in its Second Supplemental Disclosure of
23 Asserted Claims and Preliminary Infringement Contentions and that are the subject of a discovery
24 dispute that the parties have submitted to the Court for resolution.

25 Therefore, Caption Health will produce on a rolling basis non-privileged documents, if any,
26 related to Caption AI software that are responsive to this request.

1 **REQUEST FOR PRODUCTION NO. 41:**

2 Documents concerning any effect the sale of the Accused Products has had or might have
3 had on any other aspect of Your business, including sales, revenue, selling price, profitability, or
4 market share with respect to any other products or services sold by You.

5 **RESPONSE:**

6 Caption Health objects to this request as overly broad, unduly burdensome, and not
7 proportional to the needs of the case inasmuch as it seeks “all documents.” As noted above, Caption
8 Health also objects to Plaintiff’s definition of “Accused Products” as unreasonably vague because
9 it is “not limited to” the products listed in the definition. Caption Health further objects to this
10 definition as overly broad, unduly burdensome, and disproportionate to the needs of the case
11 because it includes the following products and technologies that Plaintiff has not adequately
12 alleged infringe any claim of the Patents in Suit in either Plaintiff’s pleadings or its Disclosure of
13 Asserted Claims and Infringement Contentions: “Butterfly iQ+ device with Butterfly iQ app[] and
14 Terason uSmart 3200T Plus.” In responding to this request, Caption Health will treat “Accused
15 Products” as limited to the Caption AI software for use on Venue and Vscan Air SL. Caption
16 Health further objects to Plaintiff’s definition of “Accused Functionalities” to the extent that it
17 makes reference to the positions that Plaintiff has taken in its Second Supplemental Disclosure of
18 Asserted Claims and Preliminary Infringement Contentions and that are the subject of a discovery
19 dispute that the parties have submitted to the Court for resolution.

20 Given these circumstances, Caption Health is willing to meet and confer with Plaintiff
21 regarding the scope of this request.

22 **REQUEST FOR PRODUCTION NO. 42:**

23 The unit sales or licenses of Caption Guidance software (or at least Caption Guidance
24 software products made or sold in the U.S.) to date.

25 **RESPONSE:**

26 Caption Health objects to this request as overly broad, unduly burdensome, and
27 disproportionate to the needs of the case because it seeks documentation and information on
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1 products other than Caption AI software for use on Venue and Vscan Air SL. Caption Health
2 further objects to this request to the extent it is vague and ambiguous because it seeks “unit sales
3 or licenses.” Finally, Caption Health objects to this request to the extent it is duplicative and
4 cumulative of other requests.

5 Therefore, Caption Health will produce on a rolling basis non-privileged documents related
6 to Caption AI software for use on Venue and Vscan that are responsive to this request to the extent
7 they have not already been produced.

8 **REQUEST FOR PRODUCTION NO. 43:**

9 The revenue and gross profits from Caption Guidance software sales or licensing identified
10 or a reasonable estimate if profits are not readily available.

11 **RESPONSE:**

12 Caption Health objects to this request as overly broad, unduly burdensome, and
13 disproportionate to the needs of the case because it seeks documentation and information on
14 products other than Caption AI software for use on Venue and Vscan. Caption Health further
15 objects to this request to the extent it is vague and ambiguous at least because of the term “software
16 sales or licensing identified.” Caption Health also objects to this request to the extent it is
17 duplicative and cumulative of other requests. Finally, Caption Health objects to this request to the
18 extent that it asks Caption Health to create new documents. Caption Health will not do so.

19 Therefore, Caption Health will produce on a rolling basis non-privileged documents related
20 to Caption AI software for use on Venue and Vscan that are responsive to this request to the extent
21 they have not already been produced.

22 **REQUEST FOR PRODUCTION NO. 44:**

23 The revenue for Venue and Vscan products sold with or as part of Caption Guidance
24 software sales or licensing.

25 **RESPONSE:**

26 Caption Health objects to this request because it is vague and ambiguous. Caption Health
27 further objects to this request because, to the extent that Caption Health can understand it at all, it
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1 appears to seek documents not relevant to any party's claim or defense, and the burden of
2 producing the requested documents is not proportional to the needs of the case.

3 Standing on its objections, Caption Health will not produce documents in response to this
4 request.

5 **REQUEST FOR PRODUCTION NO. 45:**

6 Documents sufficient to identify the percentage of Your total sales in dollars and units
7 attributable to the Accused Products.

