

Exhibit A

THE HONORABLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BEDROCK COMPUTER
TECHNOLOGIES, LLC,

Plaintiff,

v.

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

Defendants.

No. _____

[Civil Action No. 6:09-CV-269-LED-JDL,
pending in the United States District Court for
the Eastern District of Texas]

NON-PARTY MICROSOFT
CORPORATION'S MOTION FOR A
PROTECTIVE ORDER

NOTE ON MOTION CALENDAR:
February 11, 2011

Pursuant to Fed. R. Civ. P. 26 and 45, Non-Party Microsoft Corporation ("Microsoft") hereby moves the Court for a Protective Order governing the disclosure of Microsoft's highly confidential source code information in response to a subpoena issued by counsel for Defendant Yahoo!, Inc. ("Yahoo!") through this Court ("Subpoena")¹ in connection with *Bedrock Computer Technologies, LLC v. Softlayer Technologies, Inc. et al.*, Civil Action No. 6:09-CV-269, pending in the United States District Court for the Eastern District of Texas, Tyler Division (the "Action"). This motion is supported by the Declaration of Tyler C. Peterson and Stipulation and Proposed Protective Order submitted concurrently herewith.

¹ Attached as Exhibit A to the Declaration of Tyler C. Peterson ("Peterson Decl.") submitted herewith.

I. FACTUAL BACKGROUND

Yahoo! is a Defendant in the Action, a civil suit alleging patent infringement. Peterson Decl. ¶ 2. Yahoo! contends in the Action that certain Microsoft software products are relevant to the invalidity of the patent-in-suit. *Id.* ¶ 3. On December 29, 2010, counsel for Yahoo! issued a Subpoena through this Court directing Microsoft to produce copies of confidential, commercially sensitive, human-readable programming language text that defines or is used in the generation or build of several versions of the Microsoft Windows™ Operating System (herein collectively referred to as the "Highly Confidential Source Code Information"). *Id.*, and Exh. A at 7 (defining "MICROSOFT PRIOR ART"). The Subpoena also instructs Microsoft to appear for a deposition pursuant to Fed. R. Civ. P. 30(b)(6) and testify regarding the Highly Confidential Source Code Information. Exh. A at 8 (deposition topics).

The District Court for the Eastern District of Texas has issued an Agreed Protective Order governing the disclosure of confidential information during discovery in the Action (the "Bedrock Protective Order").² The Bedrock Protective Order does not, however, adequately contemplate or protect a non-party's production of highly confidential source code. Peterson Decl. ¶ 4. After service, counsel for Microsoft and Yahoo conferred regarding the subpoena. *Id.* ¶ 3. The parties agreed that dissemination and disclosure of Windows™ source code could cause severe commercial injury or damage to Microsoft. *Id.* As such, Microsoft and Yahoo! negotiated the Stipulation and Proposed Protective Order submitted herewith. *Id.* ¶¶ 4-5.

II. A PROTECTIVE ORDER IS NECESSARY TO PROTECT MICROSOFT'S HIGHLY CONFIDENTIAL WINDOWS™ SOURCE CODE

Fed. R. Civ. P. 26(c)(1)(G) states that "the court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense ... requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way." The Subpoena

² Attached as Exhibit B to the Declaration of Tyler C. Peterson.

1 requests documents and testimony concerning the source code underlying several versions of
 2 Microsoft's proprietary Windows™ Operating System. Exh. A at 7. The information is
 3 commercially sensitive, and dissemination or public disclosure of the source code could severely
 4 injure or damage Microsoft. The information requested by the Subpoena is therefore entitled to
 5 protection under Fed. R. Civ. P. 26(c)(1)(G).
 6
 7
 8
 9

10 The proposed Protective Order protects Microsoft's commercially sensitive Windows™
 11 source code by placing reasonable limits on the time, place and manner of disclosure. The
 12 proposed Protective Order, unlike the Bedrock Agreed Protective Order, avoids imposing undue
 13 burdens on Microsoft by establishing that the source code inspection will take place in the
 14 Western District of Washington, near Microsoft's principal place of business (rather than the
 15 Eastern District of Texas). The proposed Protective Order thereby effectively protects Microsoft
 16 from potential commercial harm and undue burden and expenses, while also providing parties to
 17 the Action with reasonably necessary access to the subpoenaed documents and testimony.
 18
 19
 20
 21
 22
 23
 24
 25
 26

27 III. CONCLUSION

28 For the reasons stated above, Microsoft respectfully asks the Court to grant this Motion
 29 For a Protective Order in accordance with the Stipulation and Proposed Order submitted
 30 concurrently herewith.
 31
 32
 33
 34

35 DATED this 3rd day of February, 2011:

PERKINS COIE LLP

36 By: /s/ Tyler C. Peterson

37 Ramsey M. Al-Salam, WSBA No. 18822

38 RAlsalam@perkinscoie.com

39 Tyler C. Peterson, WSBA No. 39816

40 TCPeterson@perkinscoie.com

41 1201 Third Avenue, Suite 4800

42 Seattle, WA 98101-3099

43 Telephone: 206.359.8000

44 Facsimile: 206.359.9000

45 *Attorneys for Non-Party Microsoft Corporation*
 46
 47
 48
 49
 50
 51

THE HONORABLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BEDROCK COMPUTER
TECHNOLOGIES, LLC,

Plaintiff,

v.

