

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AVIDBOTS CORP. and AVIDBOTS USA CORP.,
Petitioners,

v.

BRAIN CORPORATION,
Patent Owner.

Case No. IPR2025-01602
U.S. Patent No. 10,274,325

PETITIONER'S BRIEF OPPOSING DISCRETIONARY DENIAL

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TABLE OF CONTENTS

PETITIONERS' EXHIBIT LIST	iii
TABLE OF ABBREVIATIONS	vii
I. BACKGROUND	2
II. ARGUMENT	5
A. Brain Cannot Have Settled Expectations in a Patent After Deliberately Withholding Fees Owed to the Office Since the Filing of the Patent's Parent Application.....	5
B. Each Fintiv Factor is Either Neutral or Weighs Towards Institution.....	11
1. A Stay is Likely to Issue if the Petition is Instituted	11
2. The Court Declined to Set a Trial Date, and a Trial is Likely to Occur More Than One Year After a Final Written Decision	12
3. Lack of Investment in the Litigation Weighs Towards Institution.....	13
4. Lack of Overlap Between Cases Weighs Towards Institution	15
5. The Identity of the Parties is Neutral Relative to Institution.....	16
6. Other Considerations Weigh Towards Institution	16
III. CONCLUSION	22

PETITIONERS' EXHIBIT LIST

Exhibit	Description
1001	U.S. Patent No. 10,274,325
1002	File History for U.S. Patent No. 10,274,325 (Appl. No. 15/340,807)
1003	Declaration of Dr. Karam
1004	Edwin B. Olson, et al, Robust and Efficient Robotic Mapping, Massachusetts Institute of Technology, June 2008. ("Olson")
1005	Stachniss et al., <i>Springer Handbook of Robotics, Chapter 46: Simultaneous Localization and Mapping</i> , (Bruno Siciliano and Oussama Khatib eds., Springer 2d ed., 2016). ("Stachniss")
1006	U.S. Patent No. 9,538,892 ("Fong")
1007	U.S. Patent No. 9,020,637 ("Schnittman")
1008	Declaration of Dr. Mary K. Bolin
1009	Smith, Randall C., and Cheeseman, Peter. "On the representation and estimation of spatial uncertainty." <i>The International Journal of Robotics Research</i> 5.4 (1986): 56-58.
1010	Chatila, Raja, and Laumond, J. "Position referencing and consistent world modeling for mobile robots." <i>Proceedings of the 1985 IEEE International Conference on Robotics and Automation</i> . (1985): 138-45. Vol. 2. IEEE, 1985.
1011	Durrant-Whyte, Hugh, and Bailey, Tim. "Simultaneous localization and mapping: part I." <i>IEEE robotics & Automation</i> (1985): 138-45. Vol. 2. IEEE, 1895.
1012	Davison, Andrew J., and Murray, David W. "Mobile robot localization using active vision." <i>Proceedings of the 5th European Conference on Computer Vision</i> . Berlin, Heidelberg: Springer Berlin Heidelberg, (1998):809-825
1013	Lu, Feng, and Milios, Evangelos. "Globally consistent range scan alignment for environment mapping." <i>Autonomous robots</i> 4 (1997): 333-349
1014	Grisetti, Giorgio, et al. "A tutorial on graph-based SLAM." <i>IEEE Intelligent Transportation Systems Magazine</i> 2.4 (2011): 31-43.

