IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BRAIN CORPORATION, a California Corporation, *Plaintiff and Counterclaim-Defendant*, v. AVIDBOTS CORP., a Canadian Corporation; and AVIDBOTS USA CORP., a Delaware Corporation *Defendants and Counterclaim-Plaintiffs*.	Case No. 1:24-cv-12569 Honorable Jeremy C. Daniel

JOINT INITIAL STATUS REPORT

Pursuant to the Court's Notification of Docket Entry dated May 20, 2025 (Dkt. 39), the parties respectfully submit this Joint Initial Status Report "setting forth the status of discovery and whether resolution has been reached as to any of the disputed issues raised in the report of the parties' Rule 26(f) planning conference [34] and its attachments."

Discovery status

With respect to Brain's claims of patent infringement, after Avidbots received an extension of time to answer or otherwise respond to Brain's December 6, 2024 Complaint, the parties' competing scheduling proposals in the Rule 26(f) report [34] remained pending. As such, the case has thus far proceeded in accordance with the default deadlines in the Local Patent Rules until Avidbots filed its Answer and Counterclaims on May 19, 2025. Accordingly, the parties served their respective LPR 2.1 disclosures for Brain's claims on March 17, 2025; Brain served its Initial Infringement Contentions under LPR 2.2 on March 31, 2025; Avidbots served its Initial Non-

Infringement, Unenforceability and Invalidity Contentions under LPR 2.3 on April 14, 2025; and Brain served its Initial Response to Non-Infringement and Invalidity Contentions under LPR 2.5 on April 28, 2025.[1] With respect to the case schedule going forward, the parties have conferred and reached agreement on the schedule through the LPR 4.2(f) deadline (Joint Claim Construction Chart), but disagree on the remaining schedule after that date, as explained below.

Also with respect to Brain's claims of patent infringement, each side has served first sets of requests for production and interrogatories, and both sides have served at least initial written responses and produced certain documents in response to those requests. The parties have agreed to deadlines for substantial completion of production of documents in response to certain requests for production. The parties are in ongoing discussions over other requests for production and interrogatories. Fact discovery remains ongoing.

With respect to Avidbots's counterclaims of patent infringement, fact discovery is not yet open. The parties have agreed to extend Brain's deadline to respond to Avidbots's counterclaims by 30 days until July 9, 2025. The parties agree that the LPR 2.1 deadline and the commencement of fact discovery on Avidbots's counterclaims will be July 23, 2025, which is 14 days after Brain's deadline to respond to Avidbots's counterclaims.

There are no discovery disputes ripe for the Court's adjudication at this time.

Modifications to Rule 26(f) report [34]

In view of Avidbots's counterclaims, the parties have agreed to the following modifications to discovery and claim construction limits, with all other agreements in the Rule 26(f) report [34] remaining in place:

[1] The parties reserve the right to dispute the sufficiency of each other's disclosures under the Local Patent Rules.

1. Increase the number of interrogatories from twenty-five (25) per side to forty (40) per side;
2. Increase the overall fact witness deposition limit from seventy (70) hours per side to one hundred (100) hours per side; and
3. Increase the total number of terms or phrases to be construed by the court from ten (10) total to up to ten (10) for Brain's patents and up to ten (10) for Avidbots's patents (*i.e.*, up to twenty (20) total for the case).

Remaining disputed issues in Rule 26(f) report [34]

The issues from the Joint Rule 26(f) Report requiring the Court's adjudication at this time are (1) to resolve the parties' disputes concerning the case schedule to be entered and (2) to set the number of ESI custodians and search terms.

In view of Avidbots's recently-filed counterclaims, the parties hereby respectfully propose revised scheduling proposals that accommodate Avidbots's counterclaims. The parties agree on all dates through the Joint Claim Construction Chart and disagree on later dates. The parties' new proposed schedules, as well as the parties' arguments concerning those proposals, are set forth in Revised Exhibit 1 to the Joint Rule 26(f) Report, attached hereto as **Exhibit 1**.