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

Defendants.

No. _____

[Civil Action No. 6:09-CV-269-LED-JDL,
pending in the United States District Court for
the Eastern District of Texas]

STIPULATION AND [PROPOSED]
PROTECTIVE ORDER

WHEREAS, Yahoo! is a Defendant in *Bedrock Computer Technologies, LLC v. Softlayer Technologies, Inc. et al.*, Civil Action No. 6:09-CV-269, pending in the United States District Court for the Eastern District of Texas, Tyler Division (the "Action"), a civil suit alleging patent infringement, and contends that information concerning Microsoft software products is relevant to the invalidity of the patent-in-suit;

WHEREAS, on December 29, 2010, counsel for Yahoo! issued a subpoena (the "Subpoena") through this Court directing Microsoft to produce copies of confidential, commercially sensitive, human-readable programming language text that defines or is used in the generation or build of several versions of the Microsoft Windows™ Operating System (herein collectively referred to as the "Highly Confidential Source Code Information");

STIPULATION AND [PROPOSED] PROTECTIVE
ORDER - 1

41826-3025/LEGAL20101656.1

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

1 WHEREAS, the parties agree that public dissemination and disclosure of the Highly
 2 Confidential Source Code Information could severely injure or damage Microsoft or place
 3 Microsoft at a competitive disadvantage;
 4

5
 6 WHEREAS, there is an Agreed Protective Order entered by the Court in the (the
 7 "Bedrock Protective Order"),¹ but Microsoft does not believe that the Bedrock Protective Order
 8 adequately contemplates or protects a non-party's production of highly confidential source code;
 9

10
 11 WHEREAS, Microsoft is willing to make the requested Highly Confidential Source Code
 12 Information available for inspection by Yahoo!'s outside counsel subject to specific security
 13 procedures and restrictions necessary to protect Microsoft from harm or competitive
 14 disadvantage; and
 15

16
 17 WHEREAS, there is good cause for the following restrictions and procedures under Fed.
 18 R. Civ. P. 26(c) to adequately protect Microsoft's Highly Confidential Source Code Information
 19 and to provide the parties to the Action reasonably necessary access to that Highly Confidential
 20 Source Code Information,
 21

22
 23 **IT IS THEREFORE STIPULATED TO AND ORDERED THAT:**
 24

25
 26 1. To the extent Microsoft makes Highly Confidential Source Code Information
 27 available for inspection in response to Yahoo!'s subpoena, the source code may be designated as
 28 "HIGHLY CONFIDENTIAL SOURCE CODE - OUTSIDE COUNSEL ONLY " pursuant to
 29 Paragraphs 8 and 25-26 the Bedrock Protective Order, subject to the additional procedures,
 30 restrictions and protections stated below.
 31

32
 33 2. Highly Confidential Source Code Information in native electronic format will be
 34 made available for inspection at the offices of Perkins Coie LLP, 1201 Third Ave., Suite 4800,
 35 Seattle, WA 98101 subject to the provisions of this Stipulation and Protective Order. Unless
 36 Microsoft and Yahoo! agree otherwise, Microsoft will load its source code on a non-networked
 37 computer that is password protected and maintained in a secure, locked area, in a private room.
 38
 39
 40
 41
 42
 43
 44
 45
 46
 47
 48
 49
 50
 51

¹ Attached as Exhibit B.

1 The non-networked computer shall not be connected to a phone line or have wireless or other
2 external electronic access.
3

4
5 3. Source code inspection may be conducted during normal business hours, 9 am to
6 5 pm Pacific Standard Time, Monday through Friday (excluding federal holidays), upon three (3)
7 business days notice, unless otherwise agreed or ordered by the Court. The source code
8 computer may be provisioned at Yahoo!'s expense with all requisite software applications and/or
9 utility software as Microsoft and Yahoo! may agree or the Court directs to facilitate review and
10 analysis of the source code by Yahoo! Use of any input/output device (e.g., USB memory stick,
11 CDs, floppy disk, portable hard drive, etc.) is prohibited while accessing the computer containing
12 the source code.
13
14
15
16
17
18
19

20
21 4. The source code inspection may be supervised by Microsoft's outside attorneys
22 and/or others working with such counsel in a manner that will not interfere with confidential,
23 privileged or protected communications.
24
25
26

27 5. No person shall copy, e-mail, transmit, upload, download, print, photograph or
28 otherwise duplicate any portion of Microsoft's Highly Confidential Source Code Information,
29 except as follows:
30
31

32 (a) Unless Microsoft and Yahoo! agree otherwise, the non-networked
33 computer shall be connected to a printer provided at Yahoo!'s expense with pre-bates
34 labeled paper specific to the Microsoft source code. Yahoo! shall be able to print to the
35 printer and retrieve printed source code on its own, but must use the provided pre-bates
36 labeled paper specific to the Microsoft source code. Yahoo! shall ensure that an adequate
37 amount of paper is reasonably provided.
38
39
40
41
42
43
44

45 (b) The printed portions of the Highly Confidential Source Code Information
46 may not be taken from the location of the inspection. Instead, Microsoft's outside
47 attorneys will produce a paper copy of the portions of the Highly Confidential Source
48
49
50
51

1 Code Information printed during the source code inspection. The paper copy will be sent
2 by overnight delivery to Yahoo!'s outside counsel at Yahoo!'s expense.