Exhibit	Description
1015	Henry, Peter, et al. “RGB-D mapping: Using Kinect-style depth cameras for dense 3D modeling of indoor environments.” <i>The International Journal of Robotics Research</i> 31.5 (2012): 647-663.
1016	<i>Springer Handbook of Robotics</i> , (Bruno Siciliano and Oussama Khatib eds., Springer 2d ed., 2016).
1017	Macenski, Steve, and Jambrecic, Ivona. “SLAM Toolbox: SLAM for the dynamic world.” <i>Journal of Open Source Software</i> 6.61 (2021): 2783.
1018	Grisetti, Giorgio, Stachniss, Cyrill, and Burgard, Wolfram, <i>gmapping</i> , OpenSlam.org, https://openslamorg.github.io/gmapping.html (last visited Oct. 16, 2025).
1019	Grisetti, Giorgio, Stachniss, Cyrill, and Burgard, Wolfram. “Improving Grid-based SLAM with Rao-Blackwellized Particle Filters by Adaptive Proposals and Selective Resampling,” <i>Proceedings of the 2005 IEEE International Conference on Robotics and Automation (ICRA)</i> . (2005)2432-37.
1020	Grisetti, Giorgio, Stachniss, Cyrill, and Burgard, Wolfram. “Improved Techniques for Grid Mapping with Rao-Blackwellized Particule Filters.” <i>IEEE Transactions on Robotics</i> , 23.1 (2007):34-36.
1021	Tully Foote, <i>Community Metrics Report: July 2015</i> , ROS.org http://download.ros.org/downloads/metrics/metrics-report-2015-07.pdf (last visited Oct. 16, 2025).
1022	Plaintiff Brain Corporaiton’s [sic] Objections and Responses to Defendant’s First Set of Interrogatories (Nos. 1-9) (Redacted Excerpt)
1023	Gutmann, J-S., and Kurt Konolige. “Incremental mapping of large cyclic environments.” <i>Proceedings of the 1999 IEEE International Symposium on Computational Intelligence in Robotics and Automation. (CIRA)</i> . (1999):318-325.
1024	Dr. Lina J. Karam, <i>Curriculum Vitae</i> .
1025	<i>Joint Development and License Agreement</i> , Brain Corp and Third-Party OEM (BRAIN_0004188) (sealed)
1026	<i>14/208,709 Documents & transaction history</i> , Patent Center – USPTO (last visited Mar. 2, 2026)

*Brief Opposing Discretionary Denial
of IPR of U.S. Patent No. 10,274,325*

Exhibit	Description
1027	<i>Brain Corp. v. Avidbots Corp. et al.</i> , Case No. 1:24-cv-12569, Dkt. 126 (N.D. Ill. Jan. 21, 2026)
1028	Plaintiff Brain Corporation's First Supplemental Objections and Response to Defendants' Third Set of Interrogatories (No. 20) (redacted) (Nov. 21, 2025) (sealed)
1029	<i>Brain Corp. v. Avidbots Corp. et al.</i> , Case No. 1:24-cv-12569, Dkt. 138 (N.D. Ill. Feb. 4, 2026)
1030	<i>Janitorial Equipment and Supplies</i> , Freedonia (BRAIN_0228245) (sealed)
1031	Brain Email (BRAIN_0228244) (sealed)
1032	<i>Joint Development and License Agreement</i> , Brain Corp and Third-Party OEM (BRAIN_0003580) (sealed)
1033	<i>Joint Development and License Agreement</i> , Brain Corp and Third-Party OEM (BRAIN_0316136) (sealed)
1034	<i>Joint Development and License Agreement</i> , Brain Corp and Third-Party OEM (BRAIN_0003708) (sealed)
1035	<i>Brain Corp. v. Avidbots Corp. et al.</i> , Case No. 1:24-cv-12569, Dkt. 145 (N.D. Ill. Feb. 17, 2026)
1036	Board Meeting (BRAIN_0389368) (sealed)
1037	Brain Email (BRAIN_0013142) (sealed)
1038	<i>Docket Sheets Search: Courts: Illinois (all districts), Types of Document: Motion to Stay Pending Inter Partes Review, Results of Motion: Granted</i> , DOCKETNAVIGATOR (Feb. 9, 2026)
1039	<i>Docket Sheets Search: Courts: Illinois (all districts), Types of Document: Motion to Stay Pending Inter Partes Review, Results of Motion: Denied, Denied in part granted in part, Denied without prejudice</i> , DOCKETNAVIGATOR (Feb. 9, 2026)
1040	<i>Brain Corp. v. Avidbots Corp. et al.</i> , Case No. 1:24-cv-12569, Dkt. 40 (N.D. Ill. Jun. 5, 2025)
1041	<i>Time to Milestones: Courts Illinois Northern District (all districts), Case Filing Date: On or After Jan. 1st, 2008</i> , DOCKETNAVIGATOR (Feb. 1, 2026)

