

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

**BRIGHT RESPONSE, LLC**

**Plaintiff,**

**v.**

**GOOGLE INC., et al.,**

**Defendants.**

**Civil Action No. 2:07-cv-371-TJW**

**JURY**

**AMENDED JOINT CLAIM CONSTRUCTION CHART**

Pursuant to P.R. 4-5(d), the parties submit this Joint Claim Construction Chart. The parties will provide the Court with a copy in Word Perfect Format.

**AGREED CONSTRUCTIONS**

<b>Claim Term/Phrase and Asserted Claim(s) Containing Term/Phrase</b>	<b>Plaintiff's Construction</b>	<b>Defendants' Construction</b>	<b>Court's Construction</b>
Classifying the electronic message / the classification step (Claim 28)	[AGREED]	[AGREED]	Determining whether the electronic message falls into one or more categories.
A Case Model of the Electronic Message (Claim 30)	[AGREED]	[AGREED]	Text and attributes derived from the electronic message.
The Case Model (Claims 30 and 33)	[AGREED]	[AGREED]	"The case model" is the same "case model of the electronic message" that is produced in step (b1) of claim 30.
Wherein each score is normalized by dividing the score by a maximum possible score for the stored case model (Claim 31)	[AGREED]	[AGREED]	Wherein each match score is divided by the maximum possible score for the stored case model.
Fixed Data (Claim 39)	[AGREED]	[AGREED]	Data in a predetermined arrangement.
Variable Data (Claim 40)	[AGREED]	[AGREED]	Data in any arrangement.

Additionally, the parties have agreed that "case model," "stored case models of the case base," and "a set of attributes for identifying specific features of the electronic message" need not be construed.

### DISPUTED CONSTRUCTIONS

Claim Term/Phrase and Asserted Claim(s) Containing Term/Phrase	Claim Language with Disputed Terms in Bold	Plaintiff's Construction	Defendants' Construction	Court's Construction
Non-Interactive Electronic Message/The Electronic Message (Claims 26, 27, 28, 30, 38, 39, and 40)	<p>26. A method for automatically processing a <b>non-interactive electronic message</b> using a computer, comprising the steps of:</p> <p>(a) receiving <b>the electronic message</b> from a source;</p> <p>(b) interpreting <b>the electronic message</b> using a rule base and case base knowledge engine; and</p> <p>(c) retrieving one or more predetermined responses corresponding to the interpretation of <b>the electronic message</b> from a repository for automatic delivery to the source.</p> <p>27. The method of claim 26, wherein the source of <b>the electronic message</b> is not predetermined.</p>	An electronic message not requiring additional input or supplementation from the sender.	This claim term is indefinite.	

Claim Term/Phrase and Asserted Claim(s) Containing Term/Phrase	Claim Language with Disputed Terms in Bold	Plaintiff's Construction	Defendants' Construction	Court's Construction
	<p>28. The method of claim 26, further comprising the steps of:</p> <p>(b1) classifying <b>the electronic message</b> as at least one of (i) being able to be responded to automatically; and (ii) requiring assistance from a human operator; and</p> <p>(c) retrieving one or more predetermined responses corresponding to the interpretation of <b>the electronic message</b> from a repository for automatic delivery to the source when the classification step indicates that <b>the electronic message</b> can be responded to automatically.</p> <p>30. The method of claim 28, wherein the step of interpreting <b>the electronic message</b> further includes the steps of:</p> <p>(b1) producing a case model of <b>the electronic</b></p>			

Claim Term/Phrase and Asserted Claim(s) Containing Term/Phrase	Claim Language with Disputed Terms in Bold	Plaintiff's Construction	Defendants' Construction	Court's Construction
	<p><b>message</b> including (i) a set of attributes for identifying specific features of <b>the electronic message</b>; and (ii) message text;</p> <p>(b2) detecting at least one of text, combinations of text, and patterns of text of <b>the electronic message</b> using character matching;</p> <p>(b3) flagging the attributes of the case model which are detected in <b>the electronic message</b>;</p> <p>(b4) comparing the flagged attributes of the case model with stored attributes of stored case models of the case base;</p> <p>(b5) comparing the text of the case model with stored text of the stored case models of the case base; and</p> <p>(b6) assigning a score to each stored case model which is compared with the case model, the score</p>			