3
4 (c) Yahoo! shall maintain a log of which bates-numbered pages of source
5 code were printed and from which files that code was printed by identifying the product,
6 version and actual file name or by identifying the complete path and file name, and
7 provide that log to Microsoft within three (3) business days of printing the code.
8

9
10 (d) Yahoo! shall only print those portions of the source code reasonably
11 necessary for this case. All information printed from the printer shall be on watermarked
12 paper bearing bates-numbers and the legend "HIGHLY CONFIDENTIAL SOURCE
13 CODE - OUTSIDE COUNSEL ONLY." The watermark shall not obscure any portion of
14 the printed page or otherwise impair legibility, and it shall not preclude the making of a
15 clear and completely legible paper copy of the page after printing, as permitted below.
16

17
18 (e) Any printed pages of source code, and any other documents or things
19 reflecting source code that have been designated by Microsoft as "HIGHLY
20 CONFIDENTIAL SOURCE CODE - OUTSIDE COUNSEL ONLY" may not be copied,
21 digitally imaged or otherwise duplicated, except (a) by outside counsel for Yahoo! for the
22 sole purpose of creating hard duplicate copies for retention in multiple offices of outside
23 counsel or by the outside experts or consultants contemplated by Paragraph 10, for use
24 solely in connection with the Action; and (b) in limited excerpts necessary to attach as
25 exhibits to depositions, expert reports or court filings.
26

27
28 (f) Any paper copies designated "HIGHLY CONFIDENTIAL SOURCE
29 CODE - OUTSIDE COUNSEL ONLY" shall be maintained at all times in a locked and
30 secure location, and shall be stored or viewed only at the following locations: (i) The
31 offices of outside counsel for a Party; (ii) The offices of outside experts or consultants
32 who have been approved to access source code; (iii) The site where any deposition is
33 taken (so long as the persons present are eligible to view HIGHLY CONFIDENTIAL
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

SOURCE CODE – OUTSIDE COUNSEL ONLY); (iv) The Court (in camera or only in the presence of persons eligible to view HIGHLY CONFIDENTIAL SOURCE CODE – OUTSIDE COUNSEL ONLY); or (v) Any intermediate location necessary to transport the information to a hearing, trial or deposition.

7. Any printed, photocopied, or accessed "HIGHLY CONFIDENTIAL SOURCE CODE - OUTSIDE COUNSEL ONLY" material shall be identified in a "Source Code Print/Access Log" maintained by outside counsel for Yahoo! The Source Code Print/Access Log shall include at least the following information: (i) The identity of the individual making the copies or printing the subject material; (ii) The address at which the prints or copies were made; (iii) Number of prints or copies made, (iv) Number of pages printed or copied; (v) The bates number range of the material being printed or copied; (vi) Date and time when the printing or copying occurred; (vii) Identity of the individuals accessing such material, and (viii) Date, time, and duration of each such access. The Source Code Print/Access Log shall be retained by outside counsel for Yahoo! for a period of not less than five (5) years after conclusion of the case.

8. Notwithstanding any other provision herein, Microsoft's "HIGHLY CONFIDENTIAL SOURCE CODE - OUTSIDE COUNSEL ONLY " material shall not leave the geographic boundaries of the continental United States.

9. Only the following individuals shall have access to "HIGHLY CONFIDENTIAL SOURCE CODE - OUTSIDE COUNSEL ONLY" material, absent the express written consent of Microsoft or further court order:

(a) Outside counsel of record for the parties to the Action, including any attorneys, paralegals, technology specialists and clerical employees of their respective law firms;

1 (b) Up to four (4) outside experts or consultants per party, each of which
 2 outside expert or consultant shall be pre-approved in accordance with Paragraph 10
 3 below, and specifically identified as eligible to access source code.
 4

5
 6 (c) The Court, its technical advisor (if one is appointed), the jury, court
 7 personnel, and court reporters or videographers recording testimony or other proceedings
 8 in this action; persons authorized to view source code pursuant to this sub-paragraph shall
 9 not retain or be given copies of the source code except while testifying.
 10

11 (d) Any other person upon order of the Court.
 12

13 10. Yahoo! may designate a reasonable number of retained expert consultants (either
 14 testifying or non-testifying) ("Consultants") to have access to the Highly Confidential Source
 15 Code Information under this Protective Order if the consultants are: (i) neither employees of a
 16 party nor anticipated to become employees of a party in the near future; and (ii) engaged by or on
 17 behalf of a party as bona fide consultants or experts for purposes of this Action. The following
 18 procedures shall govern the designation of Consultants under this Stipulation and Protective
 19 Order:
 20

21 (a) Yahoo! shall provide Microsoft with the following information at least
 22 three (3) business days before inspecting Highly Confidential Source Code Information
 23 pursuant to Paragraph 2 above, unless otherwise agreed by the parties: (i) sufficient
 24 information to fully identify the Consultant; (ii) a current resume or curriculum vitae of
 25 the Consultant if available; (iii) identification of all consulting engagements for or
 26 adverse to the opposing party; and (iv) a copy of a completed and signed undertaking in
 27 the form attached as Exhibit A to the Bedrock Protective Order.
 28

