

EXHIBIT F

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1 question, please.
 2 (Whereupon the prior question was read
 3 by the court reporter.)
 4 MR. PRIDHAM: Object to form.
 5 THE WITNESS: As far as I know, it was
 6 never used for that.
 7 BY MR. PERLSON:
 8 Q And you say as far as you know. What -- who
 9 would know other than you whether it was actually used to
 10 respond to e-mails from live customers?
 11 A I don't know.
 12 Q Would -- could the people at Chase know that?
 13 A I don't know. I suppose. As far as I know,
 14 it never was used because there was a big upheaval when
 15 Chemical Bank comes in.
 16 Q Okay. Can you describe -- what do you mean
 17 big upheaval regarding Chemical Bank?
 18 A Well, I got basically taken off the project
 19 before testing was complete. And Chemical Bank was set to
 20 merge with Chase Manhattan's IT department. And so there
 21 was a lot of questioning about what we were doing, and we
 22 pretty much came to a standstill in testing the application.
 23 Q And do you recall the timing of that?
 24 A No. I can tell you when I was off the
 25 project.

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1 Q That was going to be my next question. When
 2 were you off the project?
 3 A I think it was in my affidavit. I am not
 4 sure. It was March or April, maybe May. March. I think it
 5 was April of -- I guess it would be '95, '96. I can't
 6 remember what year.
 7 Q If Mr. Angotti testified that the EZ Reader
 8 was in fact used to respond to e-mails of actual customers,
 9 would you have any reason to dispute that?
 10 MR. PRIDHAM: Object to form.
 11 THE WITNESS: I don't believe
 12 Mr. Angotti in any way.
 13 BY MR. PERLSON:
 14 Q What do you mean?
 15 A He had his own agenda.
 16 Q What was his agenda?
 17 A I would rather not say.
 18 Q Well, one of the --
 19 A I mean, it's just an opinion.
 20 Q Why don't you tell me the opinion.
 21 A I just think he was trying to make a big deal
 22 out of what he saw as -- everyone around the project saw as
 23 really exciting development, and he wanted it to -- claim it
 24 as his own because of -- you know, internal corporate
 25 politics.

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1 Q What about Ms. Piccolo, if she testified that
 2 EZ Reader was used to respond to e-mails from live
 3 customers, would you have any reason to dispute that?
 4 MR. PRIDHAM: Object to form.
 5 THE WITNESS: I can't think of one. I
 6 don't know why she would say that either.
 7 BY MR. PERLSON:
 8 Q Do you believe Ms. Piccolo had an agenda like
 9 Mr. Angotti?
 10 A No.
 11 Q Did you ever find Ms. Piccolo to be
 12 untruthful, in your experience with her?
 13 A No.
 14 Q Do you recall that at -- well, before I go on
 15 to that, you had mentioned that the EZ Reader was
 16 revolutionary.
 17 What did you mean by that?
 18 A It -- there was no other application that we
 19 knew of that could perform that function.
 20 Q And what function are you referring to?
 21 A Automatic interpretation and routing of
 22 electronic e-mail, as well as response.
 23 Q Now, one of the aspects of the EZ Reader was
 24 rule-based reasoning; is that correct?
 25 A Yes.

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1 Q And rule-based reasoning existed before you
 2 started work on EZ Reader, correct?
 3 A Yes.
 4 Q Another aspect of the EZ Reader is case-based
 5 reasoning, correct?
 6 A Yes.
 7 Q And case-based reasoning existed before the
 8 development of the EZ Reader, correct?
 9 A Yes.
 10 Q And do you know whether case-based reasoning
 11 and rule-based reasoning had been combined in an application
 12 before?
 13 A No.
 14 Q You don't think it did or you just don't
 15 know?
 16 A I don't think it did, and I doubt it.
 17 Q Why do you doubt it?
 18 A I was in the field for a while and knew a lot
 19 of people who developed applications. I had not ever seen
 20 them used together.
 21 Q And the -- are you familiar with the
 22 ART*Enterprise?
 23 A Yes.
 24 Q What is that?
 25 A It's a software product.