Exhibit	Description
1042	Defendant Avidbots's Final Invalidity Contentions (excerpted and redacted to remove indication that it contains HC-AEO because the excerpted version does not contain HC-AEO information) (Jan. 14, 2026)
1043	Appl. No. 15/340,807, "Notification of loss of small entity status" (Feb. 25, 2026)
1044	Appl. No. 15/341,612, "Notification of loss of small entity status" (Feb. 25, 2026)
1045	Appl. No. 15/845,891, "Notification of loss of small entity status" (Feb. 25, 2026)
1046	Appl. No. 16/011,499, "Notification of loss of small entity status" (Feb. 25, 2026)
1047	Appl. No. 16/356,160, "Notification of loss of small entity status" (Feb. 25, 2026)
1048	Avidbots's List of Proposed Claim Terms for Construction (Feb. 25, 2026)
1049	Brain's List of Proposed Claim Terms for Construction (Feb. 25, 2026)

TABLE OF ABBREVIATIONS

Abbreviation	Term
'807 Application	U.S. Patent Application No. 15/340,807
'325 Patent	U.S. Patent No. 10,274,325
Board	Patent Trial and Appeal Board
Challenged Claims	Claims 1–18 of U.S. Patent No. 10,274,325
Ex.	Exhibit
Fig.	Figure
IPR	<i>inter partes</i> review
Litigation	<i>Brain Corp. v. Avidbots Corp. et al.</i> , Case No. 1:24-cv-12569 (N.D. Ill.)
Patent Office	United States Patent and Trademark Office
Petitioners or Avidbots	Avidbots Corp. and Avidbots USA Corp.
POSITA	person of ordinary skill in the art

The Board should not exercise its discretion to deny this petition because the Patent Owner made deliberate, false, and unrepaired assertions of small entity status from the date of the application to the present. Given that the Patent Owner obtained the patent by paying reduced fees when it was not entitled to do so and given that Patent Owner made numerous false claims to small entity status, the equities do not favor a discretionary denial. Those who seek equity must come with clean hands. Patent Owner's request for the Board to exercise its discretion requires that it has played by all of the rules the Patent Office imposed and it clearly failed to do so. Holding otherwise would penalize those that have.

Moreover, the '325 patent is a weak patent that was allowed by Examiner error. The IPR process was designed to address this type of weak patent. The patent is directed to a robot that can travel within an environment and generate a map of the environment. Ex1001, Abstract, Figs. 6c, 7a, 12. However the alleged advancements are not new. The very claim limitation that was added to independent claims 8 and 15 from independent claim 1 to obtain allowance—i.e., constraining the graph between a start location and an end location, the start location and the end location being at a substantially similar location in the environment – was a standard feature (“loop closing”) of robotic mapping algorithms before the time of filing. Ex1003, ¶¶38–45; Ex1004–Ex1007; Ex1009–Ex1021; Ex2023. The Examiner's failure to recognize standard well-known features in the art at the time was in clear

error. Indeed the USPTO erred from the outset by assigning the Application to a catch-all Art Unit 3664 responsible for “generic control systems” and “data processing,” rather than to the specialized Art Unit 3661 responsible for “Vehicles, Navigation, and Relative Location.” Accordingly, the Examiner, a member of an inappropriate Art Unit, was unfamiliar with well-known techniques in the art and erred by failing to recognize that the limitation only captured well-known techniques in this art.

The other *Fintiv* factors also favor institution and weigh against denial on discretionary grounds. The Court presiding over the Litigation has not yet set a trial date. Any trial is likely to occur more than one year after a Final Written Decision. The district court Litigation is at a stage where institution will result in an efficient outcome for all parties and for the court, because institution would come before claim construction (and thus before amended contentions and re-opening of discovery in view of claim construction under the local rules of the Northern District of Illinois where the Litigation is pending) and before opening expert reports. A stay is therefore likely to promote efficient resolution of the case.

Brain’s claims of infringement are without merit, and its patents claim features that were well-known in the art.

I. BACKGROUND

Brain sued Avidbots in the Northern District of Illinois on December 6, 2024 (the “Litigation”). Brain alleges that Avidbots’s floor-cleaning robots infringe five

patents including the '325 patent, whose parent application was filed on November 2, 2016, and which issued on August 13, 2019.

The '325 patent is directed to generating a map of the environment from a graph of nodes where sensor data from the robot is associated with each node and “scan matching” is performed between sensor data taken from different nodes to create extended scan groups and the graph is constrained to start and end at a similar location. Pet., 1. The application for the '325 patent was reviewed by a catch all art unit, Art Unit 3664, responsible for Class 700, “Data Processing: Generic Control Systems or Specific Applications.” See Ex1002, 212. Despite an initial rejection based on anticipation by U.S. Patent Publ. No. 2012/0121161 (“Eade”) (Ex1002, 212–16), the examiner was not familiar with well-known techniques in the art and erroneously allowed the claims on Dec. 18, 2018 after they were amended to include techniques known in the art, such as constraining the graph between a similar start and end location (“loop closing”). Ex.1002, 269–72, 280; Ex1003, ¶¶38–45.

