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ATTORNEYS FOR DEFENDANTS

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

ABC IP, LLC, a Delaware limited liability
company, and RARE BREED TRIGGERS,
INC., a Texas Corporation,

Plaintiffs,

vs.

PEAK TACTICAL, LLC, d/b/a
PARTISAN TRIGGERS, a Wyoming
limited liability company, and NICHOLAS
NORTON, an individual,

Defendants.

Civil Action No. 2:26-cv-00018-KHR

**DEFENDANTS' RESPONSE IN OPPOSITION TO PLAINTIFFS'
MOTION FOR EXPEDITED DISCOVERY**

I. INTRODUCTION

Plaintiffs ABC IP, LLC and Rare Breed Triggers, Inc.’s (together, “Plaintiffs”) motion for expedited discovery (ECF No. 42) (hereinafter, “Motion”) is styled as a request for “limited” expedited discovery but, in reality, is a request for a “do-over:” a second preliminary injunction proceeding based on a new record that Plaintiffs originally chose to forego. To be clear, Plaintiffs proceeded with their original Motion for TRO/PI *on the procedure and record they chose* and raised no issue or objection to the process until they received the Court’s decision. Now, having lost their motion, they have rethought their tactics and want a second bite at the apple, only this time with expedited discovery “to support a renewed motion for preliminary injunction on a full and complete record,” and “specifically to address the evidence the Court said was missing.” (ECF No. 42 at 1–3.) That is not “good cause” discovery under Rule 26(d).

This Court already provided Plaintiffs exactly what they demanded: a prompt, noticed, adversarial preliminary injunction hearing with live testimony and argument. The Court set a schedule requiring service by January 23, Defendants’ response by January 30, and an in-person hearing on February 4. (ECF No. 9.) The parties conferred on time allocation and *jointly proposed* that “three hours (90 minutes per side)” would suffice. (ECF No. 42-4 at 2; *see also* Exhibit B (Hr’g Tr.) 3:20–4:22; ECF No. 42-3.) Plaintiffs then presented five witnesses, three of its own and two of Defendants’ called adversely. (*See generally*, Hr’g Tr., ECF No. 42-3.)

Prior to the hearing Plaintiffs never requested that Defendants bring any witnesses, and when Defendants advised at the outset that their retained technical expert was not present (Hr’g Tr. 5:12–13), Plaintiffs did not request a continuance, additional time, pre-hearing discovery, or any other procedural relief. In short, the procedure and record presented to the Court was the one requested by Plaintiffs, and Plaintiffs never once objected to or raised any issue with the “completeness of the record” until after the Court issued its ruling.

After the hearing, the Court issued a detailed 35-page order denying both a TRO and a preliminary injunction. (ECF No. 39.) The Court did not deny relief on a technicality or a thin record that prevented reasoned decision-making. To the contrary, it addressed each preliminary injunction factor and concluded that *each* weighed against injunctive relief. (*Id.* at 8.) On irreparable harm, the Court found Plaintiffs’ theories lacked evidentiary support and were “conclusory,” “speculative,” and unmoored from actual sales, pricing, market-share, or reputation evidence. (*Id.* at 11–17.) On likelihood of success, the Court found Plaintiffs’ infringement showing could not be evaluated without resolving “material disputes” in claim scope, including “substantially in-battery position.” (*Id.* at 23–25.) The Court further found that Defendants raised a “substantial question of validity” with the patents and that Plaintiffs had not carried their burden to show Defendants’ validity case “lack[ed] substantial merit.” (*Id.* at 26–29.) And the Court held Plaintiffs failed to show likely success on their Lanham Act theory because they did not establish literal falsity or provide evidence that Defendants’ statements misled consumers. (*Id.* at 29–31.).

Plaintiffs’ motion for expedited discovery is best understood for what it is: an attempted reconsideration-by-discovery. Courts treat attempts to revisit interlocutory injunctive rulings with caution, because repeated, emergency re-litigation is antithetical to orderly case management and the strong policy against piecemeal, repetitive injunction proceedings. *See, e.g., Schmeisser GmbH v. AC-Unity d.o.o.*, 2021 U.S. Dist. LEXIS 255447, at *8–9 (D. Wyo. Aug. 23, 2021) (reconsideration is appropriate only for “(1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice,” and it “is not appropriate to revisit issues already addressed or advance arguments that could have been raised in prior briefing”). And courts are particularly skeptical when the “new” material is not truly new, but merely evidence that was always obtainable and simply not pursued

in time. *Id.* at *14–15 (rejecting reconsideration where the purported new evidence was “previously available” and could have been developed earlier).

The Tenth Circuit’s treatment of successive injunction-related requests reflects the same principle: absent a meaningful change in circumstances, evidence, or law, the system does not permit serial re-tries of preliminary injunction relief. *See SEC v. Young*, 121 F.4th 70, 78 (10th Cir. 2024) (noting that successive attempts to modify preliminary injunctive relief are disfavored absent “a change in circumstances, evidence, or law since the prior motion”). Plaintiffs identify no intervening change in law or any evidence that they could not have sought prior to the hearing. What Plaintiffs identify instead is dissatisfaction with their tactical decisions regarding their evidentiary presentation and the ultimate outcome based on those decisions.

Moreover, Plaintiffs’ requested discovery would not address, let alone alter, each of the independent grounds on which the Court denied relief. The Court’s order was not driven by a lack of information uniquely in Defendants’ possession; it was driven by Plaintiffs’ failure to carry their burden with their own evidence and arguments.