8 **RESPONSE:**

9 Caption Health objects to this request as irrelevant, unduly burdensome, and
10 disproportionate to the needs of the case. As noted above, Caption Health also objects to Plaintiff's
11 definition of "Accused Products" as unreasonably vague because it is "not limited to" the products
12 listed in the definition. Caption Health further objects to this definition as overly broad, unduly
13 burdensome, and disproportionate to the needs of the case because it includes the following
14 products and technologies that Plaintiff has not adequately alleged infringe any claim of the Patents
15 in Suit in either Plaintiff's pleadings or its Disclosure of Asserted Claims and Infringement
16 Contentions: "Butterfly iQ+ device with Butterfly iQ app[] and Terason uSmart 3200T Plus." In
17 responding to this request, Caption Health will treat "Accused Products" as limited to the Caption
18 AI software for use on Venue and Vscan Air SL. Caption Health further objects to this request as
19 unreasonably vague because it seeks information in "units attributable to." Finally, Caption Health
20 objects to this request as premature to the extent that it seeks expert discovery. Caption Health will
21 produce such materials when required to do so under the Federal Rules of Civil Procedure, the
22 Local Rules, and the Court's orders.

23 Standing on its objections, Caption Health will not produce documents in response to this
24 request.

25 **REQUEST FOR PRODUCTION NO. 46:**

26 All documents related to the commercial success of the Accused Functionalities and the
27 Accused Products, and the reason(s) for that commercial success.

1 **RESPONSE:**

2 Caption Health objects to this request as overly broad, unduly burdensome, and not
3 proportional to the needs of the case inasmuch as it seeks “all documents.” Caption Health further
4 objects to this request as vague and ambiguous because it seeks information on subjective
5 “commercial success.” As noted above, Caption Health also objects to Plaintiff’s definition of
6 “Accused Products” as unreasonably vague because it is “not limited to” the products listed in the
7 definition. Caption Health further objects to this definition as overly broad, unduly burdensome,
8 and disproportionate to the needs of the case because it includes the following products and
9 technologies that Plaintiff has not adequately alleged infringe any claim of the Patents in Suit in
10 either Plaintiff’s pleadings or its Disclosure of Asserted Claims and Infringement Contentions:
11 “Butterfly iQ+ device with Butterfly iQ app[] and Terason uSmart 3200T Plus.” In responding to
12 this request, Caption Health will treat “Accused Products” as limited to the Caption AI software
13 for use on Venue and Vscan Air SL. Caption Health further objects to Plaintiff’s definition of
14 “Accused Functionalities” to the extent that it makes reference to the positions that Plaintiff has
15 taken in its Second Supplemental Disclosure of Asserted Claims and Preliminary Infringement
16 Contentions and that are the subject of a discovery dispute that the parties have submitted to the
17 Court for resolution.

18 Therefore, Caption Health will produce on a rolling basis non-privileged documents related
19 to Caption AI software that are responsive to this request.

20 **REQUEST FOR PRODUCTION NO. 47:**

21 All documents and things concerning Your efforts to promote, advertise, and instruct
22 customers and potential customers about Your products, including providing a sample of each
23 Accused Product, and any other product, and any associated packaging, instructions, user guides,
24 or labels for each Accused Product, and any other product.

25 **RESPONSE:**

26 Caption Health objects to this request as overly broad, unduly burdensome, and not
27 proportional to the needs of the case to the extent it seeks “all documents,” to the extent it seeks
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1 documentation and information on products other than Caption AI software for use on Venue and
2 Vscan Air SL, to the extent it seeks information not limited geographically to the United States,
3 and to the extent it seeks information that is publicly available to Plaintiff. As noted above, Caption
4 Health also objects to Plaintiff’s definition of “Accused Products” as unreasonably vague because
5 it is “not limited to” the products listed in the definition. Caption Health further objects to this
6 definition as overly broad, unduly burdensome, and disproportionate to the needs of the case
7 because it includes the following products and technologies that Plaintiff has not adequately
8 alleged infringe any claim of the Patents in Suit in either Plaintiff’s pleadings or its Disclosure of
9 Asserted Claims and Infringement Contentions: “Butterfly iQ+ device with Butterfly iQ app[] and
10 Terason uSmart 3200T Plus.” In responding to this request, Caption Health will treat “Accused
11 Products” as limited to the Caption AI software for use on Venue and Vscan Air SL. Finally,
12 Caption Health objects to this request as duplicative of at least Request No. 14.

