

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CAPTION HEALTH, INC.,
Petitioner,

v.

UNIVERSITY OF BRITISH COLUMBIA,
Patent Owner.

IPR2025-01422

Patent No. 10,751,029

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE
UNDER 37 C.F.R. § 42.64(B)(1)**

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner University of British Columbia (“Patent Owner”) objects to Exhibits 1044-1053 and 1056-1059 submitted by Petitioner Caption Health, Inc. (“Petitioner”) with its Petitioner’s Reply (Paper 25) filed August 18, 2026. These objections are based on 37 C.F.R. Part 42 and the relevant portions of the Federal Rules of Evidence (“F.R.E.”) that apply to inter partes review proceedings under 37 C.F.R. § 42.62. These objections are being timely served within five business days of service of the evidence to which each objection is directed.

II. OBJECTIONS TO EVIDENCE

A. Exhibits 1044-1045, 1047-1053, and 1056-1059

Ex1044	Oivind Due Trier, et al., “Feature Extraction Methods For Character Recognition – A Survey,” Pattern Recognition 29 (4), pp. 641-662 (1996)
Ex1045	Jain, et al., “Artificial Neural Networks: A Tutorial,” IEEE Computer, Vol. 29 (3), pp. 31-44 (March 1996)
Ex1047	M. Egmont-Petersen, et al., “Image processing with neural networks—a review,” Pattern Recognition 35 (2002), pp. 2279-2301
Ex1048	R. Silverman, “Segmentation of Ultrasonic Images with Neural Networks,” International Journal of Pattern Recognition and Artificial Intelligence, Vol. 5, No. 4, pp. 619-628 (1991)
Ex1049	Lampinen, “Distortion Tolerant Pattern Recognition Based on Self-Organizing Feature Extraction,” IEEE Transactions on Neural Networks, Vol. 6, No. 3, pp. 539-547 (May 1995)
Ex1050	Boskovitz and Guterman, “An Adaptive Neuro-Fuzzy System for Automatic Image Segmentation and Edge Detections,” IEEE Transactions on Fuzzy Systems, Vol. 10, No. 4, pp. 247-262 (April 2002)

Ex1051	S. Becker and M. Plumbley, “Unsupervised Neural Network Learning Procedures For Feature Extraction and Classification,” <i>Journal of Applied Intelligence</i> (6) pp. 185-203 (1996)
Ex1052	J. Mao and A. Jain, “Artificial Neural Networks for Feature Extraction and Multivariate Data Projection,” <i>IEEE Transactions on Neural Networks</i> , Vol. 6, No. 2, pp. 296-317 (1995)
Ex1053	Donahue, et al., “ DeCAF: A Deep Convolutional Activation Feature for Generic Visual Recognition,” <i>International Conference on Machine Learning</i> (pp. 647-655) PMLR (2014)
Ex1056	Pham et al., “Current Methods in Medical Image Segmentation,” <i>Annu. Rev. Biomed. Eng.</i> 2 (2000): 315-37.
Ex1057	Hasegawa et al., “A Shift-Invariant Neural Network for the Lung Field Segmentation in Chest Radiography,” <i>Journal of VLSI Signal Processing Systems</i> 18.3 (1998): 241-250.
Ex1058	Ning et al., “Toward Automatic Phenotyping of Developing Embryos from Videos,” <i>IEEE Transactions on Image Processing</i> , 2005, 14 (9), pp.1360-1371.
Ex1059	LeCun et al. “Gradient-based learning applied to document recognition,” <i>Proceedings of the IEEE</i> 86.11 (1998): 2278-2324

Patent Owner objects to Exhibits 1044-1045, 1047-1053, and 1056-1059 under F.R.E. 401-403 and 37 C.F.R. § 42.23(b) as irrelevant and improper new evidence. Alternatively, under F.R.E. 403, any probative value is substantially outweighed by unfair prejudice, confusing the issues, misleading the Board, undue delay, or wasting time.