In short, Plaintiffs are asking the Court to impose the extraordinary costs of emergency, front-loaded discovery: five depositions, six interrogatories, and six document requests on compressed deadlines, so Plaintiffs can repackage the same preliminary injunction request the Court has already denied. As their counsel put it during conferrals, Plaintiffs want discovery “across the board.” The governing standards do not authorize wide-ranging expedited discovery to correct litigation choices after an adverse ruling. Plaintiffs’ motion should be denied.

II. BACKGROUND

On January 16, 2026, Plaintiffs filed its motion for a temporary restraining order and preliminary injunction (“Motion for TRO/PI”). (ECF Nos. 6–7.) Plaintiffs chose *not* to file a motion for expedited discovery alongside its Motion for TRO/PI, nor did Plaintiffs at any time

prior to the Court's decision make any other formal or informal request for discovery or witnesses. The Court promptly set an expedited schedule, requiring service of the Complaint and motion by January 23, 2026; requiring Defendants' response by January 30, 2026; and setting an in-person hearing "on Plaintiffs' request for a temporary restraining order and preliminary injunction" for February 4, 2026. (ECF No. 39 at 1 (citing ECF No. 9).)

On January 23, the Court (through chambers) requested that the parties confer on "the time required to present each respective argument during the February 4, 2026, Motion Hearing, and the overall time allotment required," and asked counsel to respond with an agreed time frame. (Exhibit A at 6; ECF No. 42-4 at 2.) After conferring, Plaintiffs' counsel reported to the Court on January 26 that the parties conferred and *jointly* "believe that three hours (90 minutes per side) will be sufficient for argument," and asked for guidance on whether the Court intended to hear witnesses at the hearing. (ECF No. 42-4 at 2.) Again, Plaintiffs did not request pre-hearing discovery, an extension of the briefing schedule or the hearing, the presence of any of Defendants' declarants at the hearing, or leave to file a reply brief. Instead, Plaintiffs asked only for procedural guidance on whether witnesses would be called and suggested the time allotment could be revisited if witnesses were expected. (*Id.*) The Court responded the next day, setting the hearing at 9:00 a.m. and allotting "90 minutes per side for the parties to utilize how they deem appropriate." (*Id.*) After the Court confirmed the time allotment agreed to by Plaintiffs and clarified that Plaintiffs could call witnesses, Plaintiffs did not ask for more hearing time or any other change to the schedule.

Consistent with the agreed-to framework, at the outset of the February 4 hearing, the Court reiterated that the hearing was scheduled "for argument and evidence, if necessary," with "90 minutes per side." (Hr'g Tr. 3:19-4:4.) Plaintiffs confirmed they intended to present witnesses, including their corporate witness and two experts, and also indicated they would call Defendants'

witnesses adversely. (Hr’g Tr. 4:8–20.) Defendants disclosed their “may calls” and expressly advised the Court (and Plaintiffs) that Defendants’ retained technical expert, John Nixon, “is not present today.” (Hr’g Tr. 5:2–15.) Plaintiffs did not request a continuance, additional time, or pre-hearing discovery in response, nor had Plaintiffs made any request of Defendants to bring any particular witness to the hearing. Instead, Plaintiffs proceeded on the format they had endorsed.

Plaintiffs then presented their case through live testimony from Mr. DeMonico, Mr. Luettker, and Dr. Warty, and also examined Defendants’ witnesses Mr. Stakes and Mr. Woods. (ECF No. 42-3.) At the close of argument, the Court also accommodated Plaintiffs’ request for a short recess to prepare and present an additional live demonstration and provided Plaintiffs additional time to present argument. (Hr’g Tr. 124:17–125:6.) At the end of the hearing, Plaintiffs raised no issue with the timing or format of the hearing or of any “incompleteness” of the record, nor did they ask for a continuance or for any of the discovery they now seek. Instead, Plaintiffs were content to let the Court consider and render its decision based on the record presented.

In short, Plaintiffs made a deliberate decision to endorse and proceed with the expedited schedule and hearing format that the Court set. (ECF No. 42-4 at 2.) Only after losing did Plaintiffs reconsider its tactical decision and seek discovery that they could have but never previously requested. (ECF No. 42 at 1–3.)

III. ARGUMENT

A. Plaintiffs’ Motion Is an Improper Attempt to Re-Run Their PI Proceeding, Not a Good-Cause Request for Pre-Rule 26(f) Discovery.

Although Plaintiffs style their request as one for “expedited discovery,” they do not seek expedited discovery for accepted purposes—to preserve evidence, identify unknown defendants, or address an imminent evidentiary need that could not reasonably have been addressed earlier. Instead, they seek expedited discovery “in advance of a renewed motion for preliminary

injunction”—relief the Court expressly denied in favor of “proceed[ing] under the status quo while the case proceeds on the merits.” (ECF No. 42 at 1–3, 34–35.) There is no law to support this second-chance procedure. Indeed, Plaintiffs have not cited a single case in which expedited discovery was permitted *after* a preliminary injunction order issued, or to support a second motion for preliminary injunction, and Defendants are aware of none.