With respect to ESI discovery, the parties have narrowed the dispute that had been set forth in the original Exhibit 2 to the Joint Rule 26(f) Report. Brain proposes increasing the default cost-shifting provisions as set forth in LPR ESI 2.6(d) and (e) to cost shifting if a party seeks ESI discovery in excess of 10 custodians and 10 search terms per custodian. Avidbots is amenable to increasing the number of allowed custodians to 10, provided that the number of search terms per custodian remains at the LPR ESI default of 5. The parties' current proposals, as well as the

parties' arguments concerning those proposals, are set forth in Revised Exhibit 2 to the Joint Rule 26(f) Report, attached hereto as **Exhibit 2**.

Dated: June 3, 2025

Respectfully submitted,

By: */s/ Adam B. Powell*

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EXHIBIT 1

Revised Exhibit 1

Proposed Schedule and Parties' Explanation for Their Positions

Event	**Brain's Proposed Date**	**Avidbots's Proposed Date**
Brain's Response to Avidbots's counterclaims	July 9, 2025	
Initial Disclosures (Avidbots's counterclaims only) *LPR 2.1*	July 23, 2025	
Avidbots's "Initial Infringement Contentions" (Avidbots's counterclaims only) *LPR 2.2* *14 days after Initial Disclosures*	August 6, 2025	
Brain's "Initial Non-Infringement, Unenforceability and Invalidity Contentions" and Document Production (Avidbots's counterclaims only) *LPR 2.3, 2.4* *14 days after LPR 2.2*	August 20, 2025	
Avidbots's "Initial Response to Non-Infringement and Invalidity Contentions" (Avidbots's counterclaims only) *LPR 2.5* *14 days after LPR 2.3*	September 3, 2025	
LPR 3.1(a)(1) list of asserted claims *LPR 3.1(a)(1)* *19 weeks after LPR 2.2*	December 17, 2025	
"Final Infringement Contentions" *LPR 3.1(a)(2)* *21 weeks after LPR 2.2*	January 14, 2026	
"Final Unenforceability and Invalidity Contentions" *LPR 3.1(b), 3.3* *21 weeks after LPR 2.2*	January 14, 2026	
"Final Non-Infringement Contentions" *LPR 3.2(a)*	February 11, 2026	

Event	**Brain's Proposed Date**	**Avidbots's Proposed Date**
28 days after Final Infringement Contentions		
"Final Enforceability and Validity Contentions" *LPR 3.2(b)* *28 days after Final Infringement Contentions*	February 11, 2026	
Exchange list of terms and proposed constructions *LPR 4.1(a)* *14 days after LPR 3.2 Contentions*	February 25, 2026	
Narrow to 10 terms *LPR 4.1(b)* *7 days after claim term exchange*	March 4, 2026	
Close of Fact Discovery *LPR 1.3* *28 days after exchange of claim terms and phrases*	March 25, 2026	
Opening Claim Construction Briefs and Joint Appendix *LPR 4.2(a), 4.2(b)* *35 days after exchange of 4.1(a) terms*	April 1, 2026	
Responsive Claim Construction Briefs *LPR 4.2(c)* *28 days after Opening brief*	April 29, 2026	
Reply Claim Construction Briefs *LPR 4.2(d)* *14 days after Responsive brief*	May 13, 2026	
Joint Claim Construction Chart *LPR 4.2(f)* *7 days after Reply brief*	May 20, 2026	
Claim Construction Hearing *Within 28 days after Joint Claim Construction Chart*	On or before June 17, 2026	To be set at the Court's convenience
Advice of counsel discovery (if applicable) *LPR 3.6*	July-August 2026	Will key off the date of the claim

Event	**Brain's Proposed Date**	**Avidbots's Proposed Date**
Begins 7 days after claim construction ruling and ends 42 days after		construction ruling, per LPR 3.6
Opening Expert Reports *LPR 5.1(b)*	August 26, 2026	Will key off the date of the claim construction ruling and whether fact discovery reopens, per LPR 5.1(b)
Rebuttal Expert Reports *LPR 5.1(c)* *28 days after opening report*	September 23, 2026	Will key off the date of the claim construction ruling and whether fact discovery reopens, per LPR 5.1(c)
Close of Expert Discovery *LPR 5.2* *28 days after rebuttal reports*	October 21, 2026	Will key off the date of the claim construction ruling and whether fact discovery reopens, per LPR 5.2
Dispositive Motion Deadline *LPR 6.1* *28 days after close of expert discovery*	November 18, 2026	Will key off the date of the claim construction ruling and whether fact discovery reopens, per LPR 6.1
Pre-Trial	February 17, 2027	To be determined once a trial