Avidbots is a robotics company that first sold a floor-cleaning robot, the ARS-2, on October 23, 2015, more than one year before the effective filing date of the '325 patent, and more than one year before Brain sold its first robot. Ex1027, 30; Ex1001, 1. Avidbots filed counterclaims against Brain for infringement of five of Avidbots patents on May 19, 2025. Four of the five Avidbots patents claim priority

to a Provisional Application filed April 24, 2015, more than one year before the effective filing date of the '325 patent.

Brain is a software company that licenses its patents and its software to floor-cleaner manufacturers (“OEMs”) to enable semi-autonomous floor cleaning. Ex2003, ¶14. Such OEMs include significant global companies and equipment manufacturers, such as Minuteman (a part of the German Hako group), Tennant, SoftBank Robotics, Nilfisk, and Kärcher. Ex1029, 4. Brain claims that it has applied for and received 240 patents, and that it marks each of the floor-cleaning robots it makes with its OEMs with about 100 Brain patents, and each including the '325 patent. Ex2003, ¶18; Ex2017. [REDACTED]

[REDACTED]

[REDACTED]

Brain signed this agreement days before it filed the '807 Application (which issued as the '325 patent) and falsely paid the filing fee based on a claim to small entity status. Ex1001, 1; Ex1043, 1–2. Brain has continued to pay small entity fees through August 2, 2023, when it paid its 3.5-year maintenance fee. Ex1043. Similarly, Brain claimed small entity status for each of the other Asserted Patents (recently paying a 7.5-year maintenance fee associated with Patent No. 10,000,780 on December 9, 2025), yet it is not entitled to do so and has not been entitled to do so for nearly a decade at least. Brain filed a notice of loss of small entity status with

respect to the five patents it asserts in the Litigation only *after* Avidbots brought Brain's misconduct to the Office's attention. And yet Brain *still* claims small entity status for the other approximately 95 patents with which it marks its inventions. This type of extensive fraud on the Patent Office should not be encouraged by awarding this Patent Owner a Discretionary Denial.

II. ARGUMENT

A. Brain Cannot Have Settled Expectations in a Patent After Deliberately Withholding Fees Owed to the Office Since the Filing of the Patent's Parent Application

Brain deliberately and falsely claimed small entity status from the day it first submitted the Parent Application to the '325 patent, through its most recent maintenance fee payment on May 1, 2023. Ex1037. Brain has not been eligible for Small Entity status since at least October 25, 2016, just days before it submitted the Parent Application to the '325 patent, when it licensed its patent applications, patents and technology to Minuteman International. [REDACTED]; Ex1029, 22. Brain, its CEO, and its officers, one of whom was an inventor on the '325 Patent, knew then and knows now that Minuteman has had about 2,000 employees for the duration of the license agreement, from October 25, 2016, to the present. Avidbots brought this to Brain's attention in its January 14, 2026, contentions, and, Brain did not take any action to attempt to cure its false statements or to pay what it owes until after Avidbots raised Brain's misconduct before this Office. Brain cannot have settled

expectations in its patent when it has deliberately withheld from the Office the fees required to be paid to obtain that patent.

Brain cannot deny that it licensed its patents, including the '325 patent, to a non-small entity, and is therefore ineligible for small entity status. Indeed, Brain has taken the position in the Litigation that its agreements with its OEMs include licenses to the Asserted Patents, to include the '325 patent. For example, in its Answer to Avidbots's Amended Counterclaims, it said, "Brain admits that it provides its OEM Partners certain license rights to the Asserted Patents." Ex1029,

22. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] According to its patent marking website, Brain considers the

Minuteman RoboScrub to be an embodying product of the '325 patent, and indeed of each of the other Asserted Patents. Ex2017. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Indeed, Brain touted its relationship with Minuteman in a press release dated October 18, 2016, and described Minuteman as “a wholly owned subsidiary of the Hako Group, a \$750 million multi-national equipment manufacturer.” *Brain Corp’s Artificial Intelligence Software Announced for Use in Minuteman Products* (Oct. 18, 2016), <https://www.braincorp.com/resources/brain-corps-artificial-intelligence-software-announced-for-use-in-minuteman-products-4e948>. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] By “licens[ing] certain rights” in the '325 patent to Minuteman, Brain was no longer qualified to obtain the benefit of the

discounted rates that it paid in the prosecution, issuance, and maintenance of the '325 patent.