Courts treat preliminary injunction “do-overs” with skepticism absent clearly changed circumstances. In *Schmeisser*, the District of Wyoming explained that a motion for reconsideration of a preliminary injunction is an interlocutory request invoking the court’s discretionary authority under Rule 54(b), and that courts may “look to the standard used to review a motion made pursuant to Federal Rule of Civil Procedure 59(e).” 2021 U.S. Dist. LEXIS 255447, at *7–8. The grounds warranting reconsideration are narrow: “(1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice.” *Id.* at *8. And critically, reconsideration “is not appropriate to revisit issues already addressed or advance arguments that could have been raised in prior briefing.” *Id.* Similarly, in *SEC v. Young*, the Tenth Circuit addressed successive efforts to modify preliminary injunctive relief and explained that when a motion is “successive” (raising the same issues or issues that could have been raised earlier), interlocutory review is appropriate only where “there was a change in circumstances, evidence, or law since the prior motion.” 121 F.4th 70 at 78. That principle reflects the “long-established policy against piecemeal” re-litigation of preliminary injunctive issues. *Id.* at 76. Plaintiffs identify no such change here. (ECF No. 42.)

Plaintiffs’ motion seeks precisely what the established case law forbids. Plaintiffs do not identify a change in law. (ECF No. 42.) They do not point to any new evidence that was previously unavailable. Instead, they seek discovery to generate a different record than the one they elected

to proceed upon for the original PI. (*Id.* at 1–3.) Such a request merely “revisit[s] issues already addressed” and attempts to “advance arguments that could have been raised in prior briefing.” *Schmeisser*, 2021 U.S. Dist. LEXIS 255447, at *8. In sum, the controlling principles reflected above counsel strongly against authorizing discovery whose sole purpose is to tee up a second PI absent a meaningful change in law, facts, or evidence. Plaintiffs make no such showing.

B. The Requested Expedited Discovery Would Not Cure the Dispositive Defects the Court Identified.

Even if Plaintiffs could satisfy Rule 26(d)’s “good cause” standard (they cannot), their motion fails for a more basic reason: the requested discovery would not affect the multiple independent grounds on which the Court denied TRO/PI relief. The Court did not deny relief because Plaintiffs lacked access to some key, Defendant-held information; it denied relief because Plaintiffs failed to carry their own burden, especially on irreparable harm, and because the record presented dispositive disputes that expedited discovery would not resolve. (ECF No. 39 at 8, 34–35.) Plaintiffs rely on cases suggesting expedited discovery may be warranted to prepare for an injunction proceeding. (ECF No. 42 at 5–6.) But Plaintiffs were not prevented from requesting discovery, additional time, or a continuance before or at the hearing; they proceeded through a noticed evidentiary hearing under stipulated procedures without seeking any such relief, even after being told Defendants’ technical expert would not appear live. (Hr’g Tr. 4:3–5:24.) Having made that choice, Plaintiffs cannot use Rule 26(d) to obtain a second, accelerated injunction record to relitigate what was already decided.

First, The Court’s irreparable harm analysis turned on Plaintiffs’ lack of affirmative evidence: Plaintiffs’ own sales history, pricing history, market-share and reputation evidence, and concrete support for price erosion and market displacement. (ECF No. 39 at 11–17.) Those subjects are primarily within Plaintiffs’ own possession and control. The Court faulted Plaintiffs for

offering “conclusory” and unsupported assertions rather than evidence tying alleged harms to market facts. (*Id.*) Expedited discovery into Defendants’ files cannot supply Plaintiffs’ missing proof about Plaintiffs’ own sales, pricing, and alleged market effects.

Plaintiffs attempt to shift the focus to Defendants’ ability to satisfy a hypothetical judgment (insurance policies, balance sheets, capitalization). (ECF No. 42 at 5–8.) That puts the cart before the horse and ignores the extent of the Court’s ruling. Collectability concerns presuppose Plaintiffs are likely to suffer harm that insolvency would make irreparable. The Court did not find Plaintiffs had shown a likelihood that Defendants would be incapable of covering a judgment.¹ But in addition, the Court found Plaintiffs had not provided evidence of *their own* likely harm in the absence of an injunction—no evidence of sales data, pricing pressure, lost market share, injured dealer networks, or tarnished reputation. (ECF No. 39 at 11–17.) Expedited discovery into Defendants’ insurance and assets cannot cure Plaintiffs’ threshold failure to show harm they’ll likely suffer, irreparably or otherwise, without an injunction.

Second, Plaintiffs seek CAD files, engineering documents, and depositions to “develop” infringement evidence. But the Court’s infringement ruling was not driven by lack of access to the Disruptor’s design. Plaintiffs presented and demonstrated the product at the hearing. (Hr’g Tr. 125:1–127:15.) The Court denied relief because infringement could not be assessed without resolving a material dispute about claim scope, especially “substantially in-battery position.” Despite Defendants raising this issue in its response brief, Plaintiffs failed to provide any argument or explanation to rebut Defendants’ argument, instead choosing to ignore it. (ECF No. 39 at 23–25 (finding “material disputes exist” regarding claim terms “central to the infringement analysis,”

¹ “In addressing Defendants’ ability to satisfy a judgment, Plaintiffs ignore testimony that Defendants sales will generate “hundreds of millions of dollars” from which a judgment creditor could seek recourse. (Hr’g Tr. at 97:2-7.)

identifying “substantially in-battery position,” and holding the Court “cannot properly compare the asserted claims to the accused device without first construing the meaning and scope”).