Event	**Brain's Proposed Date**	**Avidbots's Proposed Date**
		setting has been established
First Day of Trial	March 3, 2027	To be determined at a later time, after it becomes known when LPR 6.1 falls and which claims and issues remain for trial

Brain's Explanation of Schedule:

The parties agree on the case schedule through the Joint Claim Construction Chart but disagree as to whether the Court should set dates for the remainder of the schedule. Avidbots does not object to any of Brain's specific proposed dates. Rather, Avidbots argues only that the Court should not set ***any*** dates after the Joint Claim Construction Chart.

Brain's proposed schedule complies with the Local Patent Rules, which instruct the parties to identify actual "final dates" for pretrial submissions (witness lists, deposition designations, and exhibit lists) and objections leading up to the pretrial conference. LPR, Appendix A at ¶¶ 6(c), (f), and (g). Those dates cannot be selected without setting other surrounding interim dates. In the parties' prior submission, Avidbots purported to be concerned about the schedule being "thrown into disarray" if the claim construction order issues later than anticipated, but the

Court can easily adjust the schedule later if necessary. Avidbots simply has no principled reason for leaving the schedule open-ended. Avidbots may be asking this Court to avoid trial setting so that Avidbots can later argue that this case is in early stage. *See Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020) at p. 6 (identifying district court schedule and trial date as one reason to discretionarily deny institution).

Avidbots also previously argued the Court should "favor a defendant's ability to bring IPR proceedings and ultimately stay the case" to "streamline" the case or "avoid trial altogether." Dkt. 34. If Avidbots were truly interested in efficiency, it would petition for IPR promptly. Instead, Avidbots delayed the case with lengthy extensions and a meritless motion to dismiss. And Avidbots still has not filed for IPR even though Brain filed this case six months ago on December 6, 2024. Brain respectfully suggests it is appropriate at this stage to set forth a comprehensive schedule for the case to provide certainty to the parties and to ensure that the case moves forward efficiently.

Avidbots's Explanation of Schedule:

The parties' dispute is limited to what happens after the deadline for the Joint Claim Construction Chart. Avidbots requests that the Court maintain the Local Patent Rules default schedule, whereas Brain seeks to depart from the Local Patent

Rules by prematurely establishing dates certain for all post-claim construction events and trial. Avidbots respectfully requests that the Court adopt its proposal.

Under the Local Patent Rules, all pre-trial dates and deadlines after the Joint Claim Construction Chart are determined automatically based on (1) the date of issuance of the claim construction order, and (2) whether fact discovery reopens after the claim construction order. *See* LPR 3.6, LPR 5.1 *et seq.* This is for good reason. It is not yet known when the Court will issue the claim construction order, and it is also not yet known whether fact discovery will need to be reopened based on that order. *See* LPR 1.3.[2] The Local Patent Rules are designed to allow the parties' experts to have the claim construction order in hand *before* submitting expert reports, since the claim construction order may bear on the infringement and invalidity issues. *See* LPR 5.1(b) ("within twenty-eight (28) days after the claim construction ruling or the close of discovery after the claim construction ruling, whichever is later, each party shall make its initial expert witness disclosures").

[2] "Fact discovery may resume upon entry of a claim construction ruling and shall end forty-two (42) days after entry of the claim construction ruling." LPR 1.3; *see also* LPR 1.3 Comment ("The Rule states that resumption of fact discovery upon entry of a claim construction ruling "may" occur. The Rule does not provide that discovery shall automatically resume as a matter of right. It is intended that parties seeking further discovery following the claim construction ruling shall submit a motion explaining why further discovery is necessitated by the claim construction ruling.").

Brain's proposed post-claim construction schedule is based entirely on a guess as to when the claim construction order will issue. If Brain has guessed wrong about the date of the claim construction order or if fact discovery reopens after the claim construction order issues, the experts may need to prepare and submit their reports without a claim construction order, unless the schedule gets pushed back. There is also no benefit to setting dates certain for these events now, since, under the Local Patent Rules, the dates will fall automatically into place once the claim construction order issues.

