Bedrock Computer Technologies, LLC v. Softlayer Technologies, Inc. et al Doc. 432 Att. 1

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

BEDROCK COMPUTER TECHNOLOGIES L.L.C., *Plaintiff,*	§	
v.	§	No. 6:09-CV-269-LED-JDL JURY TRIAL DEMANDED
SOFTLAYER TECHNOLOGIES, INC. *et al.*, *Defendants.*	§	

DECLARATION OF PHILLIP AURENTZ IN SUPPORT OF PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR LEAVE TO DEPOSE THIRD-PARTY ALAN COX

I, Phillip Aurentz, declare and state under the penalty of perjury as follows:

1. My name is Phillip Aurentz. I am over the age of twenty-one (21) years, have never been convicted of a felony, and am fully competent to make this declaration. I have personal knowledge of matters set forth herein and know them to be true and correct. I understand that this declaration is submitted in support of Plaintiff's Opposition to Defendants' Motion for Leave to Depose Third-Party Alan Cox ("Plaintiff's Opposition"). I am an Associate at the law firm of McKool Smith, P.C., attorneys representing Bedrock Computer Technologies LLC ("Plaintiff"), having day-to-day conduct of this litigation, and have gained knowledge of the following matters in that capacity:

2. I have reviewed the report of Mr. Joel Williams, Defendants' expert, and it does not contain an opinion about Linux version 1.2.13.

3. I have reviewed the report of Mr. Joel Williams, Defendants' expert, and the only versions of Linux for which he offers an opinion are versions 1.3.51, 1.3.52, and 2.0.1.

4. I appeared on behalf of Plaintiff at the deposition of Alexey Kuznetsov on January 27, 2011.

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5. Attached as Exhibit A to Plaintiff's Opposition is a true and correct copy of relevant excerpted pages from Defendants' Joint Invalidity Contentions dated January 8, 2011. The Linux route.c reference is disclosed on page 4 of Exhibit A to the Joint Invalidity Contentions.

6. Attached as Exhibit B to Plaintiff's Opposition is a true and correct copy of a letter to Plaintiff's Counsel transmitting Defendants' Joint Production of Documents dated January 8, 2011. A copy of the Version 1.0.14 Linux Code is located in documents labeled with Bates Nos. DEF00001013 - 1043.

7. Attached as Exhibit C to Plaintiff's Opposition is a true and correct copy of an e-mail from Plaintiff's Counsel regarding the deposition notice of Alexey Kuznetsov dated January 8, 2011.

8. Attached as Exhibit D to Plaintiff's Opposition is a true and correct copy of an e-mail from Plaintiff's Counsel regarding Plaintiff's document requests to MySpace dated January 8, 2011.

9. Attached as Exhibit E to Plaintiff's Opposition is a true and correct copy of an e-mail from Plaintiff's Counsel regarding Match.com and Google's 30(b)(6) depositions dated December 30, 2010.

10. Attached as Exhibit F to Plaintiff's Opposition is a true and correct copy of an e-mail from Plaintiff's Counsel regarding the deposition of David Filo dated December 30, 2010.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct, and that this declaration was executed on January 27, 2011, in Dallas, Texas.

Phillip Aurentz