No amount of expedited discovery into Defendants’ CAD drawings or internal design documents cures that threshold problem. Claim construction is a legal question for the Court based principally on the intrinsic record, not a factual question answered by a defendant’s files. (*See* ECF No. 39 at 19–25 (citing *Markman* and *O2 Micro*)). Plaintiffs’ proposed discovery therefore targets the wrong “gap”: the gap the Court identified was not “we don’t know what the Disruptor looks like,” but “the Court cannot evaluate infringement until claim scope is determined,” and Plaintiffs failed to give the Court a workable construction to apply. (*Id.* at 23–25.) As noted by the Court, “Neither Plaintiffs nor their expert attempt an express definition of ‘substantially in-battery position.’” (ECF No. 39 at 25.) That omission was Plaintiffs’ choice and failure of advocacy on a legal issue, not something Defendants “possess.”

Third, the Court held Defendants raised a “substantial question” of validity, then found Plaintiffs did not carry their burden to show the defense “lack[ed] substantial merit.” (ECF No. 39 at 26–29.) That outcome did not arise from missing, Defendant-possessed information. Defendants’ invalidity case (as presented in briefing, declarations, and at the hearing) was grounded in publicly-available patents/prior art and related public history—materials Plaintiffs had access to and could have addressed directly. (*Id.* at 27–28 (summarizing Defendants’ obviousness theory grounded in § 103/KSR and prior art including the ’067 Patent and related materials).)

Plaintiffs now propose discovery into Defendants’ “prior art analysis,” “invalidity contentions,” and “missing claim charts.”² (ECF No. 42-2 at 2–3; ECF No. 42-6 at 7 (RFP 1). But

² Plaintiffs seek the “missing claim charts” referenced in Mr. Nixon’s declaration. (ECF No. 42-2 at 2; ECF No. 42-6 at 7.) But the Court’s decision did not turn on those absent exhibits, which

a party’s internal “analysis,” litigation contentions, or work product summaries do not determine patent validity; the publicly-available prior art does. And the Court’s ruling already accounted for the evidentiary record actually presented, finding Defendants’ showing sufficient to raise a substantial question that Plaintiffs failed to rebut. (ECF No. 39 at 28–29.) Plaintiffs’ inability to carry their rebuttal burden is not something that can be fixed by discovery into Defendants’ litigation files. Plaintiffs elicited testimony from their technical expert at the hearing but notably did not present an invalidity rebuttal opinion. That is a Plaintiffs-controlled omission.

* * *

For all these reasons, none of the good cause factors in Plaintiffs’ Motion support expedited discovery. (Mot. at 5-10.) The factor they concede carries “particular weight”—irreparable harm—was not shown at the preliminary injunction hearing and is not shown here. Nor can Plaintiffs claim the time is right for expedited discovery. There is no pending preliminary injunction motion. This request should have been made, if at all, before the hearing, not after it. The requested discovery is neither narrowly drawn nor clear in its purpose. Rather, Plaintiffs seek wide-ranging, “across the board” discovery that they do not and cannot show will alter the multiple independent grounds for denial that the Court identified in its order. And Plaintiffs plainly would impose an undue burden on Defendants, and the Court, by forcing expedited discovery and another round of expedited proceedings that Plaintiffs could have addressed during their first go-around. There is no good cause for emergency discovery

IV. CONCLUSION

Accordingly, the Court should deny Plaintiffs’ Motion.

were inadvertently omitted from Defendants’ filing. The Court ruled on the evidentiary record before it and Plaintiffs’ failure to meet their rebuttal burden. (ECF No. 39 at 26–29.)

Dated: February 27, 2025.

/s/ Timothy P. Getzoff

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jrroeser@hollandhart.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on February 27, 2026, a copy of the foregoing was filed electronically using the CM/ECF system, which will send notification of such filing to counsel of record.

/s/ Timothy P. Getzoff
Timothy P. Getzoff

37144369_v2

EXHIBIT A

From: [Matt Colvin](#)
To: [Timothy Getzoff](#); [Jeffrey S. Pope](#); [Andrew C. Orr](#); [Paul D. Swanson](#)
Cc: [Travis Koch](#); [Ben Christoff](#); [Carl Bruce](#); [Nathan Nicholas](#); [Randy Roeser](#)
Subject: RE: Requested Conferral on Time Allotment for 2/4/26 Hearing 26-CV-18-R
Date: Monday, January 26, 2026 1:09:49 PM
Attachments: [image001.png](#)

External Email

Good suggestion. I'll get this over.

Matt

From: Timothy Getzoff <TGetzoff@hollandhart.com>
Sent: Monday, January 26, 2026 1:01 PM
To: Matt Colvin <colvin@fr.com>; Jeffrey S. Pope <JSPope@hollandhart.com>; Andrew C. Orr <ACOr@hollandhart.com>; Paul D. Swanson <PDSwanson@hollandhart.com>
Cc: Travis Koch <tkoch@kochlawpc.com>; Ben Christoff <christoff@fr.com>; Carl Bruce <Bruce@fr.com>; Nathan Nicholas <nnicholas@kochlawpc.com>; Randy Roeser <JRRoeser@hollandhart.com>
Subject: RE: Requested Conferral on Time Allotment for 2/4/26 Hearing 26-CV-18-R

Thanks Matt, I might add "(90 minutes per side)" so its clear that the 3 hours is a grand total. Okay to send, thanks

