

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

**BEDROCK COMPUTER  
TECHNOLOGIES LLC,**

**Plaintiff,**

**v.**

**SOFTLAYER TECHNOLOGIES, INC.,  
et al.**

**Defendants.**

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**CASE NO. 6:09-cv-269-LED**

**Jury Trial Demanded**

**BEDROCK’S SURREPLY IN OPPOSITION  
TO GOOGLE’S AND MATCH.COM’S CROSS-MOTION TO COMPEL  
A COMPLETE RESPONSE TO THEIR SIXTH INTERROGATORIES**

## **I. GOOGLE'S AND MATCH.COM'S CROSS-MOTION TO COMPEL SHOULD BE DENIED**

In their reply brief, Google and Match.com state that Bedrock “inexplicably refuses to provide a response to Defendants’ interrogatories requesting Bedrock’s damages theory.” *See* Rep. (Dkt. No. 273) at 5. Not so. As Bedrock stated in its response brief, during the meet and confer for Bedrock’s motion (Dkt. No. 246), Google and Match.com refused to supplement their responses to Bedrock’s fifth interrogatory unless and until Bedrock supplemented its response to Google’s and Match.com’s sixth interrogatory. While Bedrock refused to have its discovery efforts held hostage by Google’s and Match.com’s satisfaction with Bedrock’s response to its damages-contention interrogatory, Bedrock did not refuse to supplement its responses to those interrogatories. Put another way, there was no discussion and consequently no impasse with respect to the relief that Google and Match.com are seeking in their cross-motion. Accordingly, Google and Match.com have not satisfied Local Rule CV-7(h).

To be sure, if the parties had actually discussed the relief that Google and Match.com seek, Bedrock’s position would have been that it is unable to supplement its responses to their damages-contention interrogatories because Google and Match.com have refused the basic damages-related facts that Bedrock sought (and still seeks) in its fifth interrogatory. Google and Match.com cannot deny Bedrock discovery on damages-related facts and then sincerely complain that Bedrock’s damages contentions are lacking. For this reason, Bedrock respectfully requests that the Court deny Google’s and Match.com’s cross-motion as meritless rather than for failure to comply with Local Rule CV-7(h).

## **II. CONCLUSION**

For the foregoing reasons, Bedrock respectfully requests that the Court deny Google's and Match.com's cross-motion in its entirety.

DATED: September 3, 2010

Respectfully submitted,  
**McKOOL SMITH, P.C.**

/s/ Douglas A. Cawley

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**ATTORNEYS FOR PLAINTIFF  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that a true and correct copy of the foregoing document was served on counsel of record via email on September 3, 2010.

*/s/ J. Austin Curry* \_\_\_\_\_  
J. Austin Curry