Claim Term/Phrase and Asserted Claim(s) Containing Term/Phrase	Claim Language with Disputed Terms in Bold	Plaintiff's Construction	Defendants' Construction	Court's Construction
	<p>increasing when at least one of the attributes and the text match the stored case model and the score not increasing when at least one of the attributes and the text do not match the stored case model.</p> <p>38. The method of claim 26, wherein the predetermined response is altered in accordance the interpretation of <b>the electronic message</b> before delivery to the source.</p> <p>39. The method of claim 26, wherein <b>the electronic message</b> includes fixed data.</p> <p>40. The method of claim 26, wherein <b>the electronic message</b> includes variable data.</p>			
Rule Base...Knowledge Engine (Claim 26)	26. A method for automatically processing a non-interactive	A knowledge engine that tests whether an electronic message meets	A knowledge engine that tests whether one or more conditions are met and, if	

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	<p>electronic message using a computer, comprising the steps of:</p> <p>(a) receiving the electronic message from a source;</p> <p>(b) interpreting the electronic message using a <b>rule base</b> and case base <b>knowledge engine</b>; and</p> <p>(c) retrieving one or more predetermined responses corresponding to the interpretation of the electronic message from a repository for automatic delivery to the source.</p>	one or more conditions, and if so, applies specified actions.	so, applies specified actions.	
Case Base Knowledge Engine (Claim 26)	<p>26. A method for automatically processing a non-interactive electronic message using a computer, comprising the steps of:</p> <p>(a) receiving the electronic message from a source;</p> <p>(b) interpreting the electronic message using a rule base and <b>case base knowledge engine</b>; and</p>	A knowledge engine that processes electronic messages by comparing them to a stored set of exemplar cases.	A knowledge engine that compares an incoming set of facts (a "problem") with a stored set of exemplar cases representing past "problems" to obtain a set of prior cases which are used to formulate an appropriate action.	

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	(c) retrieving one or more predetermined responses corresponding to the interpretation of the electronic message from a repository for automatic delivery to the source.			
Predetermined Response(s) (Claims 26, 28, and 38)	<p>26. A method for automatically processing a non-interactive electronic message using a computer, comprising the steps of:</p> <p>(a) receiving the electronic message from a source;</p> <p>(b) interpreting the electronic message using a rule base and case base knowledge engine; and</p> <p>(c) retrieving one or more <b>predetermined responses</b> corresponding to the interpretation of the electronic message from a repository for automatic delivery to the source.</p> <p>28. The method of claim 26, further comprising</p>	<p>Bright Response is of the view that no construction of this term is required.</p> <p>If construed:</p> <p>Responses prepared prior to the receipt of the electronic message. The responses may be modified and/or altered based on the interpretation of the electronic message.</p>	Responses prepared prior to the receipt of the electronic message.	



Claim Term/Phrase and Asserted Claim(s) Containing Term/Phrase	Claim Language with Disputed Terms in Bold	Plaintiff's Construction	Defendants' Construction	Court's Construction
	<p>the steps of:</p> <p>(b1) classifying the electronic message as at least one of (i) being able to be responded to automatically; and (ii) requiring assistance from a human operator; and</p> <p>(c) retrieving one or more <b>predetermined responses</b> corresponding to the interpretation of the electronic message from a repository for automatic delivery to the source when the classification step indicates that the electronic message can be responded to automatically.</p> <p>38. The method of claim 26, wherein the <b>predetermined response</b> is altered in accordance the interpretation of the electronic message before delivery to the source.</p>			

Claim Term/Phrase and Asserted Claim(s) Containing Term/Phrase	Claim Language with Disputed Terms in Bold	Plaintiff's Construction	Defendants' Construction	Court's Construction
Repository (Claims 26 and 28)	<p>26. A method for automatically processing a non-interactive electronic message using a computer, comprising the steps of:</p> <p>(a) receiving the electronic message from a source;</p> <p>(b) interpreting the electronic message using a rule base and case base knowledge engine; and</p> <p>(c) retrieving one or more predetermined responses corresponding to the interpretation of the electronic message from a <b>repository</b> for automatic delivery to the source.</p> <p>28. The method of claim 26, further comprising the steps of:</p> <p>(b1) classifying the electronic message as at least one of (i) being able to be responded to automatically; and (ii) requiring assistance from</p>	A place where electronic information is stored.	Database.	