Timothy Getzoff

He / Him / His [\(What's this?\)](#)
Partner, Holland & Hart LLP

tgetzoff@hollandhart.com | **T:** (303) 473-2734 | **M:** (720) 323-2354

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From: Matt Colvin <colvin@fr.com>
Sent: Monday, January 26, 2026 11:47 AM
To: Timothy Getzoff <TGetzoff@hollandhart.com>; Jeffrey S. Pope <JSPope@hollandhart.com>; Andrew C. Orr <ACOr@hollandhart.com>; Paul D. Swanson <PDSwanson@hollandhart.com>
Cc: Travis Koch <tkoch@kochlawpc.com>; Ben Christoff <christoff@fr.com>; Carl Bruce <Bruce@fr.com>; Nathan Nicholas <nnicholas@kochlawpc.com>; Randy Roeser <JRRoeser@hollandhart.com>
Subject: RE: Requested Conferral on Time Allotment for 2/4/26 Hearing 26-CV-18-R

External Email

Hi Tim,

Thanks for the call today. Here's a draft email to the court for your edit.

Ms. Harmon,

The parties have conferred and believe that three hours will be sufficient for argument.

There is some confusion on our side as to if the Court would like to hear from witnesses at this hearing since the Court's order (Dkt. No. 9) notes that "counsel should be prepared to present any evidence or argument." We request guidance on this point and note that if the court would like to hear from witnesses then we need to revisit our time allotment.

The parties would be happy to join a conference with the court to discuss the procedure here.

Respectfully,

Matt

From: Timothy Getzoff <TGetzoff@hollandhart.com>
Sent: Monday, January 26, 2026 11:07 AM
To: Matt Colvin <colvin@fr.com>; Jeffrey S. Pope <JSPope@hollandhart.com>; Andrew C. Orr <ACOrri@hollandhart.com>; Paul D. Swanson <PDSwanson@hollandhart.com>
Cc: Travis Koch <tkoch@kochlawpc.com>; Ben Christoff <christoff@fr.com>; Carl Bruce <Bruce@fr.com>; Nathan Nicholas <nnicholas@kochlawpc.com>; Randy Roeser <JRRoeser@hollandhart.com>
Subject: RE: Requested Conferral on Time Allotment for 2/4/26 Hearing 26-CV-18-R

Thanks Matt. I think you're unavailable for the next hour, but I'll send you an invite for 12:30 noon CT. Feel free to adjust as needed, thanks.

Tim

Timothy Getzoff

He / Him / His [\(What's this?\)](#)
Partner, Holland & Hart LLP

tgetzoff@hollandhart.com | T: (303) 473-2734 | M: (720) 323-2354

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From: Matt Colvin <colvin@fr.com>
Sent: Sunday, January 25, 2026 7:36 PM
To: Timothy Getzoff <TGetzoff@hollandhart.com>; Jeffrey S. Pope <JSPope@hollandhart.com>; Andrew C. Orr <ACOrri@hollandhart.com>; Paul D. Swanson <PDSwanson@hollandhart.com>
Cc: Travis Koch <tkoch@kochlawpc.com>; Ben Christoff <christoff@fr.com>; Carl Bruce <Bruce@fr.com>; Nathan Nicholas <nnicholas@kochlawpc.com>; Randy Roeser <JRRoeser@hollandhart.com>
Subject: RE: Requested Conferral on Time Allotment for 2/4/26 Hearing 26-CV-18-R



External Email

Hi Tim,

I see what you're saying about the clerk's email, but the order said that counsel should "be prepared to present any evidence or argument they may have." That means witnesses to me. I think we should jointly ask the court if he wants to hear from witnesses or just attorney argument.

If no witness then I think we can do it in a couple of hours. If we have witnesses, and limit directs to 10 minute chair-warms and then get to cross, I think we can get it done by the end of the day.

I can be available any time tomorrow other than 11-12 CT.

Matt

From: Timothy Getzoff <TGetzoff@hollandhart.com>
Sent: Sunday, January 25, 2026 3:06 PM
To: Matt Colvin <colvin@fr.com>; Jeffrey S. Pope <JSPope@hollandhart.com>; Andrew C. Orr <ACORr@hollandhart.com>; Paul D. Swanson <PDSwanson@hollandhart.com>
Cc: Travis Koch <tkoch@kochlawpc.com>; Ben Christoff <christoff@fr.com>; Carl Bruce <Bruce@fr.com>; Nathan Nicholas <nnicholas@kochlawpc.com>; Randy Roeser <JRRoeser@hollandhart.com>
Subject: RE: Requested Conferral on Time Allotment for 2/4/26 Hearing 26-CV-18-R

Matt,

Following up on your email from Friday afternoon, we currently plan on having three declarations. Even if we limit ourselves to cross (and accept the declarations as the direct exam), there seems no chance we accomplish this (plus argument) in one day. We don't read the Court's order as contemplating witnesses, which isn't mentioned in the order, and the clerk's email is specifically directed towards argument.

We suggest a conferral call on Monday for us to discuss before jointly responding to the clerk's email. It may also make sense to request a short virtual planning conference with the Court. Please let us know some windows on Monday for your team's availability and we will send out a Teams invite. Thanks.

