

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

GUARDANT HEALTH, INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 24-687-GBW
)	
TEMPUS AI, INC.,)	
)	
Defendant.)	

**TEMPUS’S PRELIMINARY IDENTIFICATION OF CLAIM TERMS IN NEED OF
CONSTRUCTION AND PROPOSED CONSTRUCTIONS**

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I. INTRODUCTION

Pursuant to Section 8 of the Scheduling Order (D.I. 62), Defendant Tempus AI, Inc. (“Tempus”) hereby provides its initial proposed claim constructions for identified claim terms, phrases, or clauses used in the asserted claims of U.S. Patent Nos. 9,902,992 (the “’992 Patent”), 10,793,916 (the “’916 Patent”), 11,149,306 (the “’306 Patent”), and 11,643,693 (the “’693 Patent”) (collectively the “Asserted Patents”).

The proposed claim terms and constructions set forth below are based on information currently available to Tempus; however, discovery is in its early stages and Tempus’s investigation and analysis is ongoing. Tempus further contends that for at least the reasons set forth in Tempus’s letter of August 21, 2025, Guardant’s Initial Claim Charts (D.I. 71) are overly general, vague, and fail to sufficiently identify how each element of the asserted claims of the Asserted Patents is met by the accused products. Tempus therefore reserves the right to modify, amend or supplement its identification of claim terms and proposed claim constructions should Guardant amend its infringement contentions. Tempus also reserves the right to modify, amend or supplement its identification of claim terms and proposed claim constructions in light of meeting and conferring with Guardant concerning the parties’ proposed claim constructions, based upon the parties’ continued discovery, Tempus’s ongoing investigation, evaluation of the scope and content of the prior art, or for any other reason permitted by applicable law, the Federal Rules, Local Rules, or the Court’s rulings. Tempus also reserves the right to offer constructions for any claim term that Guardant identifies for construction.

Claim Term	Proposed Construction
“cell-free DNA” (’992 claim 1) / “cell-free deoxyribonucleic acid (cfDNA)” (’306 claims 1 and 17) / “cfDNA” (’693 claim 14)	DNA that exist(s) within a bodily fluid within the body outside of a cell and in solution, including in blood, plasma, serum, urine, saliva, mucosal excretions, sputum, stool or tears

“at least [20%/50%/80%] of the cfDNA molecules” (’992 claims 1, 11, 12) / “at least 20% of the cfDNA molecules” (’306 claim 4) / “at least 40% of the cfDNA molecules” (’306 claim 6)	from [20%/40%/50%/80%] to 100% of the cfDNA molecules
“amplifying the tagged parent polynucleotides” (’992 claim 1)	amplifying every one, or every selected one, of the tagged parent polynucleotides
“sequencing the amplified tagged progeny polynucleotides” (’992 claim 1)	sequencing every one, or every selectively captured one, of the polynucleotides generated by amplification of the tagged parent polynucleotides
“sequence read” (’992 claim 1)	the order of the bases of a polynucleotide determined by a sequencer
“grouping the sequence reads mapped in e) into families” (’992 claim 1)	grouping every one of the sequence reads mapped in step (e) into families
“each of the families comprises sequence reads amplified from the same tagged parent polynucleotide” (’992 claim 1)	Indefinite
“sequence information at a beginning of the sequence derived from the cfDNA molecule” / “sequence information at an end of the sequence derived from the cfDNA molecule” (’992 claims 19 and 20)	Indefinite
“molecular barcode” (’306 claims 1 and 17)	a nucleotide sequence that distinguishes one polynucleotide from another
“wherein the plurality of the cfDNA molecules are tagged with n different combinations of molecular barcodes, wherein n is at least 2 and no more than 100,000*z, wherein z is a mean of an expected number of duplicate molecules in the population of cfDNA molecules that map to identical start and stop positions on a reference sequence” (’306 claim 1)	Indefinite
“the amplified progeny polynucleotides” (’306 claims 1 and 17) / “the amplified tagged progeny polynucleotides” (’916 claims 1, 13, 30)	the polynucleotides generated by amplification of the tagged parent polynucleotides
“distinct cfDNA molecules are determined based on (i) paired reads . . . or (ii) unpaired reads” (’306 claim 1)	distinct cfDNA molecules are determined using information identifying sequence reads as paired reads or unpaired reads, i.e., the determination is not agnostic to whether the reads are paired or unpaired

“sequence information at the start and stop positions” (’306 claims 13 and 24)	Indefinite
“sequence information of the molecular barcodes” (’916 claims 1, 13, 30)	Indefinite
“sequencing reads amplified from a same tagged parent polynucleotide” (’916 claim 1)	Indefinite
“a quantitative measure of polymorphic forms comprising microsatellite changes” (’916 claim 13)	Indefinite
“amplifying the tagged parent polynucleotides” (’916 claim 30)	amplifying every one of the tagged parent polynucleotides
“greater capture yield” (’693 claim 14)	Indefinite
“to determine the likelihood” (’693 claim 14)	to determine the numerical probability

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 18, 2025, a copy of the foregoing document was served on the counsel listed below in the manner indicated:

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