

1 Marla R. Butler, *pro hac vice*  
2 marla.butler@thompsonhine.com  
3 Two Alliance Center  
4 3560 Lenox Road Suite 1600  
5 Atlanta, Georgia 30326-4266  
6 Telephone: (404) 407-3680

7 Jeffrey C. Metzcar, *pro hac vice*  
8 jeff.metzcar@thompsonhine.com  
9 10050 Innovation Dr., #400  
10 Miamisburg, OH 45342  
11 Telephone: (937) 443-6841

12 Jesse L. Jenike-Godshalk, *pro hac vice*  
13 Jesse.Godshalk@ThompsonHine.com  
14 312 Walnut Street, Suite 2000  
15 Cincinnati, Ohio 45202  
16 Tel.: (513) 352-6700  
17 Fax: (513) 241-4771

Andrew Himebaugh, *pro hac vice*  
andy.himebaugh@thompsonhine.com  
20 N. Clark Street, Suite 3200  
Chicago, IL 60602  
Telephone: (312) 998-4247

Jennifer Seraphine (State Bar No. 245463)  
seraphine@turnerboyd.com  
Vyson Hsu (State Bar No. 322336)  
hsu@turnerboyd.com  
TURNER BOYD SERAPHINE LLP  
155 Bovet Road, Suite 750  
San Mateo, CA 94402  
Telephone: (650) 521-5930

*Attorneys for Defendants/Counterclaim-  
Plaintiffs Caption Health, Inc. & GE  
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

21  
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  
28

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  
28

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.  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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  
28

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  
28

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  
27  
28

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  
28

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  
28

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  
28

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  
28

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

/s/Marla R. Butler

2 Marla R. Butler, *pro hac vice*  
3 marla.butler@thompsonhine.com  
4 Two Alliance Center  
5 3560 Lenox Road Suite 1600  
6 Atlanta, Georgia 30326-4266  
7 Telephone: (404) 407-3680

8 Jeffrey C. Metzcar, *pro hac vice*  
9 jeff.metzcar@thompsonhine.com  
10 10050 Innovation Dr., #400  
11 Miamisburg, OH 45342  
12 Telephone: (937) 443-6841

13 Jesse L. Jenike-Godshalk, *pro hac vice*  
14 Jesse.Godshalk@ThompsonHine.com  
15 312 Walnut Street, Suite 2000  
16 Cincinnati, Ohio 45202  
17 Tel.: (513) 352-6700  
18 Fax: (513) 241-4771

19 Andrew Himebaugh, *pro hac vice*  
20 andy.himebaugh@thompsonhine.com  
21 20 N. Clark Street, Suite 3200  
22 Chicago, IL 60602  
23 Telephone: (312) 998-4247

24 Jennifer Seraphine (State Bar No. 245463)  
25 seraphine@turnerboyd.com  
26 Vyson Hsu (State Bar No. 322336)  
27 hsu@turnerboyd.com  
28 TURNER BOYD SERAPHINE LLP  
155 Bovet Road, Suite 750  
San Mateo, CA 94402  
Telephone: (650) 521-5930

*Attorneys for Defendants/Counterclaim-  
Plaintiffs Caption Health, Inc. & GE  
HealthCare Technologies Inc.*

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:

4 Ramsey M. Al-Salam, Bar No. 109506  
5 RAlsalam@perkinscoie.com  
6 Dorianne Salmon, pro hac vice  
7 WSBA No. 60202  
8 DSalmom@perkinscoie.com  
9 PERKINS COIE LLP  
10 1201 Third Avenue, Suite 4900  
11 Seattle, Washington 98101-3099  
12 Telephone: (206)359.8000  
13 Facsimile: (206) 359.9000

14 Moeka Takagi, Bar No. 333226  
15 MTakagi@perkinscoie.com  
16 PERKINS COIE LLP  
17 3150 Porter Drive  
18 Palo Alto, California 94304-1212  
19 Telephone: (650) 838.4300  
20 Facsimile: (650) 838.4350

21 *Attorneys for Plaintiff*  
22 *University of British Columbia*

23 */s/ Jesse Jenike-Godshalk*  
24 \_\_\_\_\_  
25 Jesse Jenike-Godshalk