Regards,

Tim

Timothy Getzoff

He / Him / His [\(What's this?\)](#)
Partner, Holland & Hart LLP

tgetzoff@hollandhart.com | T: (303) 473-2734 | M: (720) 323-2354

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From: Timothy Getzoff

Sent: Friday, January 23, 2026 3:56 PM

To: Matt Colvin <colvin@fr.com>; Jeffrey S. Pope <JSPope@hollandhart.com>; Andrew C. Orr <ACOrri@hollandhart.com>; Paul D. Swanson <PDSwanson@hollandhart.com>

Cc: Travis Koch <tkoch@kochlawpc.com>; Ben Christoff <christoff@fr.com>; Carl Bruce <Bruce@fr.com>; Nathan Nicholas <nnicholas@kochlawpc.com>; Randy Roeser <JRRoeser@hollandhart.com>

Subject: RE: Requested Conferral on Time Allotment for 2/4/26 Hearing 26-CV-18-R

Hi Matt and team,

Thanks for your email and it's nice to meet you as well. We are discussing on this end and will get back to you shortly with our thoughts.

Regards,

Tim

Timothy Getzoff

He / Him / His [\(What's this?\)](#)

Partner, Holland & Hart LLP

tgetzoff@hollandhart.com | T: (303) 473-2734 | M: (720) 323-2354

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From: Matt Colvin <colvin@fr.com>

Sent: Friday, January 23, 2026 3:43 PM

To: Jeffrey S. Pope <JSPope@hollandhart.com>; Andrew C. Orr <ACOrri@hollandhart.com>; Timothy Getzoff <TGetzoff@hollandhart.com>; Paul D. Swanson <PDSwanson@hollandhart.com>

Cc: Travis Koch <tkoch@kochlawpc.com>; Ben Christoff <christoff@fr.com>; Carl Bruce <Bruce@fr.com>; Nathan Nicholas <nnicholas@kochlawpc.com>

Subject: RE: Requested Conferral on Time Allotment for 2/4/26 Hearing 26-CV-18-R

External Email

Dropping Court

Counsel,

It's good to meet you. Since the court's order is that the parties should be prepared to present evidence, we're anticipating up to three witnesses from our side – one corporate rep and two experts. How about you?

We can streamline the direct presentations by having the expert's declarations be entered as evidence. But even so I think the hearing will likely take most of the day. Happy to confer about any ideas you might have.

Matt

Matt Colvin

Principal ■ Fish & Richardson P.C.

T: 214 292 4013 | colvin@fr.com

From: WYDdb_Rankin <wyojudgekhr@wyd.uscourts.gov>

Sent: Friday, January 23, 2026 4:24 PM

To: Nathan Nicholas <nnicholas@kochlawpc.com>

Cc: Travis Koch <tkoch@kochlawpc.com>; Matt Colvin <colvin@fr.com>; Ben Christoff <christoff@fr.com>; Carl Bruce <Bruce@fr.com>; Jeffrey S. Pope <jspope@hollandhart.com>; Andrew C. Orr <ACOr@hollandhart.com>; Timothy Getzoff <TGetzoff@hollandhart.com>; Paul D. Swanson <PDSwanson@hollandhart.com>

Subject: Requested Conferral on Time Allotment for 2/4/26 Hearing 26-CV-18-R

[This email originated outside of F&R.]

Good afternoon,

The Notice and Report has been forwarded on to the Clerk.

Additionally, the Court requests the parties confer as to the time required to present each respective argument during the February 4, 2026, Motion Hearing, and the overall time allotment required. Please respond in this thread as to the agreed upon time frame.

Please let me know if you have any questions.

Thank you!

Emily Harmon

Term Clerk | Hon. Kelly H. Rankin

District of Wyoming

(307) 433-2180

From: Nathan Nicholas <nnicholas@kochlawpc.com>

Sent: Thursday, January 22, 2026 8:19 PM

To: WYDdb_Rankin <wyojudgekhr@wyd.uscourts.gov>

Cc: Travis Koch <tkoch@kochlawpc.com>; Matt Colvin <colvin@fr.com>; Ben Christoff <christoff@fr.com>; Carl Bruce <bruce@fr.com>; Jeffrey S. Pope <jspope@hollandhart.com>; Andrew C. Orr <ACOr@hollandhart.com>; Timothy Getzoff <TGetzoff@hollandhart.com>; Paul D. Swanson <PDSwanson@hollandhart.com>

Subject: Report on the filing or determination of an action regarding a patent or trademark

CAUTION - EXTERNAL:

Good Evening,

We just filed the attached Notice and Report on the filing or determination of an action regarding a patent or trademark for the Clerk to send to the USPTO. PACER would not let me file the "fillable form" so I have included that version as well.

Thank you,



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T: 307.426.5010
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EXHIBIT B

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

ABC IP, LLC, a Delaware limited liability company; and RARE BREED TRIGGERS, INC., a Texas corporation,

DOCKET NO. 26-CV-018-KHR

Plaintiffs,
vs.

Cheyenne, Wyoming
February 4, 2026
9:08 a.m.

PEAK TACTICAL, LLC, d/b/a Partisan Triggers, a Wyoming limited liability company; and NICHOLAS NORTON, an individual,

Defendants.

**TRANSCRIPT OF HEARING PROCEEDINGS
MOTION FOR TEMPORARY RESTRAINING ORDER
BEFORE THE HONORABLE KELLY H. RANKIN
CHIEF UNITED STATES DISTRICT JUDGE**

**JANET DAVIS, RDR, FCRR, CRR
Federal Official Court Reporter
2120 Capitol Avenue, Room 2226, Cheyenne, WY 82001
307.433.2154 * jbd.davis@gmail.com**

Proceedings reported by realtime stenographic reporter;
transcript produced with Computer-Aided Transcription.

