

EXHIBIT K

ATTORNEYS EYES ONLY

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

BRIGHT RESPONSE, LLC

v.

GOOGLE, INC., et al.

NO. 2:07-CV-371-CE

JURY

**PLAINTIFF BRIGHT RESPONSE, LLC OBJECTIONS AND RESPONSES
TO YAHOO!'S FIRST SET OF INTERROGATORIES**

Bright Response, LLC ("Bright Response") objects and responds to the Defendant Yahoo's first set of interrogatories, as follows:

GENERAL STATEMENTS

1. No incidental or implied admissions are intended by the responses herein. The fact that Bright Response has responded to or objected to any discovery request should not be taken as an admission that Bright Response accepts or admits the existence of any "fact" set forth or assumed by the same. The fact that Bright Response has responded to part or all of any discovery request is not intended to be, and shall not be construed to be, a waiver by Bright Response of any part of any objection to the discovery request. The fact that Bright Response states a willingness to produce any documents in his possession, custody or control should not be taken as an indication that any such documents exist.

2. These responses are made solely for the purpose of this action. Each response is subject to all objections as to competence, relevance, materiality, propriety, and admissibility, and to any other objections on any grounds that would require the exclusion of any information produced at time of trial. By responding to the discovery requests, Bright Response does not waive any objection that may be applicable to: (1) the use, for any purpose, of documents or information

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given in response to the discovery requests; (2) the admissibility, privilege, relevancy, authenticity, or materiality of any documents or information given in response to these discovery requests; or (3) other discovery involving or relating to the subject matter of these requests or responses. Bright Response expressly reserves the right to object to the use of information provided herewith during any subsequent proceeding, including the trial of this or any other action.

3. These objections are made based on present information and belief predicated upon information presently available and Bright Response's present understanding, if any, of the discovery requests. These objections are subject to supplementation and amendment should additional information become known to Bright Response.

GENERAL OBJECTIONS

1. Bright Response objects to the definitions, instructions and requests to the extent they require responsive discovery beyond the scope of discovery permitted by the Federal Rules of Civil Procedure and/or Local Rules, or purport to impose any requirement or burden that is beyond or inconsistent with that imposed by the Federal Rules of Civil Procedure and/or local rules. Without limitation, relative to the foregoing the following objections are made:

A. Bright Response objects to the terms "Plaintiff," "Polaris," "Bright Response" and/or "You" to the extent they are overbroad and unduly burdensome, and to the extent they seek to impose any burdens beyond the scope of the Federal Rules of Civil Procedure or local rules. In responding to these discovery requests, Bright Response will interpret "Plaintiff," "Polaris," "Bright Response" and/or "You" to be Bright Response, LLC (f/k/a Polaris IP, LLC) and anyone acting in the capacity as an officer, member, employee or agent of Bright Response, LLC.

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B. Bright Response objects to the term “Document(s)” to the extent it seeks to impose any burdens beyond the scope of the Federal Rules of Civil Procedure and/or local rules.

C. Bright Response objects to the term "prior art" to the extent it is vague and/or calls for a legal conclusion as to what constitutes prior art.

D. Bright Response objects to the term “EZ Reader” to the extent it suggests the existence of a software application or product that was reduced to practice, ready for patenting and/or on sale more than a year prior to the critical date of the ‘947 Patent. In responding to these discovery requests, Bright Response shall refer to EZ Reader as an experimental application that was being developed and tested as part of a confidential and proprietary project solely by Brightware, Inc. and solely for Chase Manhattan Bank. *See, e.g.* Declaration of Amy Rice, Jan. 12, 2004 (RICE001403-1406).

D. Bright Response objects to the term “Identify” because it is overbroad and unduly burdensome and to the extent it seeks to impose any burdens beyond the scope of the Federal Rules of Civil Procedure or local rules. In responding to these discovery requests, Bright Response shall reasonably identify and/or describe any responsive documents, communications, etc.

E. Bright Response objects to the terms "reflect," reflecting," "relate to," refer to," "relating to" and "referring to" to the extent they are vague, overbroad and unduly burdensome. In responding to these discovery requests, Bright Response will use the ordinary and customary meaning of such terms.

2. Bright Response objects to instructions (a)-(h) to the extent they are unduly burdensome or seek to impose any burdens beyond the scope of the Federal Rules of Civil Procedure or local rules. In responding to Google's discovery requests, Bright Response will use comply only with

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the requisites of the Federal Rules of Civil Procedure or local rules. In addition, Bright Response will comply with the Court's requirements for privilege logs and not any additional requirements sought to be imposed by Defendants.