1 believe that it was just a document given to
2 me by the attorneys that I was supposed to
3 sign for the patent.

4 BY MR. PERLSON:

5 Q Okay. And that's your signature on page 2?

6 A Yes.

7 Q And when you read it -- I am sorry. When you
8 signed it, did you read the paragraph before that said that
9 "I further declare that all statements made herein of my own
10 knowledge are true" and the rest of the language?

11 A Yes.

12 Q And to your understanding, are the statements
13 in this declaration true?

14 A At the time I must have thought they were
15 true. I mean, I can read the document later and maybe it
16 would mean something else.

17 Q Well, if you look at the second paragraph,
18 starting with "I have reviewed and understand the
19 contents"...

20 A Uh-huh.

21 Q It says, "I have reviewed and understand the
22 contents of the above-identified specification, including
23 the claims as amended by any amendment referred to above."

24 Do you see that?

25 A Uh-huh.

1 Q And the -- you will see that the application
2 number referred to above is 09054233.

3 Do you see that?

4 A Yes.

5 Q And that's the same as the application number
6 that's on the '947 patent?

7 A Yes.

8 Q Now, did you in fact review and understand
9 the contents of the above-identified specification,
10 including the claims as amended by any amendment referred to
11 above?

12 MR. PRIDHAM: Object to form.

13 You can answer.

14 THE WITNESS: I wouldn't have signed it
15 less it were true.

16 BY MR. PERLSON:

17 Q Do you remember reviewing the specification,
18 including the claims, as amended by any amendment referred
19 to above?

20 A The claims of what?

21 MR. PRIDHAM: I am sorry. I am going to
22 object to form.

23 You can answer.

24 THE WITNESS: Which claims are you
25 referring to?

1 BY MR. PERLSON:

2 Q The claims in application number 09054233,
3 which --

4 A Like this whole thing?

5 Q -- as we've indicated is Cohen Exhibit 3, the
6 '947 patent?

7 A The question was: Did I understand them?

8 Q Well, let me just start over, because we were
9 talking over each other, I think.

10 You have -- you state in the declaration,
11 that's Rice Exhibit 2, "I have reviewed and understand the
12 contents of the above-identified specification, including
13 the claims as amended by any amendment referred to above."

14 That's what it says in the declaration,
15 right?

16 A Yes.

17 Q And what's referred to above is application
18 09054233, right?

19 A Uh-huh.

20 Q And I am asking you if you have a
21 recollection, sitting here today, of in fact actually
22 reviewing and understanding the contents of application
23 number 09054233, including the specification and the claims?

24 MR. PRIDHAM: I am going to object to
25 form.

1 THE WITNESS: I don't remember this as
2 being -- I mean, I can't link these two.

3 BY MR. PERLSON:

4 Q Do you remember reviewing an application in
5 another form before you signed this declaration?

6 MR. PRIDHAM: I am going to object to
7 form.

8 You can answer.

9 THE WITNESS: No. I really wasn't
10 involved in the patent, you know, process.

11 BY MR. PERLSON:

12 Q So you don't recall reviewing any patent
13 before reviewing this declaration?

14 MR. PRIDHAM: Object to form.

15 THE WITNESS: Not seriously.

16 BY MR. PERLSON:

17 Q What do you mean "not seriously"?

18 A Well, I mean I am not a lawyer, so I had no
19 way of knowing what all this stuff means.

20 Q Well, but that's not what you said in the
21 declaration, is it? You said in your declaration, Rice
22 Exhibit 2, "I have reviewed and understand the contents of
23 the above-identified specification, including the claims as
24 amended by any amendment referred to above."