INDEX IN REAR

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1 (Proceedings commenced 9:08 a.m., February 4, 2026.)

2 THE COURT: Thank you. Please be seated.

3 Well, good morning. We've got a room full of folks
4 here today in the matter of ABC IP, LLC, Rare Breed Triggers,
5 Inc., the two plaintiffs involved, and the defendant --
6 defendants rather, Peak Tactical, LLC, and Nicholas Norton,
7 Case Number 26-CV-18-R.

8 On behalf of the various plaintiffs, I understand we
9 have Nathan Nicholas, Travis Koch, Carl Bruce, and Matt Colvin,
10 and a party representative present at counsel table as well.

11 For the various defendants I see we've got Jeff Pope
12 here. I understand we also have Tim Getzoff and Paul Swanson.
13 Good morning to you and your corporate representative at
14 counsel table as well.

15 Well, this is a hearing on the plaintiffs' motion for
16 a Temporary Restraining Order and preliminary injunction
17 pursuant to Rule 65 of the Federal Rules of Civil Procedure.
18 That's found in Document 6. Response was filed in Document 27.

19 I have reviewed the briefing in this matter and
20 numerous attachments. We have scheduled today's hearing both
21 for argument and evidence, if necessary, including 90 minutes
22 per side, so hopefully we can be efficient with our time. But
23 certainly important issues to address and for the Court to
24 consider.

25 So let me turn to each side to see if there were any

1 preliminary matters that we need to address before we begin.

2 For the various plaintiffs, any preliminary matters?

3 MR. COLVIN: Good morning, Your Honor, Matt Colvin for
4 ABC and Rare Breed. We're ready to proceed.

5 No preliminary matters, but if the Court would like to
6 discuss any logistics or anything in particular that you'd like
7 to see in today's hearing, we're happy to accommodate that.

8 THE COURT: Mr. Colvin, thank you. I understand each
9 side has some potential may-call witnesses.

10 Do you anticipate presenting witnesses here this
11 morning?

12 MR. COLVIN: Yes, Your Honor.

13 THE COURT: And maybe just to help me and our court
14 reporter, generally who do you anticipate calling as witnesses
15 today?

16 MR. COLVIN: We anticipate calling our corporate
17 representative, Mr. DeMonico. We also intend to call our
18 technical expert, Mr. Luettker. We expect to call our
19 economist, Dr. Warty, and we also expect to call adverse
20 Mr. Stakes, Mr. Woods, and Mr. Nixon.

21 THE COURT: I'm sorry. The last one?

22 MR. COLVIN: Mr. Nixon.

23 THE COURT: All right. You're going to have to be
24 efficient with your time this morning, but thank you for the
25 heads-up.

OPENING - COLVIN

5

1 On behalf of the defendants.

2 MR. GETZOFF: Good morning, Your Honor, Tim Getzoff on
3 behalf of the defendants.

4 Our may calls would be Mr. Woods, who is present at
5 counsel table, and Mr. Stakes, who is sitting behind us.

6 For efficiency we would, with the Court's permission,
7 just do our redirect at the same time, assuming they're called
8 adversely first.

9 THE COURT: I think that makes sense.

10 Any objection to that approach for the plaintiffs?

11 MR. COLVIN: No, Your Honor.

12 MR. GETZOFF: And I would advise that our technical
13 expert, John Nixon, is not present today.

14 THE COURT: All right. Very well. One less witness,
15 I guess, today.

16 Well, I say we dive in, and I'll turn it over to the
17 plaintiff -- plaintiffs. You have the burden, and you may
18 either provide a brief summary or however you wish to proceed,
19 I'll leave it up to you.

20 MR. COLVIN: Thank you, Your Honor. My plan would be
21 to provide a brief overview, a short opening statement, if you
22 will, and then proceed with witnesses.

23 THE COURT: Very well. Mr. Colvin, thank you. You
24 may proceed.

25 MR. COLVIN: And I have a set of slides I can hand to

WOODS - CROSS - SWANSON

97

1 A. In the next three years, 1.68 million.

2 Q. Overall for all of the entities you mentioned that are part
3 of the Partisan Triggers family, do you know how much in profit
4 that would represent to those companies?

5 A. I would have to check.

6 Q. Would it be hundreds of millions of dollars?

7 A. It would be. It would be significant.

8 MR. SWANSON: Thank you. Nothing further.

9 THE COURT: Thank you, Mr. Swanson.

10 Mr. Bruce, any redirect?

11 MR. BRUCE: No redirect, Your Honor.

12 THE COURT: Very well. Mr. Woods, thank you for your
13 testimony. You may step down.

14 THE WITNESS: Your Honor.

15 THE COURT: Plaintiff may call its next witness.

16 MR. BRUCE: Your Honor, at this time plaintiffs call
17 Dr. Warty.

18 THE COURT: Very well. Dr. Warty, please come forward
19 to be sworn.

20 (Witness sworn.)

21 COURTROOM DEPUTY: Please state and spell your name
22 for the record.

23 THE WITNESS: Samir Warty, S-a-m-i-r W-a-r-t-y.

24 MR. BRUCE: Your Honor, I have a copy of Dr. Warty's
25 declaration. May I approach and provide one to the witness?

CLOSING - GETZHOFF

124

1 than Rare Breed was.

