EXHIBIT A.6

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

BEDROCK COMPUTER TECHNOLOGIES LLC,	§	
	§	
Plaintiff,	§	
	§	**CASE NO. 6:09-cv-269-LED**
v.	§	
	§	**Jury Trial Demanded**
SOFTLAYER TECHNOLOGIES, INC., et al.	§	
	§	
Defendants.	§	

PLAINTIFF'S FIRST SUPPLEMENTAL RESPONSES TO GOOGLE INC.'S FIRST SET OF INTERROGATORIES (1-6)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff Bedrock Computer Technologies LLC ("Bedrock") provides the following objections and responses to defendant Google Inc.'s ("Google") First Set of Interrogatories to Plaintiff (Nos. 1-6).

PRELIMINARY STATEMENT

1. Bedrock incorporates by reference each and every general objection set forth below into each specific response. The failure to include any general objection in any specific response shall not be interpreted as a waiver of any general objection to that response.

2. By responding to Google's interrogatories, Bedrock does not waive any objection that may be applicable to: (a) the use, for any purpose, by Google of any information or documents given in response to Google's interrogatories; or (b) the admissibility, relevance, or materiality of any of the information or documents to any issue in this case.

3. No incidental or implied admissions are intended by the responses herein. The fact that Bedrock has answered or objected to any interrogatory should not be taken as an

admission that Bedrock accepts or admits the existence of any "fact" set forth or assumed by such interrogatory.

4. Bedrock's responses to Google's interrogatories are made to the best of Bedrock's present knowledge, information, and belief. Bedrock reserves the right to supplement and amend these responses should future investigation indicate that such supplementation or amendment is necessary. Bedrock reserves the right to make any use of, or introduce at any hearing or trial, information or documents that are responsive to Google's interrogatories, but discovered subsequent to Bedrock's service of these responses, including, but not limited to, any information or documents obtained in discovery herein.

GENERAL OBJECTIONS

1. Bedrock objects to each interrogatory to the extent that it seeks information already in Google's possession, a matter of public record, or otherwise equally available to any Defendant.

2. Bedrock objects to each interrogatory to the extent that it seeks the identification of "all," "every," "any," and "each" entity, person, or document that refers to a particular subject. Bedrock will comply with the Federal Rules and the Local Rules and will use reasonable diligence to identify responsive persons or documents.

3. Bedrock's responses herein, and its disclosure of information pursuant to these responses, do not in any way constitute an adoption of Google's purported definitions of words and/or phrases contained in Google's interrogatories. Bedrock objects to these definitions to the extent that they: (a) are unclear, vague, overly broad, or unduly burdensome; (b) are inconsistent with the ordinary and customary meaning of the words or phrases they purport to define; (c)

include assertions of purported fact that are inaccurate or at the very least disputed by the parties to this action; and/or (d) incorporate other purported definitions that suffer from such defects.

4. Bedrock objects to each and every interrogatory to the extent that it purports, through Google's definitions, instructions to the extent that they are inconsistent with, or not authorized by, the Federal Rules of Civil Procedure, the Local Rules of the Eastern District of Texas, or the Court's Patent Rules and discovery orders.

5. Bedrock objects to the extent that the interrogatories call for information protected by the attorney-client privilege, the attorney work product doctrine or any other applicable doctrine, privilege or immunity. Any disclosure of privileged information is inadvertent and should be deemed to have no legal effect or consequence, and Bedrock does not waive any privilege upon such inadvertent disclosure.

6. Bedrock objects to each and every interrogatory to the extent that it seeks information that is cumulative or duplicative of information, disclosures, or discovery already provided by Bedrock.

7. Bedrock objects to the inclusion of "Bedrock's affiliates, parents, divisions, joint ventures, assigns, predecessors and successors in interest" and "former employees, counsel, agents, consultants, representatives, and any other person acting on behalf of the foregoing" in the definitions of "Bedrock," "you," "your," and "plaintiff" to the extent that the interrogatories using these definitions are requesting information that is not in the possession, custody, or control of Bedrock or seeking information that is protected by a doctrine, privilege, or immunity from discovery.