Avidbots also disagrees with Brain's proposal that trial and final pre-trial conference dates be established at this time.[3] Instead, Avidbots proposes that the trial setting be determined later, based on what ends up becoming the post-claim construction schedule and what issues remain active for trial at a later stage. The Local Patent Rules do not impose any particular timing for trial, again for good reason. Brain's proposed trial date could end up being unduly early in view of when expert discovery and dispositive motion practice occurs and how this case otherwise unfolds. For example, the case could end up getting stayed pending IPR, or there

[3] The planning report at ¶ 6(c) refers to "requested dates for pretrial conferences," which Avidbots understands to refer to *interim* pretrial conferences over the course of the lawsuit. As to such interim pretrial conferences, Avidbots will accommodate any date(s) preferred by the Court.

may be more or fewer claims and defenses at issue down the road following additional discovery, IPRs, or dispositive motions.

Brain has not articulated any reason why setting a trial date at this early stage is necessary or helpful, other than that a trial date allegedly would provide "certainty to the parties and to ensure that the case moves forward efficiently." (Dkt. 34-1 at 19.) But there would be no added certainty, given that the timing of the claim construction order could force the trial date to change anyway.

Brain has asserted that Avidbots may be avoiding the setting of a trial date because of the heightened possibility that a known trial date will cause the PTAB to deny any IPR petitions under *Fintiv*, but it is actually *Brain* that may be trying to shoehorn in a trial date to help *reduce* the probability that the PTAB institutes IPRs against its patents. (*See* USPTO 2/28/25 news release titled "USPTO rescinds memorandum addressing discretionary denial procedures," *available at* https://www.uspto.gov/about-us/news-updates/uspto-rescinds-memorandum-addressing-discretionary-denial-procedures.) If anything, this Court should favor a defendant's ability to bring IPR proceedings and ultimately stay the case as an opportunity to streamline the litigation and potentially avoid trial altogether. Brain has argued that Avidbots has delayed in petitioning for IPR (*see* Dkt. 34-1 at 18), but Avidbots did not receive Brain's list of asserted claims and Initial Infringement Contentions until only about two months ago, March 31. And there is no merit or

basis for Brain's assertion that "Avidbots apparently seeks to delay this case as long as possible and then petition for IPR and seek a stay at the last minute" (*id.*), as the parties agree that Avidbots has until December 16 under the statute to petition for IPR. As such, Brain's request to insert a trial date where the Local Patent Rules would not impose one should be rejected.

EXHIBIT 2

Revised Exhibit 2

CHANGES TO ESI ORDER

LPR ESI 2.5 (Production Format)

File Types And Natives

TIFF images for each produced record shall be provided as Group IV, 300-dpi single page TIFF files named "<PageID>.TIF (e.g., "ABC00000001.TIF") with no spaces in the file name. TIFF images will be provided in a folder called "IMAGES" on the production media. All TIFF images for a single document will be in one subfolder within the IMAGES folder, and the number of image files in any one subfolder will not exceed 1000.

File types that do not render in a usable manner when converted to image with extracted text (e.g., spreadsheets and multimedia files) shall be produced as natives with a TIFF slipsheet indicating this. Documents produced natively shall follow the same naming format as TIFF images but also contain the confidentiality designation (e.g., "(Confidential) ABC00000001.xls"). Native files will be provided in a folder called "NATIVES" on the production media.

If available, extracted text will be produced for ESI records in a document-level, multi-page text file format, with a corresponding path reference appearing in the TEXTLINK field of the load file. The filename of each text file will equal the production BEGDOC number of the corresponding page and have a .txt file extension. The text files will be provided in a folder called "TEXT" on the production media.

Data Files

Associated metadata for each produced record will be produced in a Concordance load file format (.dat) and include the following fields:

- BEGDOC
- ENDDOC
- PAGECOUNT
- BEGATTACH

- ENDATTACH
- ATTACHCOUNT
- CUSTODIAN(S)
- FILENAME
- FILEEXT
- FOLDER
- FILESIZE
- MD5HASH
- AUTHOR
- TITLE
- LASTMODDATE
- LASTMODTIME
- CREATEDDATE
- CREATEDTIME
- EMAIL_FROM
- EMAIL_TO
- EMAIL_CC
- EMAIL_BCC
- EMAIL_SUBJECT
- EMAIL_DATERCVD
- EMAIL_TIMERCVD
- EMAIL_DATESENT
- EMAIL_TIMESENT
- DESIGNATION (i.e. level of confidentiality if any (e.g. "Confidential" or "Attorneys' Eyes Only")

- TEXTLINK
- NATIVELINK

All of the above metadata field information that is available from the native ESI source files will be extracted therefrom and will not be altered or modified from the original. The parties are not obligated to include or create metadata for any document that does not contain such metadata in the original or where it is otherwise not readily available.