3. Bright Response objects to the discovery requests to the extent that they call for documents or information that are protected by the attorney-client privilege, prepared in anticipation of litigation or for trial, or that are otherwise protected from discovery by the attorney work product doctrine or any other applicable privilege, law, rule, or immunity, including without limitation the common interest and/or settlement privilege, in that such material is not properly discoverable. Such privileged documents will not be produced. Without limitation, any of Bright Response's communications with its counsel are protected from disclosure by at least the attorney-client privilege. Also, any acts or communications done in anticipation of litigation are protected from disclosure by at least the work product or common interest privileges. Also, settlement matters including settlement communications are protected from disclosure by at least the settlement privilege.

4. Bright Response objects to the discovery requests to the extent that they are vague, overly broad, unduly burdensome, or seek the disclosure of documents or information that are not relevant to any claim or defense in this action, nor reasonably likely to lead to the discovery of admissible evidence that is relevant to any claim or defense.

5. Bright Response objects to the discovery requests to the extent they seek information documents not reasonably available to Bright Response or otherwise within Bright Response's possession, custody or control.

6. Bright Response objects to the discovery requests to the extent that they seek all information or documents concerning, relating to or referring to a particular document or subject

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on the grounds of overbreadth and undue burden.

7. Bright Response objects to the discovery requests to the extent they are not confined to a relevant time period because this is overbroad and unduly burdensome, and seeks information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

8. Bright Response objects to the discovery requests to the extent (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the requesting party has had ample opportunity by discovery to obtain the information sought; or (iii) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.

9. Bright Response objects to the discovery requests to the extent they would require Bright Response to disclose information, produce documents or take other actions in violation of a protective order.

10. These general objections are incorporated into Bright Response's objections to each and every discovery request, and are set forth here to avoid the duplication and repetition of restating them for each request. Any documents or information provided by Bright Response responsive to the discovery requests will be made subject to and without waiver of the general and specific objections. The failure to include any generally objection in response to any request shall not constitute a waiver of any general objection to that request. From time to time, a specific objection may restate a general objection for emphasis or some other reason. By making a specific objection to a particular request, Bright Response does not imply that the specific objection is not applicable to any other request, or that the general objections are not applicable

to that request.

RESPONSES TO INTERROGATORIES

INTERROGATORY NO. 1: Identify all bases for PLAINTIFF'S allegation that YAHOO's alleged infringement has been willful, malicious and otherwise without justification or excuse, including without limitation, stating the date and manner in which YOU contend YAHOO was first notified or became aware it was allegedly infringing the '947 PATENT.

ANSWER: Subject to and without waiving the general objections, Bright Response objects to this interrogatory because it has multiple discrete subparts, at least according to the interpretation of subparts asserted by Defendants relative to Bright Response's interrogatories. Bright Response also objects to this interrogatory to the extent it requests information covered by the attorney-client privilege and/or work product doctrine. Also, Bright Response objects to this interrogatory because it is vague and unduly burdensome, including because the phrase "malicious and otherwise without justification or excuse" is unclear in this context.

Subject to and without waiving the foregoing general and specific objections, Bright Response states that Yahoo has been aware of the '947 Patent and that it was infringing the '947 Patent at least as early as the filing of the present lawsuit on August 27, 2007. Additionally and alternatively, Bright Response states that Yahoo has been aware that it was infringing the '947 Patent at least as early as the date Bright Response served its original infringement contentions on June 6, 2008. Because Yahoo's infringement of the '947 Patent has continued despite its knowledge of the '947 Patent, Yahoo is now and has been willfully infringing the '947 Patent. Further, Bright Response states that such infringement has continued willfully and deliberately despite Yahoo's knowledge that it is now and has been infringing the '947 Patent, and that Yahoo has failed to articulate any justification or excuse for such infringement.

INTERROGATORY NO. 2: Identify, with respect to each ASSERTED PATENT CLAIM of the '947 PATENT, every one of YAHOO's products that YOU allege infringes each such claim, by explaining fully and completely how each such product allegedly infringes any such claim, including, without limitation, an explanation of whether such alleged infringement is direct or indirect and whether it is literal or by the doctrine of equivalents.