“A reply may only respond to arguments raised in the corresponding...patent owner response...” 37 C.F.R. § 42.23(b); *see also* Trial Practice Guide § II.I. Moreover, a “Petitioner may not submit new evidence or argument in reply that it could have presented earlier, e.g. to make out a prima facie case of unpatentability.” Trial Practice Guide § II.I. “[A] reply...that raises a new issue or belatedly presents

evidence may not be considered.” *Id.* “It is also improper for a reply to present new evidence (including new expert testimony) that could have been presented in a prior filing, for example newly cited prior art references intended to ‘gap-fill’ by teaching a claim element that was not present in the prior art presented with the petition.” *Id.*

Petitioner improperly submits Exhibits 1044-1045, 1047-1052, and 1056-1059 to gap-fill the Petition’s deficient analysis of Krishnan (Exhibit 1005). Moreover, Petitioner appears to assert that these exhibits indicate that neural networks for feature extraction were known, which does not respond to the arguments in Patent Owner’s Response. Patent Owner’s Response explained that a POSITA would not have understood Krishnan’s module 102 to employ neural networks for deriving one or more extracted feature representations, where those extracted feature representations are feature representations that are learned using a neural network. Paper 21 at 18-22, 29-37, 40-46. Thus, these exhibits are irrelevant and improper new Reply evidence. 37 C.F.R. § 42.23(b); Trial Practice Guide § II.I.

The Reply also cites Exhibit 1044 to support its claim construction argument that “many varied techniques—not based on NNs—were known for extracting feature representations from images prior to the filing date of the Patent.” Paper 25 at 3. The Reply then states that the paper “discuss[es] NNs as an alternative feature extraction technique.” *Id.* The Reply’s description of the exhibit does not support the proposition for which it is cited. Exhibit 1044 is irrelevant and improper new Reply

evidence for this reason as well. 37 C.F.R. § 42.23(b); Trial Practice Guide § II.I.

Patent Owner further objects to Exhibit 1053 because the Reply does not cite this exhibit. For this reason alone, it is irrelevant. The supplemental expert declaration (Exhibit 1046), however, appears to cite this exhibit to support a rationale for combining Krishnan and Chen that should have been presented in the Petition. Even if the exhibit is considered, it is improper new Reply evidence that is irrelevant to the arguments raised in the Petition. 37 C.F.R. § 42.23(b); Trial Practice Guide § II.I.

Patent Owner further objects to Exhibit 1059 because neither the Reply nor the supplemental expert declaration (Exhibit 1046) cites this exhibit. Thus, it is irrelevant under F.R.E. 401-402. Even if it were cited, it would be improper new Reply evidence. 37 C.F.R. § 42.23(b); Trial Practice Guide § II.I.

B. Exhibit 1046

Ex1046	Supplemental Declaration of Dr. Deo
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Patent Owner objects to paragraphs 7, 10, and 21-25 of Exhibit 1046 to the extent they discuss the exhibits objected to in § II.A. Moreover, under F.R.E. 401-402 and 37 C.F.R. § 42.23(b), these paragraphs and the cited exhibits are irrelevant and improper new evidence that should have been submitted with the Petition. Alternatively, under F.R.E. 403, any probative value is substantially outweighed by unfair prejudice, confusing the issues, misleading the Board, undue

delay, or wasting time.

Patent Owner further objects to paragraphs 3-6, 8-9, 11-20, and 26-39 of Exhibit 1046 under F.R.E. 401-403 and 37 C.F.R. § 42.23(b). These paragraphs are not cited in the Reply, are irrelevant, and—even if they were cited—constitute improper new evidence that should have been submitted with the Petition. 37 C.F.R. § 42.23(b); Trial Practice Guide § II.I. Alternatively, under F.R.E. 403, any probative value is substantially outweighed by unfair prejudice, confusing the issues, misleading the Board, undue delay, or wasting time.

Dated: August 25, 2026

Respectfully submitted,

/ Jessica Kaiser /
Jessica Kaiser
Reg. No. 58,937
Attorney for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that I caused to be served a true and correct copy of the foregoing Patent Owner's Objections to Evidence by email to the electronic service addresses for Petitioner on the date indicated below:

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