29 (b) Within three (3) business days after receipt of the information and signed
 30 undertaking described in subparagraph (a), Microsoft may object in good faith in writing
 31 to the proposed Consultant if facts available to that party show that there is a reasonable
 32 likelihood that the proposed Consultant will use or disclose Microsoft's Highly
 33
 34
 35
 36
 37
 38
 39
 40
 41
 42
 43
 44
 45
 46
 47
 48
 49
 50
 51

1 Confidential Source Code Information for purposes other than those permitted by this
2 Protective Order. The written objection shall set forth the specific factual basis for the
3 objection. Failure to object in writing to a proposed Consultant within three (3) business
4 days shall not preclude Microsoft from objecting to continued access to Highly
5 Confidential Source Code Information by a Consultant where facts subsequently learned
6 suggest that an appropriate basis for objection exists.
7
8
9

10
11
12 (c) If Microsoft so objects, the parties shall meet and confer in good faith in
13 an attempt to resolve their dispute without resort to the Court. If the dispute is not
14 thereby resolved, then the party designating the Consultant may seek a ruling from the
15 Court and shall bear the burden of showing why disclosure should be permitted. Pending
16 a ruling by the Court, the proposed consultant shall not have access to the Highly
17 Confidential Source Code Information.
18
19
20
21
22
23

24
25 11. Yahoo! and Microsoft agree to be bound by the terms of this Stipulation and
26 Proposed Protective Order once it is signed by their respective counsel. Pending and
27 notwithstanding entry of this Stipulation, any violation of its terms shall be subject to the same
28 sanctions and penalties as if this Protective Order had been entered by the Court.
29
30
31

32
33 12. To the extent a conflict exists between the provisions of this Stipulation and
34 Protective Order and the provisions of the Bedrock Agreed Protective Order, the parties agree
35 that this Stipulation and Protective Order governs.
36
37
38

39 13. All persons who have access to information pursuant to this Protective Order shall
40 be subject to the jurisdiction of this Court for purposes of enforcing this Stipulation and
41 Protective Order.
42
43
44
45
46
47
48
49
50
51

1 **STIPULATED AND AGREED TO:**

2
3 Dated: February 3, 2011

4 By: /s/ Tyler C. Peterson

5 Ramsey M. Al-Salam, WSBA No. 18822
6 RAIsalam@perkinscoie.com
7 Tyler C. Peterson, WSBA No. 39816
8 TCPeterson@perkinscoie.com
9 PERKINS COIE LLP
10 1201 Third Avenue, Suite 4800
11 Seattle, WA 98101-3099
12 Telephone: 206.359.8000
13 Facsimile: 206.359.9000

14 *Attorneys for Non-Party Microsoft Corporation*

15
16 Dated: February 3, 2011

17 By: /s/ John Lee (with permission)

18 John A. Lee, WSBA No. 35550
19 jlee@mwe.com
20 MCDERMOTT WILL & EMERY LLP
21 275 Middlefield Rd., Suite 100
22 Menlo Park, CA 94025
23 Telephone: 650.815.7400
24 Facsimile: (650) 815-7401

25
26 *Attorneys for Defendant Yahoo!, Inc.*
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

1 **IT IS ORDERED:**

2
3 DATED this ____ day of _____ 2011.
4
5

6
7
8 _____
9 THE HONORABLE
10 United States Judge
11
12

13
14 *Presented by:*
15
16

17
18 By: /s/ Tyler C. Peterson

19 Tyler C. Peterson, WSBA No. 39816
20 TCPeterson@perkinscoie.com
21 PERKINS COIE LLP
22 1201 Third Avenue, Suite 4800
23 Seattle, WA 98101-3099
24 Telephone: 206.359.8000
25 Facsimile: 206.359.9000
26

27 *Attorney for Non-Party Microsoft Corporation*
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

STIPULATION AND [PROPOSED] PROTECTIVE
ORDER - 9

41826-3025/LEGAL20101656.1

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

THE HONORABLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BEDROCK COMPUTER
TECHNOLOGIES, LLC,

Plaintiff,

v.

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

Defendants.

No. _____

[Civil Action No. 6:09-CV-269-LED-JDL,
pending in the United States District Court for
the Eastern District of Texas]

DECLARATION OF TYLER C.
PETERSON

I, Tyler C. Peterson, hereby declare as follows:

1. I am one of the attorneys representing non-party Microsoft Corporation ("Microsoft") with respect to a subpoena issued by counsel for Yahoo!, Inc. ("Yahoo") through this Court in connection with the above-entitled action. I make this declaration in support of Microsoft's Motion for a Protective Order ("Motion") based upon personal knowledge of which I am competent to testify.

2. Yahoo! is a Defendant in *Bedrock Computer Technologies, LLC v. Softlayer Technologies, Inc. et al.*, Civil Action No. 6:09-CV-269, pending in the United States District Court for the Eastern District of Texas, Tyler Division (the "Action"), a civil suit alleging patent infringement.

DECLARATION OF TYLER C. PETERSON - 1

1 3. On December 29, 2010, counsel for Yahoo! issued a subpoena (the "Subpoena")
2
3 through this Court directing Microsoft to produce copies of confidential, commercially sensitive,
4
5 human-readable programming language text that defines or is used in the generation or build of
6
7 several versions of the Microsoft Windows™ Operating System (herein collectively referred to
8
9 as the "Highly Confidential Source Code Information"). A true and correct copy of the
10
11 Subpoena is attached hereto as Exhibit A.