ANSWER: Subject to and without waiving the general objections, Bright Response objects to this interrogatory because it has multiple discrete subparts, at least according to the interpretation of subparts asserted by Defendants relative to Bright Response's interrogatories. Bright Response also objects to this interrogatory to the extent it requests information covered by the attorney-client privilege and/or work product doctrine. In addition, Bright Response objects to this interrogatory because it is unduly burdensome and premature, including in advance of expert disclosures relative to infringement, and in advance of the Court's claim construction. Bright Response specifically reserves the right to amend its responses to this interrogatory.

Subject to and without waiving the foregoing general and specific objections, Bright Response

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refers to and incorporates its responses to Interrogatory Nos. 9 and 10 and Claim Chart Attachments 1-3.

Bright Response further states as follows:

Yahoo infringes at least claims 26, 28, 30, 31, 33, 38, 39 and 40 of the '947 Patent by methods practiced in various Accused Instrumentalities, including Yahoo Sponsored Search, Yahoo Search and Yahoo Content Match. An explanation of how each product infringes the foregoing claims can be found in Claim Chart Attachments 1-3 attached hereto and incorporated herein by reference. Furthermore, in accordance with Fed. R. Civ. P. 33(d), Bright Response identifies exemplary documents bearing production numbers:

YH-PSET0001345-YH-PSET0001486, YH-PSET0004182-YH-PSET0004211, YH-PSET0004292-YH-PSET0004379, YH-PSET0007905- YH-PSET0007915, YH-PSET0009089-YH-PSET0009103, YH-PSET0025033-YH-PSET0025056, YH-PSET1194517-YH-PSET1194518, YH-PSET2461408-YH-PSET2461437, YH-PSET2478469-YH-PSET2478476, YH-PSET2503548-YH-PSET2503575, YH-PSET2504037-YH-PSET2504063, YH-PSET2504405-YH-PSET2504479, YH-PSET2505462-YH-PSET2505477, YH-PSET2509475-YH-PSET2509506, YAH0000363-YAH0000369, YAH0000403-YAH0000468, YAH0000532-YAH0000575.

Based on Bright Response's present understanding of the claim language and scope, Yahoo literally infringes each of the foregoing claims, as more fully explained and described in Claim Chart Attachments 1-3, because each product literally performs each step of the claimed methods. Additionally and/or alternatively, Yahoo infringes the foregoing claims under the doctrine of equivalents for the same reasons that Yahoo literally infringes each of the foregoing claims. Bright Response reserves the right to amend its responses following entry of the Court's Claim Construction Order, in accordance with the Local Rules, including P.R. 3-6. In addition, Bright Response asserts that, for any claim limitation Yahoo argues is not literally met by the Accused Instrumentalities, such claim limitation is at least met under the doctrine of equivalents because, for example, a person of ordinary skill in the art would find that the differences between that claim language and the operation of the Accused Instrumentalities, as explained by Defendants, to be insubstantial. One way of determining if a difference is insubstantial is to consider whether or not an accused device or method performs substantially the same function in substantially the same way to obtain the same result.

If Yahoo claims that part or all of the various practices, structures or steps in the Accused Instrumentalities are not performed by Yahoo, then Bright Response reserves the right to amend its responses, and to assert that Yahoo indirectly infringes the foregoing claims by actively and knowingly inducing, aiding and abetting others -- including without limitation any contractors who host all or a portion of the Accused Instrumentalities on behalf of Defendants, and the end users of the Accused Instrumentalities -- to directly infringe the foregoing claims. Additionally, or in the alternative, if Yahoo claims that part or all of the various practices, structures or steps in the Accused Instrumentalities are not performed by Yahoo, Bright Response reserves the right to amend its responses, and to assert that Yahoo indirectly infringes the asserted claims by contributing to the infringement by others, including without limitation by end users of the Accused Instrumentalities because the combination for which their components were especially

made was both patented and infringing and such components have no substantial non-infringing uses. Additionally, or in the alternative, if Yahoo claims that part or all of the various practices, structures or steps in the Accused Instrumentalities are not performed by Yahoo, Bright Response reserves the right to amend its responses, and to assert that Yahoo infringes such claims, including without limitation with contractors who host all or a portion of the Accused Instrumentalities on behalf of Defendants and/or the end users of the Accused Instrumentalities, under Defendants' direction and/or control.

Bright Response notes that discovery is on-going in this case and reserves its rights to supplement this interrogatory response (in the form of a formal supplementation or of another writing) as additional information becomes available.

