

EXHIBIT A-4

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May 11, 2010

VIA ELECTRONIC MAIL

Jonathan Yim
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Re: *Bedrock Computer Techs. LLC v. Softlayer Techs., Inc et al.*,
Civil Action No. 6:09-CV-269-LED (E.D. Tex.)

Dear Jonathan:

I write in response to your letter of May 7, 2010 regarding the Protective Order's restrictions on source code access. Bedrock's narrow interpretation of Paragraph 8(B)(ix) effectively nullifies it. Google allowed Bedrock's expert to print the source code that Google produced with the understanding that only he and one other expert would be allowed access to it. Bedrock cannot now allow an unlimited number of experts to access Google's source code. Such a result would severely undermine the limitations the parties expressly negotiated to provide a vital layer of protection for Google's highly confidential and sensitive source code.

Paragraph 8(B)(ix) applies to technical advisors, consultants, and testifying experts as described in Paragraph 7.1(D) (hereinafter collectively "experts"). Accordingly, Bedrock is mistaken that Paragraph 8(B)(ix) would require it to notify Google every time its "counsel, employees of counsel, . . . graphics operators, designers, animators, jury consultants, other staff, and mock jurors look at the source code." Additionally, even as it pertains to experts, Bedrock does not need to notify Google "each and every time" they look at the source code. Rather, as I explained in my previous letter, Bedrock simply needs to notify Google fourteen days in advance of disclosure to identify which Bedrock experts will have access to Google's source code. This

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allows Google to know which two experts will have access to its source code and object, if necessary. As I previously noted, this right to be notified and object to experts who have access to Google's source code is separate and apart from the general right to be notified and object to those who have access to Google's other confidential information. *Compare* Para. 8(B)(ix) with Para. 9.

Paragraph 8(B)(ix) adds an extra layer of protection when it comes to technical advisors, consultants and testifying experts. Thus, Bedrock's assertion that "[n]either paragraph 7.1 nor 7.2 places any restriction" on the disclosure of source code is a *non-sequitur*. It is Paragraph 8(B)(ix) that places the restrictions on disclosure of source code when it comes to experts. Similarly, Google does not dispute that experts disclosed pursuant to Paragraph 9 are "qualified" under Paragraph 7.2 to receive source code.¹ Rather, Paragraph 8(B)(ix) makes it clear that only two such "qualified" experts may access any one Defendant's source code, and then only after providing Google with a second chance to object to their access.

The clear intent of Paragraph 8(B)(ix) is to limit access to the Defendants' highly confidential source code by experts disclosed under Paragraph 9 and "qualified" under Paragraph 7.2. Although the provision initially refers to "Source Code Computers," the illustrative example clearly states that "no more than two (2) individuals may have access to any one Defendant's *source code*." It goes on to explain that the "receiving party shall identify all individuals who will be given *access to the source code* at least fourteen days prior to any inspection; after that identification, the producing party may object to providing *source code access* to any persons so identified." Bedrock's narrow interpretation that this provision only limits access to physical computers does not make any sense. To Google's knowledge, no Defendant expressed concerns about an over abundance of "visitors to their facilities," nor would such a concern be a compelling reason to impose a fourteen day notification and objection procedure.

Moreover, since Bedrock is already in possession of the source code that Google has made available, its narrow interpretation of Paragraph 8(B)(ix) would effectively eviscerate any limitation whatsoever. When Bedrock's expert came to inspect Google's source code, he appears to have printed out the entirety of the source code that Google made available for inspection. Thus, even if there may have once been a meaningful distinction between access to "Source Code Computers" and access to "source code," no such difference exists now. An expert with access to the printouts from the Source Code Computer has the same access to the source code Google made available on the Source Code Computer. Having blurred any distinction between access to "Source Code Computers" and access to "source code," Bedrock

¹ Google has not challenged the "qualification," under the procedures set forth in Paragraphs 9-11 of the Protective Order, of any expert disclosed on April 28, 2010 by Bedrock. Rather, Google simply wishes to ensure Bedrock's compliance with Paragraph 8(B)(ix), which is separate and apart from the procedures set forth in Paragraphs 9-11.

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cannot now argue that Paragraph 8(B)(ix) applies only to one and not the other. Such a result would only encourage Bedrock to print out as much source code as possible, which would be antithetical to the clear intent of the special source code restrictions.

We expect Bedrock to comply with the terms of the Protective Order as negotiated by the parties and entered by the Court. Please confirm, in writing, by the close of business on Wednesday, May 12, that Bedrock has only disclosed and will only disclose Google's source code to two experts as the Protective Order requires. Otherwise please (a) confirm that no Google source code has been shown to more than two Bedrock experts and (b) provide a time on Friday, May 14 for a lead and local counsel conference.

Very truly yours,

/s/ Todd M. Briggs

Todd M. Briggs

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