12 3. On January 12 and 28, I conferred with John Lee, counsel for Yahoo! in the
13
14 action regarding the Subpoena. Mr. Lee informed me that Yahoo! contends that information
15
16 concerning the functionality of Microsoft Windows™ products is relevant to the invalidity of the
17
18 patent-in-suit. As stated in the Stipulation and Proposed Protective Order submitted with
19
20 Microsoft's Motion, counsel agreed that public dissemination and disclosure of the Highly
21
22 Confidential Source Code Information could severely injure or damage Microsoft or place
23
24 Microsoft at a competitive disadvantage.

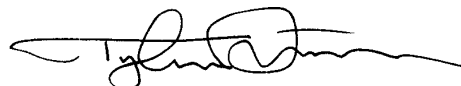
25 4. Although there is an Agreed Protective Order entered by the Court in the (the
26
27 "Bedrock Protective Order"), Microsoft does not believe that the Bedrock Protective Order
28
29 adequately contemplates or protects a non-party's production of highly confidential source code.
30
31 A true and correct copy of the Bedrock Protective Order is attached hereto as Exhibit B.

32 5. Accordingly, Microsoft and Yahoo have stipulated to specific security procedures
33
34 and restrictions that are reasonably necessary to protect Microsoft from harm or competitive
35
36 disadvantage.
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51

I declare under penalty of perjury that the foregoing is true
and correct.

EXECUTED this 3rd day of February, 2011:

By: _____



Tyler C. Peterson, WSBA No. 39816
TCPeterson@perkinscoie.com
PERKINS COIE LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Telephone: 206.359.8000
Facsimile: 206.359.9000

DECLARATION OF TYLER C. PETERSON - 3

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8000
Fax: 206.359.9000

EXHIBIT A

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BEDROCK COMPUTER TECHNOLOGIES LLC,	§	
	§	
PLAINTIFF	§	
	§	
VS.	§	CIVIL ACTION NO. 6:09-cv-269-LED-JDL
	§	
SOFTLAYER TECHNOLOGIES, INC.,	§	
CITIWARE TECHNOLOGY SOLUTIONS, LLC, GOOGLE, INC., YAHOO!, INC.,	§	JURY TRIAL DEMANDED
MYSAPCE INC., AMAZON.COM INC.,	§	
PAYPAL INC., MATCH.COM, INC.,	§	
AOL LLC, and CME GROUP INC.,	§	
DEFENDANTS	§	

YAHOO!'S NOTICE OF SUBPOENA TO MICROSOFT CORPORATION

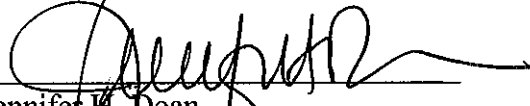
PLEASE TAKE NOTICE that pursuant to Rules 30 and 45 of the Federal Rules of Civil Procedure, Defendant Yahoo!, Inc, ("Yahoo!") in the above-captioned action demands, by subpoena, testimony and document production from Microsoft Corporation ("Microsoft"), a copy of which is attached hereto.

PLEASE TAKE FURTHER NOTICE that Microsoft is a non-party to the action. So far as is known to Yahoo!, Microsoft is located at the address of 1 Microsoft Way, Redmond, WA 98052.

The requested documents are to be produced on or before 5:00 p.m. on January 5, 2011 and the deposition is to take place at 9:00 a.m. on January 10, 2011, at the offices of Byers & Anderson, at 600 University Street, Suite 2300, Seattle, WA 98101. The deposition will be

recorded by stenographic and video means. The deposition will continue from day to day until completed. You are invited to attend and cross examine.

Respectfully submitted,



Jennifer M. Doan

Texas Bar No. 08809050

John Scott Andrews

Texas Bar No. 24064823

HALTOM & DOAN

Crown Executive Center, Suite 100

6500 Summerhill Road

Texarkana, TX 75503

Telephone: (903) 255-1000

Facsimile: (903) 255-0800

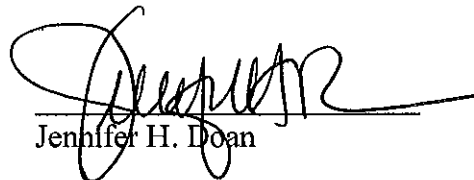
Email: jdoan@haltomdoan.com

Email: sandrews@haltomdoan.com

**ATTORNEYS FOR
YAHOO!, INC.**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been forwarded to Plaintiff's counsel of record by electronic mail and certified mail, return receipt requested, and to all other counsel of record by electronic mail on the 29th day of December, 2010.



Jennifer H. Doan

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

Western District of Washington

Bedrock Computer Technologies LLC

Plaintiff

v.

Softlayer Technologies, Inc., et al.

Defendant

Civil Action No. 6:09-cv-269

(If the action is pending in another district, state where:

Eastern District of Texas

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Microsoft Corporation, 1 Microsoft Way, Redmond, WA 98052

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

ALL TOPICS SET FORTH IN ATTACHMENT "A"

Place: Byers & Anderson
600 University Street, Suite 2300, Seattle, WA 98101

Date and Time:

01/10/2011 9:00 am

The deposition will be recorded by this method: Video and Stenographer

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

ALL DOCUMENTS SET FORTH AND/OR DESCRIBED IN TOPICS 1-3 of ATTACHMENT "B"

Date: January 5, 2011

Location: Byers & Anderson

600 University Street, Suite 2300, Seattle, WA 98101

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 12/29/2010

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's Signature*

The name, address, e-mail, and telephone number of the attorney representing (name of party)

Jennifer Doan

Yahoo! Inc.