8. Bedrock objects to Google's definitions of "reflect," "reflecting," "refers to," relating to," "referring to," "identify," "identity," "identity," and "identity," on the grounds that

they are vague, ambiguous, overly broad, and as used in the interrogatories, make the interrogatories unduly burdensome.

9. Bedrock objects to the Definitions of "identify," and related terms and "relates to," and related terms to the extent that they purport to require Bedrock to take action or to provide information not required by, or which exceeds the scope of, the Federal Rules of Civil Procedure.

10. Bedrock objects to the extent that the interrogatories seek information of third parties with whom Bedrock may have entered into non-disclosure or confidentiality agreements or other agreements having privacy, confidentiality, or non-disclosure provisions, which prohibit the disclosure by Bedrock of the third party's information.

11. Bedrock objects to providing responses to each interrogatory where the requested information may be derived or ascertained from documents that have been or are being produced.

12. Bedrock objects to each and every interrogatory to the extent that it seeks information that is properly the subject of expert testimony in advance of the Federal Rules of Civil Procedure, the Local Rules of the Eastern District of Texas, the Court's Patent Rules and discovery orders, or the parties' discovery stipulations.

13. Bedrock objects to the extent the interrogatories seek information that is not relevant to any claim or defense in this case, is not reasonably calculated to lead to the discovery of admissible evidence, or is otherwise not discoverable under Fed. R. Civ. P. 26(a).

14. Bedrock notifies the Defendants that it will object to interrogatories containing multiple subparts that together exceed the total number of interrogatories that the Defendants are allowed to propound pursuant to an order of the Court or the Federal Rules of Civil Procedure.

For purposes of this objection, Bedrock will count interrogatory subparts as part of one interrogatory for the purpose of numerically limiting interrogatories to the extent that such subparts are logically or factually subsumed within and necessarily related to the primary question. To the extent any subsequent question can stand alone or is independent of the first question, such subsequent question is a discrete interrogatory. Accordingly, Bedrock will count discrete or separate questions as separate interrogatories, notwithstanding they are joined by a conjunctive word and may be related. Bedrock will endeavor, however, to treat genuine subparts as subparts and will not count such genuine subparts as separate interrogatories. For purposes of this objection, a subpart inquiring on the same topic as the interrogatory therefore will not itself qualify as a separately counted interrogatory, but when the interrogatory subpart introduces a new topic that is in a distinct field of inquiry, the subpart then assumes separate interrogatory status for the purpose of counting. *See Kendall v. GES Exposition Services, Inc.*, 174 F.R.D. 684, 685 (D. Nev. 1997).

OBJECTIONS AND RESPONSES TO SPECIFIC INTERROGATORIES

INTERROGATORY NO. 1:

For each claim of the ’120 Patent, describe the circumstances surrounding the invention of the claim, including the circumstances leading to the alleged invention of each such claim, the precise date of conception, the date of actual and constructive reduction to practice, the persons involved in the conception and reduction to practice, the steps constituting diligence from conception to actual or constructive reduction to practice, and identify all documents, things, and persons that corroborate such conception, diligence, and reduction to practice for each claim.

RESPONSE

In addition to the general objections, Bedrock specifically objects to this interrogatory as overly broad and unduly burdensome. Bedrock also objects to this interrogatory as vague and ambiguous in its use of the terms "circumstances surrounding the invention," "circumstances leading to the alleged invention," "persons involved," and "steps." Bedrock also objects to this interrogatory in its use of the phrase "alleged invention;" patents are afforded a presumption of validity under 35 U.S.C. § 282.

Subject to the foregoing general and specific objections, Bedrock responds as follows. Dr. Richard Nemes conceived of the invention approximately two months before the filing date of the '120 patent. Dr. Nemes reduced all claims to practice by the filing date of the patent. Documents bearing Bates labels BTEX0000001 through BTEX0000173 and BTEX0000486 through BTEX0000690 corroborate Dr. Nemes's conception, diligence, and his reduction to practice.