INTERROGATORY NO. 3: If YOU contend that YOU are entitled to any monetary recovery as a result of alleged infringement of the '947 PATENT by YAHOO, state whether YOU contend that YOU are entitled to lost profits or a reasonable royalty, and state all facts and reasons upon which YOU rely in support of YOUR contention, such that if YOU contend YOU are entitled to an award of lost profits damages, YOU identify each of YOUR products YOU allege falls within the scope of any '947 PATENT claim and state the total sales annually in units and dollars from its introduction to the present, and if YOU contend YOU are entitled to an award of reasonable royalty damages, state what YOU assert to be a reasonable royalty to be paid by YAHOO under 35 U.S.C. § 284, including the complete factual bases on which YOU base YOUR calculation of such royalty rate.

ANSWER: Subject to and without waiving the general objections, which are incorporated herein, Bright Response objects to this interrogatory to the extent it seeks information protected from discovery by the attorney client and/or work product privileges. In addition, Bright Response objects to the use of multiple subparts, at least according to Yahoo's assertions of subparts, and each subpart will be counted as such in determining the number of interrogatories served upon Bright Response. In addition, Bright Response objects to this interrogatory because it is unduly burdensome and premature, including in advance of the deposition of relevant Yahoo witnesses and in advance of expert disclosures relative to damages. Subject to and without waiving the foregoing general and specific objections, Bright Response states as follows:

Pursuant to the provisions of 35 U.S.C. § 284, with respect to the '947 patent, Bright Response claims damages adequate to compensate for Yahoo's infringement, but in no event less than a reasonable royalty for the use made of Bright Response's patented invention by Yahoo together with interest and costs, as fixed by the court. Bright Response also claims "increase[d] damages" to be assessed by the Court pursuant to 35 U.S.C. § 284 and attorneys' fees pursuant to 35 U.S.C. § 285 on the ground that this is an "exceptional" case.

With respect to the '947 patent, Bright Response claims that, at a minimum, its damages adequate to compensate for Yahoo's infringement should be calculated on the basis of a reasonable royalty for a license under the patent-in-suit. Bright Response reserves the right to claim damages measured on a basis or bases other than, or in addition to, a reasonable royalty in the event that the facts and evidence disclosed in discovery and/or proved at trial so warrant.

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Bright Response's expert witness(es) on damages will analyze and compute the amount of damages Bright Response has suffered as a consequence of Yahoo's infringement based, in part, on documents Bright Response anticipates to receive from Yahoo and testimony by Yahoo witnesses. Bright Response will timely serve its expert disclosures on damages in accordance with the Court's Docket Control Order.

At the present time, Bright Response anticipates that its expert's computation of a reasonable royalty adequate to compensate for Yahoo's infringement will be based on the application of a royalty rate to a royalty base. The royalty rate may take the form of a percentage royalty rate (or rates) or a per-unit royalty rate (or rates.) The royalty base may comprise all or part of the revenues related to one or more of the Accused Instrumentalities identified in Bright Response's P.R. 3-1 infringement contentions. The computation of Bright Response's damages based on a reasonable royalty also may take other forms.

Bright Response anticipates that its expert's determination of a royalty rate or rates will be based on the application of the analysis set forth and approved in *Georgia-Pacific Corp. v. U.S. Plywood-Champion Papers, Inc.*, 318 F. Supp. 1116, 1120, 166 USPQ 235, 238 (S.D.N.Y. 1970), and other relevant precedents. Bright Response's expert may also utilize other standard, recognized and established methodologies to determine a royalty rate or rates in this case.

Bright Response anticipates that its expert's determination of the revenues and/or quantities sold that the Yahoo has derived from the infringing sales or other disposition of its Accused Instrumentalities will be based on, among other things, an analysis of revenue summaries, sales summaries and other documents and records produced by Yahoo in discovery in this case, together with any other relevant materials available from other sources.

Documentary and evidentiary materials upon which Bright Response's expert will base his computation of a reasonable royalty or other damages for Yahoo's infringement may include documents produced herewith, together with additional relevant materials produced by Yahoo in the course of discovery, and other materials available from other sources.

Bright Response has requested, and may further request, that Yahoo produce certain documents and information called for by the Court's Discovery Order. Bright Response expects that it will be necessary to request that Yahoo provide explanations of certain materials that will be produced, and/or to supplement these materials by further production. In addition, Bright Response expects to serve additional discovery requests relating to damages issues, and to depose Yahoo's Rule 30(b)(6) witnesses on damages topics, during the period for fact discovery in this case. Bright Response expects that these matters will be completed before its expert completes his or her computation of a reasonable royalty or other damages for Yahoo's infringement, or, if Yahoo fails to provide the requested discovery prior to the deadline for initial expert disclosures, Bright Responses damages expert(s) will supplement their computation of damages once the discovery is provided.