, who issues or requests this subpoena, are:

Haltom & Doan

6500 Summerhill Road, Suite 100, Texarkana, TX 75503

903.255.1000, jdoan@haltomdoan.com

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action (Page 2)

Civil Action No. 6:09-cv-269

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named individual as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) Contempt. The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

ATTACHMENT A

Pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Microsoft Corporation must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on Microsoft Corporation's behalf concerning the topics set forth and/or described below.

Definitions

A. "YOU," "YOUR" or "MICROSOFT" means Microsoft Corporation, along with its agents, officers, directors, employees, affiliates, subsidiaries, parents, and predecessors-in-interest.

B. "MICROSOFT PRIOR ART" means Windows NT 3.5, Windows NT 3.51 and Windows NT 4.0, including the TCPIP service, Routing and Remote Access Service, and NT Load Balancing Service.

C. "DOCUMENT" shall have the meaning" and scope of that term as used in Fed. R. Civ. P. 34 including the terms "writings and recordings," "photographs," "originals," and "duplicate" as defined in Fed. R. Evid. 1001, and includes, without limitation, the following items whether printed, recorded, stored or saved electronically, microfilmed, or reproduced by any process, or written or produced by hand, and whether or not claimed to be privileged or confidential or personal: letters; memoranda; reports; records; agreements; working papers; communications; correspondence; summaries or records of personal conversations; diaries; forecasts; statistical statements; graphs; laboratory or research reports and notebooks; charts; minutes or records of conferences; expressions or statements of policy; lists of persons attending meetings or conferences; reports or summaries of interviews; reports or summaries of investigations; opinions or reports of consultants; patent appraisals; opinions of counsel; reports or summaries of either negotiations within or external to the corporation or preparations for such; brochures; manuals; pamphlets; advertisements; circulars; press releases; drafts of any

documents; memoranda; books; instruments; accounts; bills of sale; invoices; tapes; electronic communications, including, but not limited to, emails; telegraphic communications and all other material of any tangible medium of expression; and original or preliminary notes. Any comment or notation appearing on any document, and not part of the original text, is to be considered a separate “document.”

D. “COMMUNICATION” or “COMMUNICATIONS” means, without limitation, any transmission, conveyance or exchange of a word, statement, fact, thing, idea, DOCUMENT, instruction, information, demand or question by any medium, whether by written, oral or other means.

E. “REFLECT,” “REFLECTING,” “RELATED TO,” “REFER TO,” “RELATING TO,” “REFERRING TO,” and “REGARDING” means referring to, relating to, describing, discussing, constituting, comprising, evidencing, pertaining to, concerning, mentioning, containing, reflecting, displaying, showing, identifying, proving, disproving, consisting, contradicting, being in any way legally, logically, or factually connected with the matters referenced, or having a tendency to prove or disprove any matter referenced.

Deposition Topics

1. The functionality reflected in the DOCUMENTS including but not limited to source code produced in response to Document Request Nos. 1-3.

2. The AUTHENTICATION and ADMISSIBILITY of the DOCUMENTS including but not limited to source code produced in response to Document Request Nos. 1-3.

ATTACHMENT B

Defendant Yahoo!, hereby requests that the Microsoft Corporation produce the following materials, documents and records in your possession, custody or control, by the time, date and location indicated in the accompanying subpoena, or at such other time, date, and location as may be agreed to by counsel.

Instructions

1. In responding to this subpoena, YOU are requested to furnish all DOCUMENTS or things in YOUR possession, custody, or control, regardless of whether such DOCUMENTS or things are possessed directly by YOU or YOUR employees, attorneys, or any other person or persons acting on YOUR behalf.

2. In producing DOCUMENTS for inspection, YOU are requested to produce the original of each DOCUMENT together with all non-identical copies and drafts of that DOCUMENT. A copy of a DOCUMENT bearing a comment, notation, or marking of any kind, which is not a part of the original, shall be considered a separate document. Any draft, preliminary or superseded version of any DOCUMENT is considered to be a separate DOCUMENT.

3. All DOCUMENTS that are maintained in electronic form should be produced in electronic form even if a paper copy of the same DOCUMENT was produced.

4. DOCUMENTS attached to each other should not be separated.

5. If any requested DOCUMENT or thing cannot be produced in full, please produce it to the extent possible, indicating what is being withheld and the reason it is being withheld.

6. If any requested DOCUMENT is withheld on the grounds of privilege, please provide the information required by Federal Rule of Civil Procedure 26(b)(5)(A).

7. Please produce DOCUMENTS and things responsive to these requests as they are kept in the usual course of business, or alternatively, organized and labeled to correspond to each request to which the DOCUMENTS or things are responsive.

Document Requests

1. DOCUMENTS including but not limited to source code sufficient to show the marking of routes for garbage collection and the removing of routes marked for garbage collection in the routing functionality of the MICROSOFT PRIOR ART.

2. DOCUMENTS including but not limited to source code sufficient to show the data structures and storing of routes in the routing functionality of the MICROSOFT PRIOR ART of Request No. 1, including but not limited to any hashing functionality and linked lists.