SUPPLEMENTAL RESPONSE:

Subject to the foregoing general and specific objections, Bedrock responds as follows. Dr. Nemes conceived of the concepts captured in the independent claims approximately two months before the filing date of the '120 patent. The dependent claims were conceived of at a time before the filing date of the patent, but less than two months before the filing date.

INTERROGATORY NO. 2:

Identify every instance in which Bedrock, Richard Nemes, or David Garrod has contacted any third party regarding the '120 Patent, including the name and address of each third party and the circumstances surrounding the contact. If the contact included an offer to license or sell the

‘120 Patent identify the date of the offer to license or sell, the terms of the proposed license or sale, the amounts to be paid under the proposed license or sale.

RESPONSE

In addition to the general objections, Bedrock specifically objects to this interrogatory as overly broad and unduly burdensome in seeking information related to “every instance . . ..” Bedrock also objects to this interrogatory to the extent that it seeks the production, identification, or disclosure of information protected by the attorney-client privilege, work product doctrine, or any other applicable privilege or doctrine. Bedrock also objects to this interrogatory as vague and ambiguous in its use of the phrase “regarding the ’120 patent.” Bedrock also objects to this interrogatory to the extent that it seeks inadmissible discovery under F.R.E. 408.

Subject to the foregoing general and specific objections, Bedrock responds as follows. Bedrock never made an offer to license or sell the patent to any third party. Dr. Garrod, acting as attorney to Dr. Nemes, contacted Intellectual Ventures regarding the ’120 patent; however, there were never any discussion involving a license or sell of the ’120 patent.

SUPPLEMENTAL RESPONSE:

Subject to the foregoing general and specific objections Bedrock responds that Dr. Garrod’s contact with Intellectual Ventures consisted of approximately two telephone calls and two e-mails. In addition, Bedrock contacted a number of law firms regarding representation for the instant suit. These law firms include Niro Scavone; Townsend, Townsend & Crew; McKool Smith; Jones Day; and Parker, Bunt & Ainsworth.

INTERROGATORY NO. 3:

For each claim of the ‘120 Patent, describe all investigations made by or on behalf of Bedrock, Richard Nemes, or David Garrod prior to the filing of the Complaint regarding whether

any claim of the '120 Patent is infringed by any Google product or service, including identifying the persons involved in the investigations, the persons to whom reports were made, the persons involved in the approval of the filing of the Complaint, the date of the investigation, the Google products and services that were the subject of the investigation, the public information considered in the investigation, any other items or information considered in the investigation, when and where such information and items were obtained, the conclusions reached in the investigations, all documents referring to or describing such investigations, and the date on which Bedrock, Nemes, or Garrod first became aware that any of Google's accused products or services might infringe the '120 Patent.

RESPONSE

In addition to the general objections, Bedrock specifically objects to this interrogatory to the extent that it seeks the production, identification, or disclosure of information protected by the attorney-client privilege, work product doctrine, or any other applicable privilege or doctrine. Bedrock further objects that the information to the extent that it seeks the disclosure of information that is properly the subject of expert testimony; such information will be disclosed consistent with the Court's Docket Control Order and the deadline for burden expert reports.

Subject to the foregoing specific and general objections, Bedrock responds as follows. Bedrock became aware of the infringement of software based on the publicly available Linux kernel through inspection of the publicly available Linux kernel prior to filing suit. As such, Bedrock incorporates by reference its infringement contentions that it served on Google on October 9, 2009. Bedrock became aware that Google operates software based on the publicly available Linux kernel through a publicly-available presentation titled "Google A Behind the Scenes Tour - Jeff Dean" which was purportedly created by Jimmy Caputo and a web site titled,

"A look inside Google's open source kitchen" a copy of which can be found here: http://news.cnet.com/A-look-inside-Googles-open-source-kitchen/2008-7344_3-6143465.html.

SUPPLEMENTAL RESPONSE:

Subject to the foregoing general and specific objections, Bedrock responds that Dr. Nemes and Dr. Garrod investigated Google's infringement. The investigation began approximately 6 to 9 months before filing suit on June 16, 2009. Bedrock first became aware of Google's infringement approximately one year before filing suit. The Jeff Dean presentation was produced as BTEX0119683-BTEX00119733 on February 1, 2010.