25 Did you not review or understand the contents

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1 question.
 2 (Whereupon the prior question was read
 3 by the court reporter.)
 4 MR. PRIDHAM: So I am going to reiterate
 5 the objection to form; reiterate the
 6 objection to privilege.
 7 I think you can answer the question in
 8 general.
 9 THE WITNESS: What actions? The actions
 10 I took were talking with my lawyers.
 11 BY MR. PERLSON:
 12 Q Did you review any documents?
 13 A I reviewed the document I signed.
 14 Q Is that it?
 15 A I reviewed -- I can't remember what I
 16 reviewed. This just -- this current exhibit doesn't look
 17 like the same thing I reviewed, but...
 18 Q Okay.
 19 MR. PERLSON: I will mark another
 20 exhibit as Rice Exhibit 3.
 21 (Defendants' Exhibit 3 was marked
 22 for identification, described
 23 in index.)
 24 BY MR. PERLSON:
 25 Q And for the record, this the BR 547 through

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1 BR 585.
 2 Have you ever seen this document before?
 3 A Yes.
 4 Q What is it?
 5 A It looks like a patent application.
 6 Q Okay. And if you look in the -- if you look
 7 on the first page on the side vertically there is a number
 8 there, it says 09054233.
 9 Do you see that?
 10 A Uh-huh, yes.
 11 Q Is that the same number that's on the
 12 declaration, that Rice Exhibit 2, which is your declaration?
 13 A Yes.
 14 Q And so have you reviewed Rice Exhibit 3
 15 before? Just the 253 application -- 233 application?
 16 A This looks like what I reviewed.
 17 (Indicating.) What do you mean by "review"?
 18 Q Well, in your declaration, Rice Exhibit 2,
 19 you said you reviewed it, in the second paragraph. So I use
 20 that language.
 21 MR. PRIDHAM: I am going to object to
 22 form.
 23 BY MR. PERLSON:
 24 Q So you did review it?
 25 A Yes, I did review this.

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1 Q And did you -- when you reviewed it, did you
 2 understand the contents of it?
 3 A Yes. But I didn't read -- I understood the
 4 parts of it that were related to EZ Reader.
 5 Q Were any parts not related to EZ Reader?
 6 A Well, I haven't looked at this in a really
 7 long time. I don't know at this point. I think is just so
 8 big.
 9 Q Well, let me --
 10 A Let me see.
 11 Q Sorry. Go ahead.
 12 A Looking at it now, I mean, I don't think
 13 that -- well, I am just having trouble with the length of
 14 the document, and then, you know, being able to answer your
 15 question.
 16 Q Let me ask you another question. If you go
 17 to BR 567 in exhibit -- Rice Exhibit 3.
 18 A Okay.
 19 Q You see there is a series of claims there?
 20 A Uh-huh.
 21 Q Did you understand those claims at the time
 22 you signed the declaration that's Rice Exhibit 2?
 23 MR. PRIDHAM: I am going to object to
 24 form.
 25 THE WITNESS: I can't remember. This is

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1 all marked up.
 2 BY MR. PERLSON:
 3 Q It's the form that was given to us.
 4 A I don't remember understanding -- or
 5 receiving a marked-up document.
 6 Q Okay. Well marked-up or not, do you recall
 7 understanding the claims in the application you did review?
 8 MR. PRIDHAM: I am going to object to
 9 form.
 10 (Whereupon the prior question was read
 11 by the court reporter.)
 12 THE WITNESS: Yes.
 13 BY MR. PERLSON:
 14 Q Do you recall whether in the course of that
 15 review you noticed anything in here that was incorrect?
 16 MR. PRIDHAM: Object to form.
 17 THE WITNESS: Incorrect?
 18 BY MR. PERLSON:
 19 Q Yes.
 20 A Like are you talking about EZ Reader? Are
 21 you talking about the claims of the patent?
 22 Q I am talking about anything. In your
 23 declaration Rice Exhibit 2, you said that "All statements
 24 made herein of my knowledge are true and that all statements
 25 made on information or belief are believed to be true." And