13 Therefore, Caption Health will produce on a rolling basis non-privileged documents related
14 to the promotion, advertising, and instructions for Caption AI software for use on Venue and Vscan
15 Air SL in the U.S. to the extent they have not already been produced.

16 **REQUEST FOR PRODUCTION NO. 48:**

17 Documents sufficient to describe Your ownership and ongoing financial obligations to
18 third parties related to the Accused Products including royalties payable for the sales of the
19 Accused Products.

20 **RESPONSE:**

21 Caption Health objects to this request as vague and ambiguous because it seeks information
22 on “Your ownership.” Caption Health will treat this as though it read “Your ownership of.” As
23 noted above, Caption Health also objects to Plaintiff’s definition of “Accused Products” as
24 unreasonably vague because it is “not limited to” the products listed in the definition. Caption
25 Health further objects to this definition as overly broad, unduly burdensome, and disproportionate
26 to the needs of the case because it includes the following products and technologies that Plaintiff
27 has not adequately alleged infringe any claim of the Patents in Suit in either Plaintiff’s pleadings
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1 or its Disclosure of Asserted Claims and Infringement Contentions: “Butterfly iQ+ device with
2 Butterfly iQ app[] and Terason uSmart 3200T Plus.” In responding to this request, Caption Health
3 will treat “Accused Products” as limited to the Caption AI software for use on Venue and Vscan
4 Air SL. Caption Health further objects to this request as cumulative and duplicative of at least
5 Request No. 10.

6 Therefore, Caption Health will produce on a rolling basis non-privileged documents, if
7 any, related to Caption AI software for use on Venue and Vscan Air SL that are responsive to this
8 request to the extent they have not already been produced.

9 **REQUEST FOR PRODUCTION NO. 49:**

10 All documents relating to communications between You, or anyone acting on Your behalf,
11 with third parties concerning any of the Patents-in-Suit, or any of the Related Patents, or the
12 Litigation, or any claim, defense, or remedy in this Litigation.

13 **RESPONSE:**

14 Caption Health objects to this request as overly broad, unduly burdensome, and not
15 proportional to the needs of the case inasmuch as it seeks “all documents.” Caption Health objects
16 to this request because it seeks documents within the scope of the attorney–client privilege and the
17 work-product doctrine. Caption Health will not produce such documents. As noted above, Caption
18 Health objects to Plaintiff’s definition of “Related Patents” as irrelevant, unreasonably broad,
19 vague, unduly burdensome, and disproportionate to the needs of the case because it includes
20 patents for which Plaintiff has not alleged infringement in this Litigation and contains the
21 extremely broad qualification of patents that “relate to any of the Patents-in-Suit by way of subject
22 matter.” Finally, Caption Health objects to this request as impermissibly broad and vague in that
23 it seeks information for “any claim, defense, or remedy in this Litigation.”

24 Therefore, Caption Health will produce on a rolling basis non-privileged documents, if any,
25 relating to communications between Caption Health and third parties concerning any of the
26 Patents-in-Suit or the Litigation.

1 **REQUEST FOR PRODUCTION NO. 50:**

2 All documents and things relating or referring to the validity, enforceability, or scope of
3 the Patents-in-Suit.

4 **RESPONSE:**

5 Caption Health objects to this request as overly broad, unduly burdensome, and not
6 proportional to the needs of the case inasmuch as it seeks “all documents.” Caption Health objects
7 to this request because it seeks documents within the scope of the attorney–client privilege and the
8 work-product doctrine. Caption Health will not produce such documents. Caption Health further
9 objects to this request as being duplicative and cumulative of Caption Health’s production of
10 documents accompanying Defendants’ Invalidity Contentions. Finally, Caption Health objects to
11 this request as premature to the extent that it seeks expert discovery. Caption Health will produce
12 such materials when required to do so under the Federal Rules of Civil Procedure, the Local Rules,
13 and the Court’s orders.

14 Therefore, Caption Health will produce on a rolling basis non-privileged documents, if any,
15 responsive to this request to the extent they were not already produced.

16 **REQUEST FOR PRODUCTION NO. 51:**

17 All documents and things identified in, referring or relating to, or consulted in preparing
18 Your initial disclosures under Federal Rule of Civil Procedure 26(a) or used, relied on, or
19 considered by You in drafting Your initial disclosures.