In addition to these materials, Bright Response's expert may also utilize other documents and materials referred to and recognized as relevant to the determination of a reasonable royalty or other damages in cases such as *Georgia-Pacific*, *supra*, and others.

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Bright Response's expert disclosures relative to damages disclosures shall be incorporated herein as appropriate.

Discovery in this case is ongoing, and Bright Response reserves the right to supplement this response as discovery in this case proceeds.

INTERROGATORY NO. 4: Identify YOUR revenue and annual expenses by category since the inception of this lawsuit, including any product sales; consulting fees; licensing fees; settlement agreements; administrative costs; marketing and sales costs; research and development costs; litigation expenses; and operating expenses.

ANSWER: Subject to and without waiving the general objections, Bright Response objects to this interrogatory because it has multiple discrete subparts, at least according to the interpretation of subparts asserted by Defendants relative to Bright Response's interrogatories. Bright Response also objects to this interrogatory to the extent it requests information covered by the attorney-client privilege and/or work product doctrine. Also, Bright Response objects to this interrogatory because it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, including because Bright Response's revenues and annual expenses since inception of the present lawsuit are irrelevant to any claim or defense made in this litigation. Bright Response further objects to this interrogatory as vague and ambiguous, for example, regarding the meaning of and intended distinctions between categories "product sales; consulting fees; licensing fees; settlement agreements; administrative costs; marketing and sales costs; research and development costs; litigation expenses; and operating expenses" in the context of this interrogatory.

INTERROGATORY NO. 5: Identify all customers or potential customers that have purchased, licensed or approached PLAINTIFF regarding the '947 PATENT or any technology covered by the patent.

ANSWER: Bright Response has not provided an answer on the understanding that Defendant Yahoo has exceeded its allowed number of interrogatories in this matter and has therefore withdrawn this interrogatory.

INTERROGATORY NO. 6: Describe the organizational structure of PLAINTIFF's business, including a listing of all officers and business units, all employees, officers, and directors, and the responsibility of each employee, officer, and director.

ANSWER: Bright Response has not provided an answer on the understanding that Defendant

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Yahoo has exceeded its allowed number of interrogatories in this matter and has therefore withdrawn this interrogatory.

INTERROGATORY NO. 7: Identify and describe any business plan or business strategy for licensing the '947 PATENT for asserting the '947 PATENT in any lawsuit that was considered by PLAINTIFF in connection with its decision to acquire interest in the '947 PATENT, including any expected revenues from licensing or asserting the '947 PATENT.

ANSWER: Subject to and without waiving the general objections, Bright Response objects to this interrogatory because it specifically requests information covered by the attorney-client privilege and/or work product doctrine. Also, Bright Response objects to this interrogatory because it is vague and unduly burdensome, including because the phrase "any business plan or business strategy for licensing the '947 PATENT for asserting the '947 PATENT in any lawsuit" is unclear in this context.

Subject to and without waiving the foregoing general and specific objections, Bright Response states that it has no non-privileged information regarding this interrogatory.

INTERROGATORY NO. 8: Identify all customers or potential customers that have purchased, licensed or approached PLAINTIFF regarding the '947 PATENT or any technology covered by the patent.

ANSWER: Bright Response has not provided an answer on the understanding that Defendant Yahoo has exceeded its allowed number of interrogatories in this matter and has therefore withdrawn this interrogatory.

INTERROGATORY NO. 9: Identify any and all inspection, testing, evaluation, or analysis of any of YAHOO's products or services that YOU allege INFRINGES any claim of the '947 PATENT, and state: the particular products inspected, tested, evaluated, or analyzed; the nature of the inspection, testing, evaluation, or analysis performed; any and all PERSONS involved in the inspection, testing, evaluation, or analysis; the dates for the inspection, testing, evaluation, or analysis; the results of such inspection, testing, evaluation, or analysis, identifying the DOCUMENTS (by Bates number) reflecting those results; and any conclusion(s) or opinion(s) formed as a result of each inspection, testing, evaluation or analysis.

ANSWER: Subject to and without waiving the general objections, Bright Response objects to this interrogatory because it has multiple discrete subparts, at least according to the interpretation of subparts asserted by Defendants relative to Bright Response's interrogatories. Bright Response also objects to this interrogatory to the extent it requests information covered by the attorney-client privilege and/or work product doctrine. In addition, Bright Response objects to this interrogatory because it is unduly burdensome and premature, including in advance of expert disclosures relative to infringement, and in advance of the Court's claim construction. Bright Response specifically reserves the right to amend its responses to this interrogatory.