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1 say? What does that statement say?
 2 A Starting "To reviewers"?
 3 Q No. With "Refinements."
 4 A Oh. "Refinements to the case base"?
 5 Q Yes.
 6 A "Refinements to the case-base and rules were
 7 made and verified in subsequent abbreviated tests before the
 8 application was approved for production."
 9 Q So the article states here -- and just to be
 10 clear what's being referred to in this sentence is the EZ
 11 Reader, right?
 12 A Yes. This is the EZ Reader application,
 13 yeah.
 14 Q And this sentence says that the application
 15 was approved for production, right?
 16 A Yes, that's correct.
 17 Q Does that refresh your recollection as to the
 18 timing of the approval for production? Or is this also an
 19 incorrect statement as written?
 20 MR. PRIDHAM: Object to form.
 21 I'm sorry. Go ahead.
 22 THE WITNESS: It was actually approved
 23 for production more than once. I mean, I
 24 think that when they heard what this
 25 application could do, they were so

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1 enthusiastic about it. They knew it was
 2 going to go into production.
 3 We -- those were just verbal approvals.
 4 I know that we did get an e-mail from Rosanna
 5 saying it was approved for production.
 6 BY MR. PERLSON:
 7 Q But that was after this -- that was after
 8 this article was submitted?
 9 A Yes.
 10 Q So what production approval are you referring
 11 to in the article?
 12 A I attribute that statement to their
 13 enthusiasm for getting it into production to save the cost
 14 to ChaseDirect and provide all the other benefits that were
 15 outlined in the paper.
 16 Q So it wasn't actually approved for
 17 production?
 18 A It was verbally approved, but we were not
 19 able to put it into production because there were certain
 20 rules that the information technology department had to
 21 enforce before we put it into production. So we hadn't
 22 obtained all of the approvals for production yet.
 23 Q Do you know who Bradley Allen is?
 24 A Bradley Allen, it sounds like someone from
 25 Long Island.

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1 Q What is that? It sounds like what?
 2 A It sounds like someone from Long Island. No,
 3 I don't -- I don't recall if I know of a Bradley Allen. I
 4 could have. There were hundreds of people I met at Chase.
 5 Q What about Daniel Lee?
 6 A Daniel Lee is -- I think he was a software
 7 engineer.
 8 Q At Inference?
 9 A If it's the same Daniel Lee, yeah.
 10 Q Okay. Are you aware of any work that Daniel
 11 Lee had done in connection with case-base reasoning or
 12 rule-based reasoning?
 13 A No. However, you know, I have read his bio
 14 on LinkedIn and stuff like that, so I know he did do that
 15 stuff. Not at that time though.
 16 Q You don't believe he did it at that time or
 17 you just don't know?
 18 A I don't know.
 19 (Defendants' Exhibit 4 was marked
 20 for identification, described
 21 in index.)
 22 BY MR. PERLSON:
 23 Q Handing you what has been marked as Rice
 24 Exhibit 4, which is Rice 1403 through 1406. Do you
 25 recognize this document?

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1 A Let me take a minute and look at it.
 2 Q Sure.
 3 A Is there a date on this article that I can
 4 refer to?
 5 Q On this declaration or the article?
 6 A Oh, I am sorry. On the document we are
 7 looking at.
 8 Q There is a date on the last page.
 9 A Okay. January 12, 2004?
 10 Q Yes.
 11 A Yes, I am familiar with this document.
 12 Q What is this?
 13 A I think this is an affidavit. Is that what
 14 you would call it in legal terms?
 15 Q Well, it says "Declaration of Amy Rice,"
 16 so...
 17 A I am not a lawyer. Sorry.
 18 Q Did you draft this declaration?
 19 A I helped draft it.
 20 Q Who else worked on the drafting of this
 21 declaration?
 22 A David Pridham.
 23 Q David Pridham, who is representing you here
 24 today?
 25 A Yes.