20 **RESPONSE:**

21 Caption Health objects to this request as overly broad, unduly burdensome, and not
22 proportional to the needs of the case inasmuch as it seeks “all documents and things.” Caption
23 Health objects to this request because it seeks documents within the scope of the attorney–client
24 privilege and the work-product doctrine. Caption Health will not produce such documents.

25 Therefore, Caption Health will produce on a rolling basis non-privileged documents, if any,
26 that are responsive to this request to the extent they were not already produced.

1 **REQUEST FOR PRODUCTION NO. 52:**

2 All documents and things relied upon, referred to, or consulted in preparing Your responses
3 to any of UBC’s Interrogatories, Requests for Admission, and Requests for Production.

4 **RESPONSE:**

5 Caption Health objects to this request as overly broad, unduly burdensome, and not
6 proportional to the needs of the case inasmuch as it seeks “all documents and things.” Caption
7 Health objects to this request because it seeks documents within the scope of the attorney–client
8 privilege and the work-product doctrine. Caption Health will not produce such documents.

9 Therefore, Caption Health will produce on a rolling basis non-privileged documents, if any,
10 that are responsive to this request to the extent they were not already produced.

11 **REQUEST FOR PRODUCTION NO. 53:**

12 Organizational charts sufficient to show the names, positions, titles, duties, and reporting
13 relationships of all officers, employees, and other personnel involved in the design, development,
14 operation, manufacture, testing, marketing, or sale of any Accused Product, and any other product.

15 **RESPONSE:**

16 Caption Health objects to this request as overly broad, unduly burdensome, and
17 disproportionate to the needs of the case because it seeks documentation and information on
18 products other than Caption AI software particularly in that it seeks information related to “any
19 other product.” As noted above, Caption Health also objects to Plaintiff’s definition of “Accused
20 Products” as unreasonably vague because it is “not limited to” the products listed in the definition.
21 Caption Health further objects to this definition as overly broad, unduly burdensome, and
22 disproportionate to the needs of the case because it includes the following products and
23 technologies that Plaintiff has not adequately alleged infringe any claim of the Patents in Suit in
24 either Plaintiff’s pleadings or its Disclosure of Asserted Claims and Infringement Contentions:
25 “Butterfly iQ+ device with Butterfly iQ app[] and Terason uSmart 3200T Plus.” In responding to
26 this request, Caption Health will treat “Accused Products” as limited to the Caption AI software
27 for use on Venue and Vscan Air SL. Caption Health further objects to this request as cumulative
28

1 and duplicative of at least Requests Nos. 6–7. Finally, Caption Health objects to this request as
2 duplicative of information provided by Caption Health in Defendants’ Initial Disclosures.

3 Therefore, Caption Health will produce on a rolling basis non-privileged documents related
4 to Caption AI software that are responsive to this request to the extent they were not already
5 produced.

6 **REQUEST FOR PRODUCTION NO. 54:**

7 All documents related to Your document retention and/or document destruction policies or
8 practices, including document retention in response to this Litigation and any documents reflecting
9 or evidencing whether documents related to the Patents-in-Suit or Your Accused Functionalities
10 in this Litigation have been deleted, physically destroyed, discarded, damaged, or overwritten,
11 whether pursuant to a document retention/destruction policy or otherwise, since the
12 commencement of this case.

13 **RESPONSE:**

14 Caption Health objects to this request as overly broad, unduly burdensome, and not
15 proportional to the needs of the case inasmuch as it seeks “all documents” and includes no temporal
16 limitation. Caption Health further objects to this request to the extent that it seeks “discovery-on-
17 discovery” and suggests that Caption Health might have destroyed evidence—a suggestion that
18 Caption Health rejects. Caption Health further objects to Plaintiff’s definition of “Accused
19 Functionalities” to the extent that it makes reference to the positions that Plaintiff has taken in its
20 Second Supplemental Disclosure of Asserted Claims and Preliminary Infringement Contentions
21 and that are the subject of a discovery dispute that the parties have submitted to the Court for
22 resolution. Finally, Caption Health objects to this request because it seeks documents within the
23 scope of the attorney–client privilege and the work-product doctrine. Caption Health will not
24 produce such documents.

25 Therefore, Caption Health will produce on a rolling basis any document retention and
26 destruction policies in effect from May 5, 2022 to present.

1 Dated: May 27, 2025

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on May 27, 2025, a true and correct copy of the foregoing document
3 was transmitted via electronic mail addressed to:

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