Claim Term/Phrase and Asserted Claim(s) Containing Term/Phrase	Claim Language with Disputed Terms in Bold	Plaintiff's Construction	Defendants' Construction	Court's Construction
	a human operator; and  (c) retrieving one or more predetermined responses corresponding to the interpretation of the electronic message from a <b>repository</b> for automatic delivery to the source when the classification step indicates that the electronic message can be responded to automatically.			
Requiring Assistance From A Human Operator (Claim 28)	28. The method of claim 26, further comprising the steps of:  (b1) classifying the electronic message as at least one of (i) being able to be responded to automatically; and (ii) <b>requiring assistance from a human operator</b> ; and  (c) retrieving one or more predetermined responses corresponding to the interpretation of the electronic message from a repository for automatic delivery to the source	Requiring that a manual reviewer review the electronic message or information derived from the electronic message, or review, revise or compose the response to be delivered to the source.	Requiring that a manual reviewer review, revise, or compose the response to be delivered to the source.	

Claim Term/Phrase and Asserted Claim(s) Containing Term/Phrase	Claim Language with Disputed Terms in Bold	Plaintiff's Construction	Defendants' Construction	Court's Construction
	when the classification step indicates that the electronic message can be responded to automatically.			
Stored Case Model (Claims 30, 31, and 33)	<p>30. The method of claim 28, wherein the step of interpreting the electronic message further includes the steps of:</p> <p>(b1) producing a case model of the electronic message including (i) a set of attributes for identifying specific features of the electronic message; and (ii) message text;</p> <p>(b2) detecting at least one of text, combinations of text, and patterns of text of the electronic message using character matching;</p> <p>(b3) flagging the attributes of the case model which are detected in the electronic message;</p> <p>(b4) comparing the flagged attributes of the case model with stored attributes of <b>stored case</b></p>	Stored text and attributes associated with an exemplar case stored in the case base.	Stored text and attributes, derived from a previously received electronic message, and an associated stored response.	

Claim Term/Phrase and Asserted Claim(s) Containing Term/Phrase	Claim Language with Disputed Terms in Bold	Plaintiff's Construction	Defendants' Construction	Court's Construction
	<p><b>models</b> of the case base;</p> <p>(b5) comparing the text of the case model with stored text of the <b>stored case models</b> of the case base; and</p> <p>(b6) assigning a score to each <b>stored case model</b> which is compared with the case model, the score increasing when at least one of the attributes and the text match the <b>stored case model</b> and the score not increasing when at least one of the attributes and the text do not match the <b>stored case model</b>.</p> <p>31. The method of claim 30, wherein:</p> <p>when at least one of the attributes and the text match the <b>stored case model</b>, the score is increased by a predetermined match weight; and</p> <p>when at least one of the attributes and the text does not match the</p>			

Claim Term/Phrase and Asserted Claim(s) Containing Term/Phrase	Claim Language with Disputed Terms in Bold	Plaintiff's Construction	Defendants' Construction	Court's Construction
	<p><b>stored case model</b>, the score is decreased by a predetermined mismatch weight.</p> <p>33. The method of claim 31, wherein each score is normalized by dividing the score by a maximum possible score for the <b>stored case model</b>, where the maximum possible score is determined when all of the attributes and text of the case model and the <b>stored case model</b> match.</p>			
Predetermined Match Weight (Claim 31)	<p>31. The method of claim 30, wherein:</p> <p>when at least one of the attributes and the text match the stored case model, the score is increased by a <b>predetermined match weight</b>; and</p> <p>when at least one of the attributes and the text does not match the stored case model, the score is</p>	A predetermined factor controlling the degree to which a stored case model's score is increased by a comparison of text and attributes from a case model with those from a stored case model.	A predetermined factor which is added to a stored case model's match score when a feature from the stored case model matches text and attributes from the presented case model.	