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1 Q Anyone else?

2 A I don't remember if there was anyone else.

3 Q Do you know whether this declaration was ever

4 actually filed?

5 A No.

6 Q You just don't know one way or the other?

7 A I don't.

8 Q Do you know what this declaration was for?

9 MR. PRIDHAM: I am going to object on

10 the basis of privilege. To the extent your

11 response requires you to divulge privileged

12 communication, I am going to instruct you not

13 to answer.

14 THE WITNESS: I forget which question I

15 am answering now.

16 BY MR. PERLSON:

17 Q I asked you if you know what this declaration

18 is for.

19 MR. PRIDHAM: Same objection as to

20 privilege, and instruct you not to answer to

21 the extent your response requires you to

22 divulge a privileged communication.

23 THE WITNESS: I don't know what this was

24 for.

25 BY MR. PERLSON:

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1 Q Why did you sign it?

2 MR. PRIDHAM: Same objection. Same

3 instruction.

4 THE WITNESS: I don't know.

5 BY MR. PERLSON:

6 Q You have no idea?

7 MR. PRIDHAM: Object to form.

8 THE WITNESS: Correct.

9 BY MR. PERLSON:

10 Q Was it because you were asked to do it?

11 MR. PRIDHAM: Objection, privileged.

12 Instruct you not to answer to the extent your

13 response would require you to divulge any

14 privileged communication.

15 THE WITNESS: I don't know anything else

16 about it.

17 BY MR. PERLSON:

18 Q Do you know who asked you to sign it?

19 A I don't remember.

20 Q Could it have been anyone other than

21 Mr. Pridham?

22 MR. PRIDHAM: Object to form.

23 THE WITNESS: Could it have been anyone

24 other than? I don't remember. So, yes, I

25 guess it could have been someone else.

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1 BY MR. PERLSON:

2 Q Are you aware of any incorrect statements in

3 this declaration, that's Rice Exhibit 4?

4 A No.

5 Q Were you a consultant of Firepond at the time

6 you signed this declaration?

7 MR. PRIDHAM: Object to form.

8 THE WITNESS: No.

9 BY MR. PERLSON:

10 Q If you could refer back to Rice Exhibit 1, is

11 that your consulting agreement with Merchant & Gould?

12 A Yes.

13 Q Is that dated before your declaration that's

14 Rice Exhibit 4?

15 A Yes, it is dated before.

16 Q So does that refresh your recollection at all

17 as to whether you were a consultant of Firepond at the time

18 when you signed the declaration that's Rice Exhibit 4 in

19 January 2004?

20 A I understand what the difference between the

21 dates are. I didn't ever see myself as a consultant of

22 Firepond because my contract was with Merchant & Gould.

23 Q Okay.

24 A So that's why I said no.

25 Q Did you understand you were a consultant of

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1 Merchant & Gould at the time you signed the declaration in

2 January 2004, that's Rice Exhibit 4?

3 A Yes.

4 Q And were you being compensated at that time

5 by Merchant & Gould pursuant to the contract that's Rice

6 Exhibit 1?

7 A Yes, I was.

8 Q Yes?

9 A Yes.

10 Q Did you ask why you were being asked to sign

11 a declaration under penalty of perjury in January of 2004?

12 MR. PRIDHAM: Object to -- objection,

13 privilege. To the extent your response would

14 require you to divulge an attorney/client

15 communication or a privileged communication,

16 I am going to instruct you not to answer.

17 So I think you can answer it yes or no,

18 but...

19 THE WITNESS: Do I remember whether or

20 not I was -- what was the question again?

21 MR. PERLSON: Can you just read it back.

22 (Whereupon the prior question was read

23 by the court reporter.)

24 THE WITNESS: No.

25 BY MR. PERLSON:

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1 human intervention was always required before any response
2 was delivered."