[REDACTED]

Brain's conduct in the two months since Avidbots served its invalidity contentions confirms that Brain is deliberately withholding fees even though it

knows that it is not eligible for small-entity discounts. In its Motion for Discretionary Denial of IPR of another patent which Brain asserted against Avidbots, Brain claimed that it is “investigating” whether Brain is eligible for small entity status, and will “promptly” pay what it owes. IPR2025-01602, Paper 8, 17 (Feb. 11, 2026). Brain filed a “Notice of loss of entitlement to small entity status” for each of the patents asserted in the Litigation on February 25, 2026, and authorized the Director to charge the deficiency for each transaction for these patents since November 1, 2016. Ex1043, Ex1044, Ex1045, Ex1046, Ex1047. In these filings, Brain swore that “small entity status is no longer appropriate in this application or patent,” and, by paying fees dating to November 1, 2016, agreed with Avidbots’s position that it has not been entitled to claim small entity fees since that date. *See, e.g.*, Ex1043, 1. Brain has not, however, authorized the Director to reclaim Brain’s deficient fees for the approximately 95 other patents with which Brain marks its cleaning robots, even though the same licenses apply with equal force to those patents. *See, e.g.*, Ex2017 (marking each cleaning robot with approximately 100 patents, including, *e.g.*, Patent No. 9,987,743); Ex1026, 1 (showing that Brain paid small entity fees during the prosecution of Patent No. 9,987,743 through its recent 7.5-year maintenance payment, and has not filed a notice of loss of entitlement to small entity status for that patent). Thus, even though Brain acknowledges that its licenses with its OEMs requires it to pay the full fee for

prosecution of patents necessary to operate its floor cleaners since at least November 1, 2016, it continues to refuse to pay the full fee associated with ***each*** of the approximately 100 patents that are the subject of its agreements with its OEMs.

Brain has systematically, deliberately, and falsely claimed small entity status for its entire portfolio for a decade. Brain authorized payment of the \$24,839 deficiency associated with the patents asserted in the Litigation only after Avidbots notified the Office regarding these specific patents, weeks after Brain itself had affirmative notice. These patents represent only 5% of the issued patents with which Brain marks its floor-cleaning robots; the remaining 95% are also covered by the same licenses. Brain has not taken any steps to repair the deficiencies associated with these other patents. Brain therefore continues to withhold Office hundreds of thousands of dollars in fees from the Office. “When entities ineligible for the small or micro entity status fee reductions pay fees in an unentitled reduced amount, they take improper advantage of the fees paid by other entities.” *Statutory Penalties for False Assertions or Certifications of Small and Micro Entity Status*, 1536 OG 204, at *1–2 (Jul. 8, 2025). Having knowingly withheld fees at expense of the Office and of other entities, Brain cannot now have settled expectations in the validity of its patents.

B. Each *Fintiv* Factor is Either Neutral or Weighs Towards Institution

1. A Stay is Likely to Issue if the Petition is Instituted

In the Northern District of Illinois, where the Litigation is pending, courts commonly grant stays after institution is granted, after denying a pre-institution motion in the first instance. *See, e.g., Medline Industries, Inc. v. CR Bard, Inc.*, 1-17-cv-07216 (N.D. Ill. Sep. 10, 2019); *Ellenby Technologies, Inc. v. FireKing Security Group et al*, 1-20-cv-02253 (N.D. Ill. Sep. 1, 2021). The Local Patent Rules require that a defendant file a motion for a stay pending IPR prior to service of final contentions, or else waive the right to a stay. Ex2005, 11. That first motion may be denied without prejudice, in view of the uncertainty of institution, where a subsequent motion after institution may be granted. *Compare, e.g., Medline Industries, Inc. v. CR Bard, Inc.*, 1-17-cv-07216 (N.D. Ill. Dec. 17, 2018); *Medline Industries, Inc. v. CR Bard, Inc.*, 1-17-cv-07216 (N.D. Ill. Sep. 10, 2019). In the Litigation, the Avidbots moved for a stay and the Court denied Avidbots's motion, *without* prejudice. Ex2023. Moreover, DocketNavigator shows that, including denials of stay later granted (as in *Medline*) the Northern District of Illinois grants motions to stay pending IPR at a rate of 72%. Ex1039 (showing 94 grants of motions to stay); Ex1040 (showing 36 denials of motions to stay). In view of the Local Rules and precedent, the likelihood of a stay weighs towards institution.