Subject to and without waiving the foregoing general and specific objections, Bright Response incorporates by reference its response to Interrogatory Nos. 2 and 10, and to Claim Chart Attachments 1-3. Specifically, Bright Response states that any inspection, testing, evaluation or analysis of Yahoo's products or services are reflected in Bright Response's P.R. 3-1 Disclosures, served on June 6, 2008. Bright Response's inspection, testing, evaluation or analysis was performed by reviewing the materials cited in the P.R. 3-1 Disclosures in consultation with Bright Response's legal and technical experts. Any further detail regarding such investigation is therefore covered by the attorney-client privilege and/or work product doctrine.

Bright Response also states that any inspection, testing, evaluation or analysis of Yahoo's products or services are reflected in Claim Chart Attachments 1-3, and documents are identified therein by Bates number. Bright Response's inspection, testing, evaluation or analysis was performed by reviewing the materials cited in the Claim Chart Attachments 1-3, in consultation with Bright Response's legal and technical experts. Any further detail regarding such investigation is therefore covered by the attorney-client privilege and/or work product doctrine.

Furthermore, in accordance with Fed. R. Civ. P. 33(d), Bright Response identifies exemplary documents bearing production numbers:

YH-PSET0001345-YH-PSET0001486, YH-PSET0004182-YH-PSET0004211, YH-PSET0004292-YH-PSET0004379, YH-PSET0007905- YH-PSET0007915, YH-PSET0009089-YH-PSET0009103, YH-PSET0025033-YH-PSET0025056, YH-PSET1194517-YH-PSET1194518, YH-PSET2461408-YH-PSET2461437, YH-PSET2478469-YH-PSET2478476, YH-PSET2503548-YH-PSET2503575, YH-PSET2504037-YH-PSET2504063, YH-PSET2504405-YH-PSET2504479, YH-PSET2505462-YH-PSET2505477, YH-PSET2509475-YH-PSET2509506, YAH0000363-YAH0000369, YAH0000403-YAH0000468, YAH0000532-YAH0000575.

INTERROGATORY NO. 10: For each of YAHOO's products or processes identified in response to Interrogatory No. 2 identify in claim chart form, with particularity, the structure or steps in the ACCUSED PRODUCT that purportedly correspond to each ASSERTED PATENT CLAIM (including without limitation identifying in each of YAHOO's products or processes identified in response to Interrogatory No. 1 the non-interactive electronic message, the rule-based knowledge engine, the case-based knowledge engine, and the case model) and whether such correspondence is literal or under the doctrine of equivalents, and identify any DOCUMENTS or other resources used to determine the response to this interrogatory.

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ANSWER: Subject to and without waiving the general objections, Bright Response objects to this interrogatory because it has multiple discrete subparts, at least according to the interpretation of subparts asserted by Defendants relative to Bright Response's interrogatories. Bright Response also objects to this interrogatory to the extent it requests information covered by the attorney-client privilege and/or work product doctrine. In addition, Bright Response objects to this interrogatory because it is unduly burdensome and premature, including in advance of expert disclosures relative to infringement, and in advance of the Court's claim construction. Bright Response specifically reserves the right to amend its responses to this interrogatory.

Subject to and without waiving the foregoing general and specific objections, Bright Response incorporates by reference its response to Interrogatory Nos. 2 and 9, and to Claim Chart Attachments 1-3. Specifically, Bright Response states as follows:

Identification in claim chart form the "structure or steps" that correspond to the asserted patent claims can be found in the Claim Chart Attachments 1-3.

Identification of whether such correspondence is literal or under the doctrine of equivalents can be found in the Claim Chart Attachments 1-4 and the response to Interrogatory No. 2.

Identification of documents or other resources used to determine the response to this interrogatory can be found in the Claim Chart Attachments 1-3.