3. DOCUMENTS including but not limited to source code sufficient to show garbage collection from the routing cache of the MICROSOFT PRIOR ART and the data structures and storing of routes in the routing cache of the MICROSOFT PRIOR ART, including but not limited to any hashing functionality and linked lists.

EXHIBIT B

**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.

§
§
§
§
§
§
§
§
§
§
§

CASE NO. 6:09-cv-269

Jury Trial Demanded

AGREED PROTECTIVE ORDER

To expedite the flow of discovery material, to facilitate the prompt resolution of disputes over the confidentiality of discovery materials, to adequately protect the parties' confidential information, to ensure that only materials that are confidential are treated as such, and to ensure that the parties are permitted reasonably necessary uses of such materials in preparation for and in the conduct of trial, pursuant to Fed. R. Civ. P. 26(c), it is hereby **ORDERED THAT:**

INFORMATION SUBJECT TO THIS ORDER

1. Documents or discovery responses containing confidential information disclosed or produced by any party in this litigation are referred to as "Protected Documents." Except as otherwise indicated below, all documents or discovery responses designated by the producing party as "CONFIDENTIAL," "HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY," "HIGHLY CONFIDENTIAL – SOURCE CODE," or "HIGHLY CONFIDENTIAL – PLAINTIFF'S OUTSIDE COUNSEL ONLY" and which are disclosed or produced to counsel

for the other parties to this litigation are Protected Documents and are entitled to confidential treatment as described below.

DESIGNATION

2. Each party shall have the right to designate as "CONFIDENTIAL" Protected Documents in the following categories: (i) non- public information; (ii) trade secret or other confidential research, development, financial or commercial information the disclosure of which the disclosing party reasonably believes could cause harm to the business operations of the disclosing party or provide improper business or commercial advantage to others. The following information is not CONFIDENTIAL: (a) any information which at the time of disclosure to a receiving party is in the public domain; (b) any information which after disclosure to a receiving party becomes part of the public domain as a result of publication not involving a violation of this Order; (c) any information which a receiving party can show it received, whether before or after the disclosure, from a source who obtained the information lawfully and under no obligation of confidentiality to the producing party; and (d) any information which a receiving party can show was independently developed by its personnel who did not have access to the producing party's Protected Documents. Each party shall have the right to designate as "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL ONLY" and "HIGHLY CONFIDENTIAL – PLAINTIFF'S OUTSIDE COUNSEL ONLY" Protected Documents in one or more of the following categories: (i) non-public technical information, including schematic diagrams, manufacturing and engineering drawings, engineering notebooks, specifications, research notes and materials, technical reference materials, and other non-public technical descriptions and/or depictions of the relevant technology that would reveal trade secrets; (ii) non-public damages-related information (e.g., the number of products sold, total dollar value of

sales products, and profit margins); (iii) non public financial information; (iv) non-public customer lists; (v) non-public business and/or marketing plans; (vi) non-public price lists and/or pricing information; and (vii) information subject to a current nondisclosure Non-Disclosure Agreement (“NDA”). Each party shall have the right to further designate "HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL ONLY" or “HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY” information as “NO ELECTRONIC COPIES.” The NO ELECTRONIC COPIES designation will only apply to a narrow set of extremely sensitive technical documents. A producing party can designate up to two thousand (2,000) pages with the NO ELECTRONIC COPIES designation. If necessary, the producing party may request to designate more than 2,000 pages with the NO ELECTRONIC COPIES designation, which the receiving party shall not unreasonably deny. The NO ELECTRONIC COPIES designation shall not apply to limit the availability of source code in its native format. No electronic copies of documents designated NO ELECTRONIC COPIES shall be made by the receiving party except for electronic copies made for filing (under seal) in a proceeding with the Court, in an expert’s report, or for use for presentation purposes at trial or in a hearing in this matter.

3. Any documents (including physical objects) made available for initial inspection by counsel for the receiving party will be considered as HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL ONLY and treated accordingly under this Order. Thereafter, the producing party may for a reasonable period of time review and designate the appropriate documents as CONFIDENTIAL, HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL ONLY, or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY before furnishing copies to the receiving party.

4. Deposition transcripts, or portions thereof, may be designated as subject to this Protective Order either (a) at the time of such deposition, in which case the transcript of the designated testimony shall be marked by the reporter with the appropriate confidentiality designation as the designating party may direct, or (b) within fifteen (15) days following the receipt of the transcript of the deposition by providing written notice to the reporter and all counsel of record. All portions of deposition transcripts designated as subject to this Protective Order shall be separately bound from the remaining portions of the transcript, and all counsel receiving such notice shall mark the copies or portions of the designated transcript in their possession or under their control as directed by the designating party. All deposition transcripts not previously designated shall be deemed to be and shall be treated as HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL ONLY information until the expiration of the period set forth in this paragraph.

DISCOVERY RULES REMAIN UNCHANGED

5. Nothing in this Order changes or alters the discovery provisions of the Federal Rules of Civil Procedure, the Local Rules or Rules of Practice for Patent Cases before the Honorable Leonard Davis, United States District Court for the Eastern District of Texas, and the Court’s Deadlines for Docket Control Order and Discovery Order. Identification of any individual pursuant to this Order does not make that individual available for deposition or any other form of discovery outside of the restrictions and procedures of the Federal Rules of Civil Procedure, the Local Rules or Rules of Practice for Patent Cases before the Honorable Leonard Davis, United States District Court for the Eastern District of Texas, and the Court’s Deadlines for Docket Control Order and Discovery Order.