2 The Rare Breed sales from the Eastern District of New
3 York case said they made, like, \$40 million in two years. That
4 was -- that's way less than the Disruptor sales are expected to
5 get.

6 The balance of hardship is for the plaintiff, they
7 would have to accept competition in the marketplace, and at the
8 end of the day if they win, they will be made whole. For the
9 defendants, it puts them out of business. It shuts down a
10 competitive product which is good for the market, good for
11 competition. It would put dozens of employees out of work and
12 create consequential havoc to the lives of all the people
13 working on assembly, manufacturing, distribution, sales of the
14 Disruptor triggers.

15 With that, Your Honor, my time just expired. I'm in
16 the red.

17 THE COURT: Very well. Thank you, Mr. Getzoff.

18 Mr. Colvin, I will give you a little extra time. I
19 realize the clock was running when we were swearing witnesses
20 in and the like. You carried the lion's share of the testimony
21 that was presented today that both parties, I think, intended
22 to potentially call. So if you would like some additional
23 time, you may have it.

24 MR. COLVIN: I would also like to request a ten-minute
25 recess. I need to get the Partisan trigger we handed you and

CLOSING - COLVIN

125

1 put it in a shell so I can do a demo to rebut the video that
2 they presented.

3 THE COURT: All right. We've been at it for a while.
4 So why don't we do just that. We will take ten minutes, and
5 then we'll come back and wrap up with your argument.

6 We will stand in recess for ten minutes.

7 (Recess taken 12:28 p.m. until 12:41 p.m.)

8 THE COURT: Please be seated. Thank you.

9 Okay, Mr. Colvin, did you have enough time to kind of
10 set things up, if you will?

11 MR. COLVIN: We are all set, Your Honor.

12 THE COURT: We will tack on another five minutes or so
13 and let you use your time as you wish. So you may proceed.

14 MR. COLVIN: Thank you, Your Honor.

15 Your Honor, I'm going to start with the defendants'
16 noninfringement arguments. They made two to you here today. I
17 am going to address both.

18 The first one I'm going to talk about is what they had
19 to say about the disconnecter hook not catching the hammer
20 hook.

21 What I have on the screen is a portion of the claim
22 language from the '003, the '336 and the '807 patents, and the
23 portion of the claim language that's important here is what
24 defendants' counsel discussed, and it is that in the
25 semi-automatic position, rearward movement of the bolt carrier

CLOSING - COLVIN

126

1 causes rearward pivoting of the hammer such that said
2 disconnecter hook catches said hammer hook.

3 Now, in support of their argument, they showed you
4 some animations. Those animations are not correct. The forces
5 shown there are not correct; the movement of the components are
6 not correct. They don't show -- those animations don't include
7 contact forces. Those animations did not include spring
8 forces. And so the disconnecter in their animation was not
9 correct.

10 They also attempted to show -- to hold up a trigger
11 and show you how the hammer hook did not engage with the
12 disconnecter hook.

13 That's not correct, and the thing that they held up,
14 there was no selector, and that changes how these components
15 operate.

16 What I'd like to do is now switch to the ELMO, if I
17 could.

18 We have installed the Partisan trigger in a mechanism
19 here that allows you to test and see the function of the
20 trigger.

21 And I just want to point out a couple of components to
22 you. First we have the hammer, and then we have the hammer
23 hook, and then right here (indicating) is the disconnecter.
24 And this is the disconnecter hook.

25 Now, in semi-automatic mode, which this trigger is now

CLOSING - COLVIN

127

1 in, I want to show you what happens.

2 You have to move the locking bar, and then you can
3 pull the trigger. The hammer goes forward. The hammer is then
4 driven backwards by the bolt carrier. There's no dispute about
5 that. And then pay very close attention to what happens
6 between the disconnecter hook and the hammer hook (indicating).

7 Did you see that, Your Honor? It caught.

8 Now, the hammer continues to be driven backwards a
9 little bit by the bolt carrier, and that moves the trigger
10 forward just a little bit, but the hammer hook is still caught.
11 The hammer cannot go forward because it is caught by the
12 disconnect. It is caught and it remains caught, in jail, if
13 you will, until the door opens by moving the trigger forward,
14 by releasing the pressure from the trigger (indicating). Now
15 it is not caught.

16 But to be perfectly clear, if I can go back to the
17 claims on my HDMI, please, the bolt carrier absolutely causes
18 rearward pivoting of the hammer such that the disconnecter hook
19 catches the hammer hook, and I just showed it to you on the
20 ELMO. This is the actual Partisan product showing the catch
21 between the hammer hook and the disconnecter hook.

22 And, furthermore, this is exactly what is described in
23 the patents that have been asserted here, and so if Partisan is
24 correct, what they're trying to do is read out the preferred
25 embodiment of the -- of the patent. This is what the patent

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C E R T I F I C A T E

I, JANET DAVIS, Federal Official Court Reporter for the United States District Court for the District of Wyoming, a Registered Diplomate Reporter, Federal Certified Realtime Reporter, and Certified Realtime Reporter, do hereby certify that I reported by machine shorthand the foregoing proceedings contained herein on the aforementioned subject on the date herein set forth and that the foregoing pages constitute a full, true and correct transcript.

Dated this 6th day of February, 2026.

/s/ Janet Davis

JANET DAVIS, RDR, FCRR, CRR
Federal Official Court Reporter