2. The Court Declined to Set a Trial Date, and a Trial is Likely to Occur More Than One Year After a Final Written Decision

In the Litigation, the Court declined Brain's request that the Court set a date for the trial, and indeed for any date past submission of the parties' claim construction briefs on May 20, 2026, rejecting Brain's "estimate[d]" calendar. Ex1041; Mot. 10. In doing so, the Court agreed with Avidbots's argument it is unknown when a claim construction order will issue and whether fact discovery will need to be reopened based on that order. Ex2006, 13. Accordingly, there is no scheduled trial date.

Moreover, any trial is likely to occur after a Final Written Decision (FWD) in the IPR, which will issue on or before May 19, 2027. According to DocketNavigator, the median time to claim construction from the date of filing in the Northern District of Illinois is 26 months, and the median time to a jury trial is 50 months, two years after claim construction. Ex1041. Thus, even if the Court rules on claim construction within a few weeks of a June 17, 2026, hearing, as Brain apparently assumes (Mot., 8–10), District statistics indicate a trial is still not likely to occur until July of 2028, more than one year after the FWD. Ex1041. Thus, this factor weighs towards institution.

3. Lack of Investment in the Litigation Weighs Towards Institution

The Litigation is still in its opening phases and will not have advanced substantially by the time of institution. Claim construction briefing is not scheduled to complete until May 20, after the May 19 date by which the Board is expected to make an institution decision.

Further, the Northern District of Illinois Local Rules allow contentions to be amended and discovery reopened in view of a claim construction different than that sought by either party. Ex2005, 11. Because the Litigation consists of five Brain patents asserted against Avidbots, and five Avidbots patents asserted against Brain, the Court has agreed to hear double the number of disputed claim terms as would normally be permitted. Ex2006, 3; Ex1041. Given the complexity of the case, it is likely that at least one ruling on a disputed term will cause parties' Final Contentions to be amended and discovery to be reopened.

Further, the deadline for serving opening expert reports is keyed off the later of the Court's claim construction ruling or the close of discovery after the claim construction ruling. Thus, opening expert reports are likely to be due months after an institution decision in this IPR, at the earliest.

The statistics Brain cites reinforce that, contrary to Brain's assertion, parties have not "completed the bulk of discovery," when considered in context of the parties' discovery agreement. Mot., 11. For example, Brain says that parties have

together served “40 interrogatories,” but does not mention that the parties have a limit of 40 interrogatories *per side*, for a total of 80 interrogatories. Mot., 11; Ex2006, 3.¹ Similarly, Brain says that parties have collectively taken “over 65 hours of depositions,” but does not mention that parties have a limit of 100 hours per side, for a total of 200 hours. Mot., 11; Ex2006, 3.²

In short, document and witness discovery is at a midpoint, claim construction has not yet occurred, and expert discovery is not yet underway. Institution would allow the Court to pause the Litigation, including claim construction and further discovery, while specialized Patent Judges consider the validity of Brain’s patents.

¹ In its Motion requesting Discretionary Denial of another petition, Brain incorrectly predicted that the Litigation Court was likely to reject Avidbots’s request for additional depositions. IPR2025-1602, Paper 8, 11 n.1 (Feb. 11, 2026). Instead, the Court permitted Avidbots to serve additional 30(b)(6) topics and seek additional testimony. Ex1035.

² Brain also references “significant third-party discovery,” but did not explain that most third-party discovery (including all depositions) related to Avidbots’s claims against Brain for infringement of Avidbots’s patents, not Brain’s patents or claims. Mot., 5, 11.

The lack of investment of the parties in the Litigation therefore weighs towards institution.

