

Exhibit A.3

From: [Austin Curry](#)
To: [Diane Hughes](#);
CC:
Subject: FW: Bedrock Computer Technologies LLC v. Softlayer Technologies, Inc. Case No. 6:09-cv-269
Date: Tuesday, March 16, 2010 4:44:44 PM
Attachments:

[For file.](#)

From: Austin Curry
Sent: Tuesday, March 16, 2010 4:44 PM
To: 'Chaikovsky, Yar'
Cc: 'Chris Bunt'; 'Lee, John'; 'Evette Pennypacker (evettepennypacker@quinnemanuel.com)'; 'DTWilliams@KilpatrickStockton.com'; 'henrylien@quinnemanuel.com'; 'Alan Lee Whitehurst (alan.whitehurst@alston.com)'; 'Marissa Rachel Ducca (marissa.ducca@alston.com)'; 'claudestern@quinnemanuel.com'; 'toddbriggs@quinnemanuel.com'; 'mikejones@potterminton.com'; 'AMiller@stormllp.com'; 'patrickclutter@potterminton.com'; 'jalemanni@kilpatrickstockton.com'; 'sgardner@kilpatrickstockton.com'; 'rkorn@kilpatrickstockton.com'; 'mmorlock@kilpatrickstockton.com'; 'tom.davison@alston.com'; 'jessegeraci@quinnemanuel.com'; 'andrewbramhall@quinnemanuel.com'
Subject: RE: Bedrock Computer Technologies LLC v. Softlayer Technologies, Inc. Case No. 6:09-cv-269

[Yar and all,](#)

[In my email below, I urged you -- and by extension all defendants -- to reconsider your position on the production of source code. Given that no one has responded to my email, I will be calling each defense group separately this week. When I call, please be prepared to discuss the following:](#)

- [\(1\) The location of the source code computers.](#)
- [\(2\) The categories of source code that your client is willing to produce.](#)
- [\(3\) When your client will be able to make the production in \(2\).](#)
- [\(4\) Any reason why your client believes that it does not have to produce the](#)

source code that Bedrock is requesting.

Austin Curry

From: Austin Curry
Sent: Thursday, February 25, 2010 12:13 PM
To: Chaikovsky, Yar
Cc: Chris Bunt; Lee, John; Evette Pennypacker (evettepennypacker@quinnemanuel.com); DTWilliams@KilpatrickStockton.com; henrylien@quinnemanuel.com; Alan Lee Whitehurst (alan.whitehurst@alston.com); Marissa Rachel Ducca (marissa.ducca@alston.com); claudestern@quinnemanuel.com; toddbriggs@quinnemanuel.com; mikejones@potterminton.com; AMiller@stormllp.com; patrickclutter@potterminton.com; jalemanni@kilpatrickstockton.com; sgardner@kilpatrickstockton.com; rkorn@kilpatrickstockton.com; mmorlock@kilpatrickstockton.com; tom.davison@alston.com; jessegeraci@quinnemanuel.com; andrewbramhall@quinnemanuel.com
Subject: RE: Bedrock Computer Technologies LLC v. Softlayer Technologies, Inc. Case No. 6:09-cv-269

Yar,

It can't be the case that "Bedrock's request that Defendants produce 'any and all source code that corresponds to the object code that is or has been executing on your clients servers or servers operating under your client's control or direction since 2003' is overly broad, unduly burdensome, and not relevant to the claims or defenses in this case" but also that the defendants "cannot stipulate or make any representations regarding the impact of non-produced source code on this case or agree to restrictions on the use of non-produced source code." The defendants can't have it both ways.

Bedrock, in its infringement contentions, identified with particularity the source code that meets the limitations of the patent in suit. The precision that Bedrock provided in its PICs cannot serve as a basis for limiting the production it is entitled to, and you have not given me to any authority saying as much. Rather, in the Eastern District, not only is Bedrock entitled to everything non-privileged and relevant, but "relevance" is typically given a broad interpretation. Bedrock's

request -- that the defendants produce any and all source code that corresponds to the object code that is or has been executing on your clients servers or servers operating under your client's control or direction since 2003 -- is highly relevant to this case, and this is plainly demonstrated by the defendants' unwillingness to stipulate otherwise. Further, I'd be interested to know whether any of the defendants are planning on limiting their respective experts' review of the source code to what is produced to Bedrock and Bedrock's experts.

The alternative you propose -- that Bedrock identify any additional Linux code or the code for other software programs that may be operating on Defendants' servers that Bedrock contends should be produced and the basis for its request -- is unworkable for at least two reasons: (i) this would be the equivalent of giving Bedrock a handful of jigsaw puzzle pieces and saying "tell me what other piece you need;" Bedrock would only be able to iteratively request the pieces that match the perimeter; and (ii) this would give the defendants improper insight into the code that Bedrock is reviewing.

In sum, Bedrock expects a complete production of source code from each defendant. Bedrock is willing to compromise on a lot of discovery issues to avoid motions to compel, but this is not one of them. Please reconsider your position.

Austin Curry

From: Faasisila, Nikole [mailto:Nfaasisila@mwe.com]
Sent: Wednesday, February 24, 2010 2:58 PM
To: Austin Curry
Cc: Chaikovsky, Yar; Lee, John; Evette Pennypacker (evettepennypacker@quinnemanuel.com); DTWilliams@KilpatrickStockton.com; henrylien@quinnemanuel.com; Alan Lee Whitehurst (alan.whitehurst@alston.com); Marissa Rachel Ducca (marissa.ducca@alston.com); claudestern@quinnemanuel.com; toddbriggs@quinnemanuel.com; mikejones@potterminton.com; AMiller@stormllp.com; patrickclutter@potterminton.com; jalemanni@kilpatrickstockton.com; sgardner@kilpatrickstockton.com; rkorn@kilpatrickstockton.com; mmorlock@kilpatrickstockton.com; tom.davison@alston.com; jessegeraci@quinnemanuel.com; andrewbramhall@quinnemanuel.com
Subject: Bedrock Computer Technologies LLC v. Softlayer Technologies, Inc.

Case No. 6:09-cv-269

Counsel:

Attached please find correspondence of today's date.

Regards,

Nikole Faasisila
McDermott Will & Emery LLP
275 Middlefield Road, Suite 100
Menlo Park, California 94025
(650) 815-7505 - Direct
(650) 815-7400 - Main
(650) 815-7401 - Fax

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