In addition to the attachment metadata listed above, the parties shall produce email attachments sequentially after the parent email.

Time zone

Where technically feasible, each side shall normalize the time stamp shown in the TIFF rendering of the top-level email header to a single time zone. Brain shall normalize to Pacific Time. Avidbots shall normalize to Eastern Time. The parties need not adjust for Daylight Saving Time. For clarity, this provision does not apply to the existing body text of an email, such as for email timestamps already set forth within an email (e.g., in an email chain).

Hidden Content and Tracked Changes

MSWord and other word processing files will be rendered to TIFF so as to show tracked changes, hidden text, comments, headers, and field codes. PowerPoint and other presentation slides will be rendered to TIFF with full page slides, with all hidden slides and comments visible, and with any notes summaries appended at the end.

Foreign Language Documents.

All documents shall be produced in their original language. Where a requested document exists in a foreign language and the producing party also is aware of or has identified after a reasonable search an English language version of that document, the producing party shall produce both the original document and all English-language versions, including certified translations.

LPR ESI 2.6 (Email Production Requests)

The parties agree that "email production requests" under LPR ESI 2.6 apply to emails and company "chat" programs, such as Slack, Google Chat, Teams Chat, Zoom Chat, etc. There shall be no obligation to search voicemails or text messages. A disjunctive combination of multiple words or phrases (e.g., "computer" or "system") broadens the search, and thus each word or phrase shall count as a separate search term unless they are variants of the same word (e.g., "pat." or "patent", "infringe" or "infringement"), variants of a party's name, or are a combination of the patents at issue in this case (e.g., "Patent A" or "Patent B" or "Patent C" or "Patent D"). The parties disagree on the matters set forth below.

Brain's Position:

A. The Court should increase the ESI search terms to ten terms per custodian

Based on Brain's initial assertion of five patents, Avidbots argued this case was technologically complex with a large number of claims, and sought a six-month extension of time under the default schedule. Yet Avidbots's original position on ESI discovery was to seek a downward departure from the Local Rules and require cost shifting for ***all*** ESI discovery.

After asserting five of its own patents in counterclaims against Brain, Avidbots now agrees that each party should bear the cost of ten custodians and five search terms, but objects to Brain's request for ten search terms per custodian. As explained below, Brain's proposal is justified based on existing discovery and the addition of Avidbots's counterclaims.

1. The scope of this lawsuit and Avidbots' disclosures confirm that ten ESI custodians is reasonable

The parties agree that the default cost-shifting provisions should apply to ten custodians. Avidbots's current interrogatory responses identify six Avidbots employees as the people most knowledgeable about the subject matter of Brain's affirmative claims for patent infringement (Cabrera, Fowler, Gallant, Lee, Sheikh, Thomas). Brain served ESI requests for five of these employees before Avidbots served its counterclaims, which assert five Avidbots patents against Brain. Avidbots's five patents are from two separate patent families on subject matter that

differs from Brain's patents. These patents name seven individuals as inventors (Cabrera, D'Alessio-Doucet, Duchesne, Lee, Sheikh, Willick, Zinn). Only three of those inventors (Cabrera, Lee, and Sheikh) overlap with the six employees Avidbots has currently identified in its interrogatories. Thus, Avidbots itself has already identified ten employees as either (a) being the most knowledgeable about the subject matter of Brain's original claims and/or (b) inventors on Avidbots's asserted patents. Brain also identified numerous additional relevant Avidbots employees from Avidbots's current document and source code productions.