4. Lack of Overlap Between Cases Weighs Towards Institution

To the extent that there is any overlap between the Petition and the Litigation, a Final Written Decision is likely to dispose of a significant portion of the case. In its January 14, 2026 Contentions, Avidbots raises four prior art invalidity grounds against the '325 patent, three of which are identical to grounds presented in the Petition. Ex1042, 11. A Final Written Decision would therefore moot three of the four prior-art invalidity grounds asserted against the '325 patent. 35 U.S.C. § 315(e)(2).

The fourth prior-art invalidity ground concerns Avidbots's own system prior art. Avidbots brought its products to market before Brain filed the parent Application to the '325 patent, yet the features Brain now accuses of infringing its '325 patent were present in Avidbots's own prior art systems. Ex1042, 2 n.6. Avidbots asserts its own system prior art in combination with several background publications raised in the Petition to give context to its systems and thereby show that the '325 patent would have been obvious in view of Avidbots's systems and what was well-known in the prior art. This ground therefore does not overlap substantially with the Petition.

Further, Avidbots challenges all 18 claims of the '325 patent in its Petition, whereas Brain has only asserted that Avidbots infringes four claims (1, 5, and 14). Pet., 2–3. The validity of the other 15 claims are not within the scope of the Litigation.

The lack of overlap between the IPR and the Litigation therefore weighs towards institution.

5. The Identity of the Parties is Neutral Relative to Institution

The Office routinely grants institution where parties are the same between the Litigation and the IPR, including under the Discretionary Review process. *See, e.g., Terumo BCT, Inc. v. Haemonetics Corp.*, IPR2025-01374, Paper 13 (Dec. 11, 2025). Brain has not pointed to any other factor related to the identity of the parties, such as “a prior verdict of no invalidity” in the Litigation, that would weigh against institution—indeed it cannot. *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 14 n.27 (Mar. 20, 2020 (*citing Stryker Corp. v. KFx Med., LLC*, IPR2019-00817, Paper 10 (Sep. 16, 2019))). This factor is therefore neutral relative to institution.

6. Other Considerations Weigh Towards Institution

Brain deliberately withheld payment of fees from the Patent Office for nearly ten years during the prosecution and maintenance of the '325 patent. § III.A, *supra*. In doing so, Brain took “improper advantage of the fees paid by other entities.” *Statutory Penalties for False Assertions or Certifications of Small and Micro Entity*

Status, 1536 OG 204, at *1 (Jul. 8, 2025). Other considerations therefore weigh towards institution on this basis alone.

Each of the other considerations Brain cites weigh towards institution.

For example, Brain argues that it has settled expectations in the challenged patent because it issued just over six years prior to filing the Petition, but neglects to inform the Office that it has withheld fees from the Office since 2016. Mot., 15.

Settled expectations therefore weigh towards institution, even in view of the parties' competitive relationship.

The Director should not credit Brain’s bare assertion that the grounds are weak for failure to point out disclosure of “‘scan matching on extended scan groups’ where the ‘extended scan groups [are][sic] determined in-part on at least two or more nodes of the plurality of nodes.” Mot., 3, 18. Indeed, the Petition distinctly points out where this limitation may be found in the asserted grounds. *See, e.g.*, Pet., 21-24, 68-70. Brain reserves the remainder of its argument regarding the merits of the Petition to its POPR, and Avidbots likewise reserves the right to respond to the POPR. The strength of the Petition therefore weights towards institution.

Claim Construction Positions Are Not Inconsistent

Indefiniteness: Avidbots is not seeking a construction of indefiniteness for any claim term among the patents that Brain asserted in the Litigation, contrary to Brain’s assertion. Ex1048, 1–2; Mot., 17. To be clear, at the claim construction stage of proceedings in the district court, Avidbots is not arguing that any claim terms are indefinite.

In another IPR filed by Avidbots challenging a Brain patent, in its Patent Owner Preliminary Response, Brain argues that Avidbots is still asserting indefiniteness in the district court through its invalidity contentions. IPR2025-01601, Paper No. 15 at 7-10. Specifically, Brain explained that it is Brain’s view that indefiniteness must be raised at claim construction and confirmed that Avidbots did not raise indefiniteness for that patent at claim construction. *Id.* at 10. Moreover,

it is Brain's position that none of the terms of its patents are indefinite. *Id.* But, it argues that because Avidbots pled indefiniteness in invalidity contentions served before claim construction, that Avidbots is taking inconsistent positions with the positions taken here in this IPR. But that is not correct. In the district court, at claim construction, Avidbots did not contend that claims in the '325 Patent were indefinite. Here, in this IPR, Avidbots did not contend that claims in the '325 Patent were indefinite. Thus, the positions taken on claim construction related to indefiniteness are the same. An invalidity argument based on indefiniteness is not the same as a claim construction position that the claim should be construed to be indefinite.