INTERROGATORY NO. 4:

For each claim of the '120 Patent, state all facts that form the basis of Bedrock's allegation that Google induces or contributes to the infringement of others, including identifying each person or entity Bedrock believes to be a direct infringer, what actions by such direct infringers Bedrock believes constitute infringement, and what actions undertaken by Google Bedrock believes induce or contribute to the infringing actions of such direct infringers.

RESPONSE

In addition to the general objections, Bedrock specifically objects to this interrogatory to the extent that it seeks the production, identification, or disclosure of information protected by the attorney-client privilege, work product doctrine, or any other applicable privilege or doctrine. Bedrock also objects to this interrogatory as prematurely requiring Bedrock to identify the disputed claim terms, as prematurely requiring Bedrock to interpret those disputed claim terms, and prematurely requiring Bedrock to apply the properly construed claim terms to Google's infringing behavior in contravention to the Court's Docket Control Order. Since the Court has not yet issued a claim construction ruling, disclosure of such information is premature. Bedrock

further objects that the information that is the subject of this interrogatory is properly the subject of expert testimony and will be disclosed consistent with the Court's Docket Control Order and the deadline for burden expert reports.

SUPPLEMENTAL RESPONSE:

Subject to the foregoing general and specific objections, Bedrock responds as follows. Bedrock hereby incorporates its Infringement Contentions served on Defendants on October 9, 2009 and Bedrock's responses to Google's Interrogatory No. 7. Bedrock will supplement this interrogatory to disclose non-privileged facts and contentions related to Google's indirect infringement after Google makes a complete document production enabling Bedrock to supplement.

INTERROGATORY NO. 5:

For each claim of the '120 Patent Bedrock contends Google infringes, state all facts that form the basis of Bedrock's allegation that Google makes, uses, sells, or offers to sell infringing products or services, and which theory of direct infringement those facts support (e.g. make, use, sell, or offer to sell).

RESPONSE:

In addition to the general objections, Bedrock specifically objects to this interrogatory to the extent that it seeks the production, identification, or disclosure of information protected by the attorney-client privilege, work product doctrine, or any other applicable privilege or doctrine. Bedrock further objects that the information to the extent that it seeks the disclosure of information that is properly the subject of expert testimony; such information will be disclosed consistent with the Court's Docket Control Order and the deadline for burden expert reports.

Subject to the foregoing specific and general objections, Bedrock responds as follows. Google operates software based on the publicly available Linux kernel in its online business

operations. *See* the publicly-available presentation titled "Google A Behind the Scenes Tour - Jeff Dean" which was purportedly created by Jimmy Caputo and a web site titled, "A look inside Google's open source kitchen" a copy of which can be found here: http://news.cnet.com/A-look-inside-Googles-open-source-kitchen/2008-7344_3-6143465.html. Based on information and belief, all of Google's products and services are online products and online services; therefore, Google's ability to offer each and every one of its products and services depend on Google's infringement of the '120 patent as disclosed in Bedrock's infringement contentions to Google on October 9, 2009. As such, Bedrock incorporates by reference it infringement contentions that it served on Google on October 9, 2009.

SUPPLEMENTAL RESPONSE:

Subject to the foregoing general and specific objections, Bedrock responds as follows. Bedrock hereby incorporates its Infringement Contentions served on Defendants on October 9, 2009 and Bedrock's responses to Google's Interrogatory No. 7. Bedrock will supplement this interrogatory to disclose non-privileged facts and contentions related to Google's indirect infringement after Google makes a complete document production enabling Bedrock to supplement.

INTERROGATORY NO. 6:

If Bedrock contends that it is entitled to any monetary recovery as a result of alleged infringement of the '120 Patent by Google, state whether it contends that it is entitled to lost profits or a reasonable royalty, and state all facts and reasons upon which it relies in support of its contention. In the case of lost profits damages, identify each of Bedrock's products that allegedly falls within the scope of any '120 Patent claim and the total annual sales from that product's introduction to the present. In the case of reasonable royalty damages, state what

Bedrock asserts to be a reasonable royalty to be paid by Google under 35 U.S.C. § 284, including the complete factual bases on which Bedrock bases its calculation of such royalty rate.