2. The issues in this case confirm that ten search terms is reasonable

Brain's requested number of search terms is also reasonable. Brain has already identified to Avidbots five search terms per custodian based solely on Brain's original claims. Brain's search terms cover the accused features of Avidbots's accused products, Brain's asserted patent numbers, and Avidbots's communications about Brain and its OEM partners. These searches are necessary because Avidbots is disputing both infringement and its knowledge of Brain's patents.

In view of Avidbots' counterclaims asserting five patents, Brain will need additional search terms to cover the subject matter of those patents. Moreover, additional search terms typically ***reduce*** the burden on the producing party by allowing the requesting party to propose multiple narrow terms instead of a single broad term. Such a search strategy generally results in fewer (but more relevant) documents to review.[4]

The Local Rules specifically contemplate a floor of five custodians and search terms for ***any*** patent case and contemplate up to ten custodians and search terms for some cases. *See* LPR ESI 2.6(d) and (e). Unlike many patent cases, this case now involves patent counterclaims and a total of ten asserted patents (five for each side). Thus, Brain respectfully submits that it is reasonable for the Court to permit ten

[4] During the meet and confer, Avidbots argued that Brain's existing search terms are too broad. Avidbots has provided no support for its assertion and, as discussed below, has not provided any hit counts on Brain's search terms. Brain does not believe the search terms will result in a burdensome number of hits. Regardless, Brain has told Avidbots that it will narrow the terms if they result in too many hits, as is common with a cooperative ESI process.

search terms per custodian to address its affirmative claims and Avidbots's counterclaims.

B. The Court should order Avidbots to promptly provide ESI hit counts

Brain also respectfully requests an order requiring Avidbots to provide hit counts for Brain's initial ESI requests within seven days of this hearing. Brain provided its ESI requests on May 16—over two weeks ago—and met and conferred with Avidbots about hit counts a week ago on May 27. Avidbots agreed to provide hit counts but has not done so and has not responded to Brain's requests for a date certain by which it will do so.

Avidbots's Position:

Custodian and Search Term Limits (Before Cost-Shifting)

Although Avidbots believes the LPR ESI's default limits on custodians and search terms are adequate, Avidbots will agree to Brain's proposal to increase the number of allowed *custodians* to 10, provided that the LPR ESI default limit of 5 *search terms* per custodian without cost shifting remains in place.

As LPR ESI 2.6 recognizes, this type of ESI discovery can be unduly onerous and costly to the producing party. Email and chat software can generate large quantities of information in the ordinary course of business, and the search terms applied could create a very large corpus of data that must be reviewed by the producing party for privilege and relevance before the information is produced. It is for this very reason that LPR ESI 2.6(d) and (e) mandate cost-shifting when a party seeks more than the preset number of custodians or search terms.

Brain's proposal to increase the number of search terms per custodian to 10 without cost-shifting is unduly onerous on the producing party, and double of what LPR ESI 2.6 contemplates. In addition, Brain has not articulated any good reason why 10 search terms are necessary under the facts of this case. Avidbots has already agreed to double the number of custodians to account for there being counterclaims in the suit. But as to search terms, Brain should be judicious and select what it believes are the most necessary terms.

Finally, Brain's assertion that increasing the number of search terms could reduce the burden on the producing party is speculative at best, since Brain does not purport to place any additional restrictions on those terms. Indeed, as the issue discussed below shows, Brain has already demonstrated that not only does it not intend to seek narrow search terms, it intends to do the very opposite, improperly *broadening* the scope of individual "terms" into effectively many discrete terms.

Brain's Premature Request for Hit Counts on Its Improper ESI Search Strings

After 6:00 pm CT the day before this filing, Brain for the first time informed Avidbots that it planned on seeking certain relief from this Court in this filing. Specifically, Brain indicated for the first time that it would seek a ruling that Avidbots provide "hit counts" on its existing ESI search terms within 7 days of this Thursday's hearing. For the reasons Avidbots previously explained to Brain, and as

explained below, the relief Brain seeks is both premature and improper. Avidbots therefore objects to Brain's improper motion and opposes the relief that Brain seeks.