3 A Yes.

4 Q I mean, doesn't that suggest that some
5 responses were in fact delivered?

6 MR. PRIDHAM: Object to form.

7 THE WITNESS: Some responses -- well,
8 ChaseDirect was operational. And so they
9 always had a human in the loop before any
10 response was delivered. And that would have
11 been true regardless of whether or not EZ
12 Reader was there.

13 BY MR. PERLSON:

14 Q Right. But when the EZ Reader was there,
15 they were able to take what was generated by the EZ Reader
16 and send it to customers?

17 MR. PRIDHAM: Object to form.

18 BY MR. PERLSON:

19 Q Right?

20 MR. PRIDHAM: Object to form.

21 THE WITNESS: I can't say for sure. But
22 I can't say that there wasn't. I wasn't
23 there, so...

24 BY MR. PERLSON:

25 Q You just weren't involved in that?

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1 A Well, I know -- I know what they were going
2 through, but I don't -- no, I wasn't there to see whether or
3 not they actually delivered responses from EZ Reader.

4 Q Do you have personal knowledge of anything
5 that's in paragraph 11?

6 A Yes.

7 Q What?

8 A That Chase did not implement the response
9 return function during the experiment, because I would have
10 heard of it if they did.

11 Q Okay. So you're -- even though you weren't
12 at the experiment, you're saying that they didn't
13 implement -- you have personal knowledge of the fact of what
14 they didn't implement?

15 A Yeah. Because I was still friendly with
16 Rosanna and Ms. Piccolo. And you know, I would just check
17 to see what was going on.

18 Q But just to be clear, you were not personally
19 involved in the experiment?

20 MR. PRIDHAM: Object to form.

21 THE WITNESS: That is right.

22 BY MR. PERLSON:

23 Q I notice in paragraph 15 you say "While I was
24 not personally involved in negotiation of terms" --

25 A Uh-huh.

20

1 THE WITNESS: Next question.
2 MR. PERLSON: She said you weren't
3 representing her at the time.
4 MR. PRIDHAM: I can give you my position
5 on it. But you can ask the next question.
6 Your call. I don't want to give you a
7 speaking objection.
8 MR. PERLSON: Well, I would like to know
9 the basis of the assertion of privilege given
10 the fact that she said that at the time you
11 weren't representing her.
12 MR. PRIDHAM: I think the agreement
13 between Ms. Rice and the various counsel that
14 have represented the patent holder in this
15 case, including Merchant & Gould; Latham &
16 Watkins, it's very clear that the patent
17 holder will indemnify Ms. Rice for activities
18 related to the patent and disputes involving
19 the patent. And that's the nature of the
20 attorney/client relationship.
21 If you look at the -- Rice Exhibit 1,
22 you can see an example of those. BR 1264, I
23 think the second full paragraph, "Firepond
24 agrees at its sole expense to defend you
25 against and to indemnify you and hold you

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1 harmless from any and all claims or suits by
2 any third party, including current or former
3 contractors, customers against you and any
4 liabilities or judgments based thereon which
5 are related to the consulting services
6 performed hereunder or arising from any
7 products which result from the consulting
8 services."
9 So -- and this agreement was transferred
10 from Firepond to the ultimate patent holder
11 in this case. At all times since this
12 agreement was entered into, first Firepond,
13 then O'Ryan, then Bright Response, have paid
14 for Ms. Rice's representation; that includes
15 representation by Merchant & Gould and
16 representation by Latham & Watkins,
17 representation by Leonard Street and Deinard,
18 representation by Williams Morgan & Amerson,
19 by myself and all those firms and individuals
20 at those firms, including others that I
21 haven't mentioned that represented Ms. Rice.
22 MR. PERLSON: Okay. So this -- I see.
23 So you're -- to the extent it's saying that
24 "This agreement inures to the benefit of and
25 its binding upon successor and interest of