RESPONSE:

In addition to the general objections, Bedrock objects to this interrogatory on the grounds that it is a premature contention interrogatory. The Advisory Committee Notes accompanying Rule 33(c) of the Federal Rules of Civil Procedure recognize that contention interrogatories are often "best resolved after much or all of the other discovery has been completed." Fed. R. Civ. P. 33(c) (subdivision (b) of advisory committee note to 1970 amendment); *see also Nestle Food Corp. v. Aetna Casualty and Surety Co.*, 135 F.R.D. 101, 110-11 (D.N.J. 1990) (contention interrogatories are more appropriate after a substantial amount of discovery has been conducted); *Fischer and Porter Co. v. Tolson*, 143 F.R.D. 93, 95 (E.D. Pa. 1992); *McCarthy v. Paine Webber Group, Inc.*, 168, F.R.D. 448, 449 (D. Conn. 1996). Bedrock also specifically objects to this interrogatory as overly broad and unduly burdensome in requesting "all facts and reasons upon which it relies in support of its contention." Bedrock also objects to this interrogatory as premature to the extent that this interrogatory seeks information in advance of Bedrock's expert report on damages, which will be served pursuant to the deadlines that are set forth by the Court in its Docket Control Order, specifically the expert report deadline for Bedrock's damage report upon which Bedrock will bear the burden of proof. Bedrock also objects to this interrogatory as premature and seeking Bedrock's contentions with respect to damages in this case. Bedrock also objects to this interrogatory as premature to the extent that Google has not produced information sufficient to provide the information requested in this interrogatory. Bedrock also objects to this interrogatory as premature to the extent that Bedrock has not received discovery related to several of the factors that govern enhanced damages and attorneys' fees under 35 U.S.C. § 284

and 35 U.S.C. § 285 (*e.g.*, whether Google had a good faith belief of non-infringement, the size and financial condition of Google, whether Google took any remedial action, and whether Google had a motivation to harm Bedrock) and it is premature to fully evaluate additional factors related to enhanced damages (*e.g.*, the closeness of the case, the duration of a Google's misconduct, and Google's litigation misconduct). Bedrock further objects to this interrogatory as premature because Google has not produced any evidence pertaining to the subjective prong of the willfulness standard.

Subject to the foregoing general and specific objections, Bedrock responds that it is entitled to damages resulting from Google's infringement of the patent-in-suit, together with interest and costs as fixed by the Court. Bedrock is also entitled to enhanced damages and attorney's fees under 35 U.S.C. § 284 and 35 U.S.C. § 285. As discovery is ongoing, Bedrock reserves the right to supplement its response to this interrogatory.

SUPPLEMENTAL RESPONSE:

Subject to the foregoing general and specific objections, Bedrock responds that it currently does not plan to pursue lost profits. Bedrock seeks compensatory damages in an amount not less than a reasonable royalty (determined under the factors set out in *Georgia-Pacific*) extending over the life of the '120 patent for the Defendants' direct and/or indirect infringement of the '120 patent in each Defendants' respective business operations. Bedrock will provide a detailed computation of damages after damages-related discovery, including information relating to Defendants' infringing operations, is made available by Defendants and after such information has been evaluated by an expert. Because this is an exceptional case, Bedrock also seeks reasonable and necessary attorney's fees. Because the Defendants' respective conduct was and continues to be willful, Bedrock seeks treble damages. To the extent

allowable by law, Bedrock seeks attorney's fees, costs, expenses, and pre- and post-judgment interest on these claims, and such other relief as the Court may deem appropriate either at law or in equity, including an injunction barring each and every Defendant from making, importing, using, offering for sale, selling, or causing to be sold any product or service falling within the scope of any claim of the '120 patent.

Date: March 5, 2010

Respectfully submitted,
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ATTORNEYS FOR PLAINTIFF BEDROCK COMPUTER TECHNOLOGIES LLC

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served on Google's counsel of record on March 5, 2010.

/s/ J. Austin Curry
J. Austin Curry