Furthermore, in accordance with Fed. R. Civ. P. 33(d), Bright Response identifies exemplary documents bearing production numbers:

YH-PSET0001345-YH-PSET0001486, YH-PSET0004182-YH-PSET0004211, YH-PSET0004292-YH-PSET0004379, YH-PSET0007905- YH-PSET0007915, YH-PSET0009089-YH-PSET0009103, YH-PSET0025033-YH-PSET0025056, YH-PSET1194517-YH-PSET1194518, YH-PSET2461408-YH-PSET2461437, YH-PSET2478469-YH-PSET2478476, YH-PSET2503548-YH-PSET2503575, YH-PSET2504037-YH-PSET2504063, YH-PSET2504405-YH-PSET2504479, YH-PSET2505462-YH-PSET2505477, YH-PSET2509475-YH-PSET2509506, YAH0000363-YAH0000369, YAH0000403-YAH0000468, YAH0000532-YAH0000575.

Bright Response notes that discovery is on-going in this case and reserves its rights to supplement this interrogatory response (in the form of a formal supplementation or of another writing) as additional information becomes available.

INTERROGATORY NO. 11: State whether any PERSON on behalf of PLAINTIFF has requested or conducted an investigation of the validity or invalidity (including any PRIOR ART search), enforceability or unenforceability, scope of claims, infringement or noninfringement, of the '947 PATENT and if the answer is anything other than an unqualified negative, for each such investigation identify: each PERSON who requested the investigation and the date of the request; each PERSON who furnished any DOCUMENTS upon which the investigation was based in whole or in part, and IDENTIFY each such documents; each PERSON who participated in the investigation, prepared or reported the results of the investigation and IDENTIFY the date of any such report, whether draft or final; each PERSON who received, read or had access to a

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draft or final report of such investigation, or any conclusion set forth therein; and whether any decision was made or action taken by or on behalf of PLAINTIFF in whole or in part as a result of such investigation, and describe in detail each such decision and action.

ANSWER: Bright Response has not provided an answer on the understanding that Defendant Yahoo has exceeded its allowed number of interrogatories in this matter and has therefore withdrawn this interrogatory.

INTERROGATORY NO. 12: Describe with particularity the first offer for sale, first public use, or first public disclosure of any apparatus and/or method for the use of a case-based and rule-based system (including without limitation any product or process embodying any claim of the '947 PATENT), including without limitation the date of such offer to sell, sale, public use, or public disclosure, the identity of the product or process that was the subject of the offer to sell, sale, public use, or public disclosure was made, the identity of the PERSON to whom the offer to sell, sale, public use, or public disclosure was made, and identify any DOCUMENTS or other resources used to determine the response to this interrogatory.

ANSWER: Subject to and without waiving the general objections, Bright Response objects to this interrogatory because it has multiple discrete subparts, at least according to the interpretation of subparts asserted by Defendants relative to Bright Response's interrogatories. Bright Response also objects to this interrogatory to the extent it requests information covered by the attorney-client privilege and/or work product doctrine. Also, Bright Response objects to this interrogatory because it is overly broad, unduly burdensome, irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, including because it seeks information about “*any* apparatus and/or method for the use of a case-based and rule-based system” without being limited, for example, to any relevant time period or operator.

Subject to and without waiving the foregoing general and specific objections, Bright Response states that it has no knowledge of any offer for sale, public use or public disclosure (other than the filing of the application(s) that matured into the '947 Patent) of the inventions claimed in the '947 Patent. Bright Response understands that the invention was in the process of being reduced to practice, and was tested but not publicly used, sold or otherwise publicly disclosed prior to the publication of the AAAI article (BR 001250- BR 001262) in or around August 1996, less than one year before the filing of the provisional application(s) that matured into the '947 Patent. *See, e.g.*, Deposition of Amy Rice at 30:14-31:6. Discovery in this case is ongoing and Bright Response reserves the right to amend or supplement this response as additional information becomes available.

INTERROGATORY NO. 13: State whether PLAINTIFF, or any of the named inventors have, at any time, licensed or attempted to license the '947 PATENT to any PERSONS other than YAHOO, and identify each such license and any related agreement, the identity of the PERSONS with whom YOU COMMUNICATED, the dates and locations of such COMMUNICATIONS, and identify any DOCUMENTS or other resources used to determine the response to this interrogatory.

ANSWER: Subject to and without waiving the general objections, Bright Response objects to this interrogatory because it has multiple discrete subparts, at least according to the interpretation of subparts asserted by Defendants relative to Bright Response's interrogatories. Bright Response also objects to this interrogatory to the extent it requests information covered by the attorney-client privilege and/or work product doctrine. Bright Response further objects to this interrogatory as vague and ambiguous, for example, regarding the meaning of "any related agreement" in the context of this interrogatory. Also, Bright Response objects to this interrogatory because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, including because it suggests attempted licensing by persons having no right to license the '947 Patent, and to the extent it seeks information regarding settlement agreements that are irrelevant and inadmissible under one or more of FRE 403 and 408. *See, e.g., Fenner Investments, Ltd. V. Hewlett-Packard Co.*, 6:08-CV-273 (E.D. Tex. April 28, 2010) (Memorandum Opinion and Order granting Plaintiff's motion to preclude testimony or exhibits related to settlement agreements) (Love, J).