Claim construction: Parties exchanged proposed claim terms on February 25, 2026. For the '325 Patent, Avidbots proposes that the preamble for independent claims 1, 5, and 14 are limiting, at least because it provides antecedent basis for the limitations of the claims. Ex1048, 1. The Petition shows that the references in the proposed Grounds meet this limitation and stated in the petition that it was presenting evidence in the event that the term is found to be limiting. Pet., 16, 40-41, 62, 80. Thus, Avidbot's position on the preamble in the IPR is consistent with the position it is taking in the district court.

For the '325 Patent, Avidbots also proposes constructions for the terms "graph," "node," "range," and "home locator" for clarity. Ex1048, 1-2. On the deadline for exchanging terms for construction, Brain did not identify any terms

from its '325 Patent for construction and thus, its position is that all terms should be given their plain and ordinary meaning. Ex1049. The petition maintains and supports “the Challenged Claims would have been anticipated and/or obvious under any reasonable construction.” Pet., 6. Avidbots’s proposed constructions are reasonable and the Grounds demonstrate invalidity under those constructions or the plain and ordinary meaning constructions proposed by Brain. Ex1048, 1–2. There is therefore no inconsistency between the Petition and the Avidbots’s position in the Litigation, and this consideration likewise weighs towards institution.

The district court will not be a more efficient forum to resolve the parties’ dispute concerning the validity of the '325 patent. The PTAB is an expert forum experienced in adjudicating patent validity in a “streamlined administrative proceeding.” *Qualcomm Inc. v. Apple Inc.*, 24 F.4th 1367, 1376 (Fed. Cir. 2022). Brain’s argument that the PTAB will not be able to evaluate the credibility of Petitioner’s expert declarants should be afforded little weight, in view of the PTAB’s long experience adjudicating such disputes. Similarly, the Director should not credit Brain’s assertion that adjudication will “involve detailed discussion of objective indicia of nonobviousness,” where the Brain has not presented any evidence of such indicia with respect to any particular claim, whether here or in the Litigation. Pet., 113. Furthermore, consideration of all claims of the '325 patent at once before a panel of experts will be more efficient than piecemeal litigation from multiple

defendants over the remaining lifespan of the '325 patent. Efficiency therefore weighs towards institution.

Brain argues that compelling economic or national security interests warrant denial because Avidbots is based in Canada, but Brain did not identify any evidence that floor-cleaning robots are a matter of national concern, nor any authority showing that the IPR process is meant to discriminate against foreign Petitioners. Indeed, the Patent Office has recently instituted several Petitions from foreign companies. *See, e.g., Samsung Elecs. Co., Ltd. v. Wilus Inst. of Standards and Tech. Inc.*, IPR2025-00988 Paper 15 (Feb. 6, 2026). Moreover, to the extent that Brain claims foreign manufacture and importation is relevant to discretionary denial, Brain neglected to inform the Director that it licenses its patents to SoftBank, a large foreign company, for the Whiz, which is manufactured abroad and imported into the United States. Compelling economic or national security interests therefore weigh towards institution.

Finally, Avidbots denies Brain's baseless accusation that it "engineered the timing of its IPR petition to obtain the benefit of duplicative challenges." Mot., 20. Avidbots filed the Petition when it was ready and filed for a stay in District Court (which Brain opposed) to avoid duplicative proceedings. Should institution be granted, Avidbots will again seek a stay to avoid duplicative proceedings. *See* § III.B.1.

Accordingly, each additional consideration weighs toward institution and against discretionary denial.

III. CONCLUSION

Avidbots respectfully requests that the Director refer the Petition to a panel of the Board for a preliminary review of the merits.

*Brief Opposing Discretionary Denial
of IPR of U.S. Patent No. 10,274,325*

DATED: March 11, 2026

Respectfully Submitted,

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that a complete copy of Petitioner's Brief Opposing Discretionary Denial was served on the Patent Owner via email to the following addresses of record as indicated in its Mandatory Notices:

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