First, as Avidbots explained to Brain, three of Brain's five proposed ESI search strings are overbroad. (*See* Avidbots (Jalali) 5/19/25 email to Brain.) Each search string is anchored on a very common term in Avidbots's line of business — "robot*," "object," and "*map" — which qualify as improper "indiscriminate terms" under the local rules. Each search string then conjoins that indiscriminate term (using AND) with a long list of disjunctive terms (using OR).[5] Brain is effectively seeking to use these indiscriminate terms coupled with long chains of disjunctives to greatly increase the total number of searches it gets. (To illustrate, one can imagine a search string like "the AND (cheese OR bread OR wine)" to turn

[5] Brain's improper search strings in full are:

2. robot* AND (ICE OR RS26 OR Minuteman OR RoboScrub OR Tennant OR TNC OR T7AMR OR T380AMR OR T16AMR OR X4ROVR OR Nilfisk OR SC60 OR Softbank OR SBR* OR Whiz OR Dane OR ADT OR Kärcher OR Karcher OR KNA OR AKW OR "Autonomous Delivery Tug" OR obstacle OR AOA OR traject* OR groom* OR shift* OR *following OR exten* OR contract* OR deflect* OR force OR push OR pull OR safe* OR footprint OR "recovery behavior" OR "control point" OR path* OR detour*)

3. object AND (detect* OR ident* OR determin* OR sense OR contrast* OR deviat* OR differ* OR contour OR edge OR cliff)

4. *map AND (graph* OR cost* OR origin OR home OR terminate OR optimiz* OR scan* OR node* OR rang*)

one search string effectively into three.) This runs afoul of the local rules, which state:

> Indiscriminate terms, such as the producing company's name or its product name, are inappropriate unless combined with narrowing search criteria that sufficiently reduce the risk of overproduction. A conjunctive combination of multiple words or phrases (e.g., "computer" and "system") narrows the search and shall count as a single search term. A disjunctive combination of multiple words or phrases (e.g., "computer" or "system") broadens the search, and thus each word or phrase shall count as a separate search term unless they are variants of the same word.

Moreover, the relief that Brain seeks is premature and unnecessary, and it is not clear at this time whether Avidbots would technically be able to meet the arbitrary deadline that Brain has set for providing "hit counts." Without waiving its objection to the search strings, *Avidbots already promised to Brain in good faith* that it would provide hit counts on Brain's improper search strings as soon as it could obtain them. (*See* Avidbots (Jalali) 5/21/25 email to Brain.) As Avidbots explained to Brain during the May 21 meet-and-confer call, this is the first time Avidbots has had to search its ESI sources for purposes of litigation, and Avidbots has been diligently working on determining how to run those searches and obtain those numbers. Despite Avidbots's good-faith explanation, however, and with no apparent need for the extreme urgency given the status of the case, Brain on the evening of May 28—only one week later—again demanded the hit counts *within just two days*, by May 30. (*See* Brain (Hughes) 5/28/25 email to Avidbots). Avidbots was not able to meet Brain's new arbitrary deadline for the very same

reasons it already explained to Brain; it was still investigating how to get the hit counts on the different sources of ESI in the company. Avidbots's investigation into the ESI collection is continuing, and as such it cannot commit at this time that it would even be able to meet Brain's new demand for a 7-day deadline. Avidbots will be prepared to share any update on that investigation at Thursday's hearing.

Avidbots respectfully requests that Avidbots be allowed to complete its investigation into how to obtain hit counts on its ESI sources. Avidbots also continues to object to Brain's improper search terms. Regardless of what the hit counts on its search strings may be, Brain should not be allowed to multiply the allowed number of search requests using improper strings. Should Brain continue to believe its search strings are proper, it will be free to raise a discovery motion by proper means.

UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois − CM/ECF NextGen 1.8 (rev. 1.8.3)
Eastern Division

Brain Corporation

Plaintiff,

v.

Case No.: 1:24−cv−12569
Honorable Jeremy C. Daniel

Avidbots Corporation, et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Monday, June 9, 2025:

MINUTE entry before the Honorable M. David Weisman: The 6/6/25 minute entry is amended as follows: The sentence stating, "The Court adopts the parties' agreed schedule up to the filing of the Joint Claim Construction Chart on 5/20/25, as set forth in Revised Exhibit 1 (Dkt. # 40−1.)" is corrected to state, "The Court adopts the parties' agreed schedule up to the filing of the Joint Claim Construction Chart on 5/20/26, as set forth in Revised Exhibit 1. (Dkt. # 40−1.)" Mailed notice (ao,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

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