Subject to and without waiving the foregoing general and specific objections, Bright Response identifies the following settlement agreements that may contain licenses, which represent compromise of litigation and are irrelevant and inadmissible under FRE 403 and 408: BR001302-BR001306, BR001307-BR001309, BR001310-BR001334, BR001335-BR001350, BR001351-BR001363, BR001364-BR001379, BR001380-BR001411, BR009813-BR009832, BR010512-BR010524, BR010525-BR010540, BR010541-BR010556, BR010557-BR010588, BR010589-BR010610, BR010611-BR010632, BR010633-BR010657, BR010658-BR010677.

INTERROGATORY NO. 14: State when the PLAINTIFF first learned that Amy Rice contended that the statements made in the AAI article (BR 001250 – BR 001262) were false.

ANSWER: Subject to and without waiving the general objections, Bright Response objects to this interrogatory because it is vague and unduly burdensome, including because it fails to identify what "statements made in the AAI article" to which the interrogatory purportedly refers, and because terms such as "false," are undefined and unclear or inaccurate and inappropriate in this context. Bright Response also objects to this interrogatory to the extent it requests information covered by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the foregoing general and specific objections, Bright Response refers to and incorporates its responses to Interrogatory Nos. 15 and 16.

INTERROGATORY NO. 15: Identify all actions taken by PLAINTIFF to inform the United States Patent and Trademark Office that Amy Rice contended that the statements made in the AAI article (BR 001250 – BR 001262) were false.

ANSWER: Subject to and without waiving the general objections, Bright Response objects to this interrogatory because it is vague and unduly burdensome, including because it fails to identify what “statements made in the AAI article” to which the interrogatory purportedly refers, and because terms such as “false,” are undefined and unclear or inaccurate and inappropriate in this context. Bright Response also objects to this interrogatory to the extent it requests information covered by the attorney-client privilege and/or work product doctrine. Also, Bright Response objects to this interrogatory because it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence, including because Bright Response is unaware of, and Yahoo has not identified, any obligation on Bright Response to inform the USPTO about extra-prosecutorial statements made by co-inventors of the ‘947 Patent following issuance of thereof.

Subject to and without waiving the foregoing general and specific objections, Bright Response refers to and incorporates its responses to Interrogatory No. 16.

INTERROGATORY NO. 16: Explain any investigation that PLAINTIFF undertook to determine if the statements made in the AAI article (BR 001250- BR 001262) were false; and if PLAINTIFF investigated this fact, identify all of the PERSONS contacted and all DOCUMENTS reviewed; and regardless of whether PLAINTIFF undertook an investigation, state PLAINTIFF’s current belief as to whether any of the statements made in the AAI article (BR 001250 – BR 001262) were false and identify those statements.

ANSWER: Subject to and without waiving the general objections, Bright Response objects to this interrogatory because it has multiple discrete subparts, at least according to the interpretation of subparts asserted by Defendants relative to Bright Response's interrogatories. Also, Bright Response objects to this interrogatory because it is vague and unduly burdensome, including because it fails to identify what “statements made in the AAI article” to which the interrogatory purportedly refers, and because terms such as “false,” “investigation” and “investigated” are undefined and unclear or inaccurate and inappropriate in this context. Bright Response also objects to this interrogatory to the extent it requests information covered by the attorney-client privilege and/or work product doctrine.

Subject to and without waiving the foregoing general and specific objections, Bright Response states that its present belief is that the following statement, and any similar statements, made in the AAI article could be mis-interpreted as suggesting that EZ Reader was in public use and not under experimental development in the first quarter of 1996:

“Phase I of EZ Reader was deployed in the first quarter of 1996, and handles up to 80% of incoming mail automatically, depending on message content.” at BR001252.

Respectfully submitted,

By: /s/Patrick R. Anderson

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**ATTORNEYS FOR PLAINTIFF
Bright Response, LLC**

ATTORNEYS EYES ONLY

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document is being served on this date upon all counsel of record via e-mail.

May 13, 2010

s/Patrick R. Anderson
Patrick R. Anderson