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	decreased by a predetermined mismatch weight.			
Predetermined Mismatch Weight (Claim 31)	<p>31. The method of claim 30, wherein:</p> <p>when at least one of the attributes and the text match the stored case model, the score is increased by a predetermined match weight; and</p> <p>when at least one of the attributes and the text does not match the stored case model, the score is decreased by a <b>predetermined mismatch weight</b>.</p>	A predetermined factor controlling the degree to which a stored case model's score is decreased by a comparison of text and attributes from a case model with those from a stored case model.	A predetermined factor which is subtracted from a stored case model's match score when a feature from the stored case model does not match a feature from the presented case model.	

### ORDERING OF THE STEPS

Claim Language	Plaintiff's Proposal	Defendants' Proposal	Court's Construction
26. A method for automatically processing a non-interactive electronic message using a computer, comprising the steps of:	The steps of claim 26 may be performed in any order.	The steps of claim 26 must be performed in order.	

<b>Claim Language</b>	<b>Plaintiff's Proposal</b>	<b>Defendants' Proposal</b>	<b>Court's Construction</b>
(a) receiving the electronic message from a source; (b) interpreting the electronic message using a rule base and case base knowledge engine; and (c) retrieving one or more predetermined responses corresponding to the interpretation of the electronic message from a repository for automatic delivery to the source.			

### **INCORPORATION OF DEPENDANT CLAIM ELEMENTS**

<b>Claim Language</b>	<b>Plaintiff's Proposal</b>	<b>Defendants' Proposal</b>	<b>Court's Construction</b>
26. A method for automatically processing a non-interactive electronic message using a computer, comprising the steps of: (a) receiving the electronic message from a source; (b) interpreting the electronic message using a rule base and case base knowledge engine; and (c) retrieving one or more predetermined responses corresponding to the interpretation of the electronic message from a repository for	Claims 28, 30, 31, and 33 are definite.	Claims 28, 30, 31, and 33 are indefinite because claim 28 does not properly incorporate the elements of claim 26.  In addition, Claims 30, 31, and 33 are indefinite because claim 30 does not properly incorporate the elements of claim 28.	



<b>Claim Language</b>	<b>Plaintiff's Proposal</b>	<b>Defendants' Proposal</b>	<b>Court's Construction</b>
<p>automatic delivery to the source.</p> <p>28. The method of claim 26, further comprising the steps of:</p> <p>(b1) classifying the electronic message as at least one of (i) being able to be responded to automatically; and (ii) requiring assistance from a human operator; and</p> <p>(c) retrieving one or more predetermined responses corresponding to the interpretation of the electronic message from a repository for automatic delivery to the source when the classification step indicates that the electronic message can be responded to automatically.</p> <p>30. The method of claim 28, wherein the step of interpreting the electronic message further includes the steps of:</p> <p>(b1) producing a case model of the electronic message including (i) a set of attributes for identifying specific features of the electronic message; and (ii) message text;</p> <p>(b2) detecting at least one of text, combinations of text, and</p>			

Claim Language	Plaintiff's Proposal	Defendants' Proposal	Court's Construction
<p>patterns of text of the electronic message using character matching;</p> <p>(b3) flagging the attributes of the case model which are detected in the electronic message;</p> <p>(b4) comparing the flagged attributes of the case model with stored attributes of stored case models of the case base;</p> <p>(b5) comparing the text of the case model with stored text of the stored case models of the case base; and</p> <p>(b6) assigning a score to each stored case model which is compared with the case model, the score increasing when at least one of the attributes and the text match the stored case model and the score not increasing when at least one of the attributes and the text do not match the stored case model.</p> <p>31. The method of claim 30, wherein:</p> <p>when at least one of the attributes and the text match the stored case model, the score is increased by a predetermined match weight; and</p> <p>when at least one of the</p>			

Claim Language	Plaintiff's Proposal	Defendants' Proposal	Court's Construction
<p>attributes and the text does not match the stored case model, the score is decreased by a predetermined mismatch weight.</p> <p>33. The method of claim 31, wherein each score is normalized by dividing the score by a maximum possible score for the stored case model, where the maximum possible score is determined when all of the attributes and text of the case model and the stored case model match.</p>			

Respectfully submitted,

/s/ Marc A. Fenster (by permission)

Marc A. Fenster, CA Bar # 181067  
Email: [mfenster@raklaw.com](mailto:mfenster@raklaw.com)  
Stanley H. Thompson, Jr., CA Bar # 198825  
Email: [sthompson@raklaw.com](mailto:sthompson@raklaw.com)  
Alexander C. Giza, CA Bar # 212327  
Email: [agiza@raklaw.com](mailto:agiza@raklaw.com)  
Andrew D. Weiss, CA Bar # 232974  
Email: [aweiss@raklaw.com](mailto:aweiss@raklaw.com)  
RUSS, AUGUST & KABAT  
12424 Wilshire Blvd., 12<sup>th</sup> Floor  
Los Angeles, CA 90025  
Telephone: 310/826-7474  
Facsimile: 310/826-6991

Patrick R. Anderson, MI SB # P68961  
Email: [Patrick@prapllc.com](mailto:Patrick@prapllc.com)  
PATRICK R> ANDERSON PLLC  
4225 Miller Rod., Bldg. B-9, Suite 358  
Flint, MI 48507  
Telephone: 810/275-0751  
Facsimile: 248/928-9239

Andrew W. Spangler, TX Bar # 24041960  
Email: [spangler@spanglerlawpc.com](mailto:spangler@spanglerlawpc.com)  
LEAD COUNSEL  
SPANGLER LAW PC  
208 N. Green Street, Suite 300  
Longview, TX 75601  
Telephone: 903/753-9300  
Facsimile: 903/553-0403

David M. Pridham, RI Bar # 6625  
Email: [david@pridhamjplaw](mailto:david@pridhamjplaw)  
LAW OFFICE OF DAVID PRIDHAM  
25 Linden Road  
Barrington, RI 02806  
Telephone: 401/633-7247  
Facsimile: 401/633-7247

Elizabeth A. Wiley, TX Bar # 00788666  
Email: [lizwiley@wileyfirmpc.com](mailto:lizwiley@wileyfirmpc.com)

THE WILEY FIRM PC  
P. O. Box 303280  
Austin, TX 78703-3280  
Telephone: 512/420-2387  
Facsimile: 512/551-0028

**Attorneys for Plaintiff  
BRIGHT RESPONSE, LLC**

/s/ Jennifer H. Doan  
Jennifer H. Doan  
Joshua R. Thane  
HALTOM & DOAN  
Crown Executive Center, Suite 100  
6500 Summerhill Road  
Texarkana, Texas 75503  
Tel: 903.255.1002  
Fax: 903.255.0800  
Email: jdoan@haltomdoan.com  
Email: jthane@haltomdoan.com

Jason C. White  
HOWREY LLP  
321 N. Clark, Suite 3400  
Chicago, IL 60654  
Tel: 312.595.1239  
Fax: 312.595.2250  
Email: whitej@howrey.com

**Attorneys for Defendant Yahoo! Inc**

/s/ David A. Perlson (by permission)  
Charles K. Verhoeven, pro hac vice  
[charlesverhoeven@quinnemanuel.com](mailto:charlesverhoeven@quinnemanuel.com)  
David A. Perlson, pro hac vice  
[davidperson@quinnemanuel.com](mailto:davidperson@quinnemanuel.com)  
Brian C. Cannon, pro hac vice  
[briancannon@quinnemanuel.com](mailto:briancannon@quinnemanuel.com)  
Jennifer A. Kash, pro hac vice  
[jenniferkash@quinnemanuel.com](mailto:jenniferkash@quinnemanuel.com)  
Antonio Sistos, pro hac vice  
[antoniosistos@quinnemanuel.com](mailto:antoniosistos@quinnemanuel.com)  
QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

50 California Street, 22<sup>nd</sup> Floor  
San Francisco, CA 94111  
Telephone: 415/875-6600  
Facsimile: 415/875-6700

**Attorneys for Defendants Google Inc.,  
America Online, Inc., and AOL, LLC.**

**CERTIFICATE OF SERVICE**

I hereby certify that the following counsel of record who are deemed to have consented to electronic service are being served on March 31, 2010, with a copy of this document via the Court's CM/ECF system. Any other counsel of record will be served by first class U.S. mail on this same date.

By: /s/ Jennifer H. Doan  
Jennifer H. Doan