QUALIFIED PERSONS

6. All Protected Documents are entitled to confidential treatment pursuant to the terms of this Order until and unless the parties formally agree in writing to the contrary or a contrary determination is made by the Court as to whether all or a portion of a Protected Document is entitled to confidential treatment. Protected Documents and any information contained therein shall not be used or shown, disseminated, copied, or in any way communicated to anyone for any purpose whatsoever, except as provided for below.

7.1. Documents or information designated CONFIDENTIAL shall not be disclosed to any person except:

- A. Counsel of record in this action and other disclosed outside counsel for the party or parties receiving Protected Documents or any information contained therein;
- B. Employees of counsel of record in this action (excluding experts and investigators) and outside vendors used to process documents assigned to and necessary to assist such counsel in the preparation and trial of this action, provided such outside vendors agree to maintain the confidentiality of documents pursuant to this Protective Order;
- C. The Court and the Court's personnel as well any court considering any appeal in this matter and its personnel;
- D. Technical advisors, consultants, and testifying experts that are disclosed and qualified pursuant to the terms of paragraph 9 below;
- E. Three (3) in-house counsel for each party who are substantively involved in the management or supervision of the litigation, provided that such in-house counsel first agree to be bound by the terms of this Protective Order by executing a Confidentiality Agreement in the form attached as Attachment A;
- F. Court reporters employed in connection with this action; and
- G. Trial and hearing support personnel and their staffs (e.g., graphics operators, designers and animators), jury consultants and their staffs, and mock jurors provided that such persons first agree to be bound by the terms of this Protective Order by executing a Confidentiality Agreement in the form attached as Attachment A.

7.2. Documents or information designated HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL ONLY or HIGHLY CONFIDENTIAL – SOURCE CODE CONFIDENTIAL shall

only be disclosed to those categories of individuals listed in Paragraphs 7.1(A) through (D), (F) and (G), subject to the restrictions therein. Documents or information designated HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY shall only be disclosed to (i) counsel of record for plaintiff in this action, (ii) employees of counsel of record for plaintiff and plaintiff’s outside vendors used to process documents assigned to and necessary to assist such counsel in the preparation and trial of this action, provided such outside vendors agree to maintain the confidentiality of documents pursuant to this Protective Order, (iii) technical advisors, consultants, and testifying experts for plaintiff that are disclosed and qualified pursuant to the terms of paragraph 9 below, and (iv) those categories of individuals listed in Paragraphs 7.1(C), (F), and (G). Under no circumstances shall information designated as HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY be disclosed to David Garrod, Richard Nemes or others similarly situated with respect to business operations of Bedrock.

7.3 Counsel for a party may give advice and opinions to his or her client regarding this litigation based on his or her evaluation of designated CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY confidential information received by the party — provided that such rendering of advice and opinions shall not reveal the content of such Protected Documents and any information contained therein except by prior written agreement with counsel for the producing party.

SOURCE CODE

8. Each party shall have the right to designate as “HIGHLY CONFIDENTIAL – SOURCE CODE” Protected Documents in the following categories: (i) non-public computer source code; (ii) computer source code which exhibits trade secret or other confidential research or development, the disclosure of which the disclosing party reasonably believes could cause harm to the business operations of the disclosing party or provide improper business or commercial advantage to others.

Protected Documents designated “HIGHLY CONFIDENTIAL – SOURCE CODE” shall be provided with the following further protections:

- A. HIGHLY CONFIDENTIAL – SOURCE CODE includes documents and human-readable programming language text that define software, firmware, or electronic hardware descriptions (hereinafter referred to as “source code”). Text files containing source code shall hereinafter be referred to as “source code files.” Source code files include, but are not limited to files containing text written in “C”, “C++”, assembler, VHDL, Verilog, and digital signal processor (DSP) programming languages. Source code files further include “.include files,” “make” files, link files, and other human-readable text files and documents used in the generation and/or building of software directly executed on a microprocessor, microcontroller, or DSP.
- B. To the extent that any party wishes to obtain access to source code, the following procedures shall apply:
 - i. The producing party shall make all properly requested source code available for inspection on two stand-alone, non-networked personal computers running a reasonably current version of the Microsoft Windows operating system (“Source Code Computers”). Should it be necessary, the Source Code Computers may be configured by the producing party to run on other mutually agreed upon operating systems, such as Linux.
 - ii. The producing party shall make the source code available in its native format in a secure room at a secure facility at a location agreed to by the producing and receiving parties. The producing party shall make the source code available in such a way that the produced source code reflects the file structure of the source code as it is maintained by the producing party at the time of production of the source code.
 - iii. The producing party must provide access to the source code under the same conditions and with the same limitations and restrictions as provided in Paragraph 8 for a period of time agreed upon by the parties after any expert report on non-infringement is served in this case.

- iv. At the pretrial conference in this case, a party may ask the Court for access to the source code under the same conditions and with the same limitations and restrictions as provided in Paragraph 8 in Tyler, Texas one week prior to the beginning of trial and continuing through the end of trial. However, there is no agreement, stipulation or obligation for the parties to address this issue at the pretrial conference, or to grant access to the source code beyond the discovery period absent an order from the Court.
- v. The producing party may not videotape or otherwise monitor review of source code by the requesting party.
- vi. The receiving party may use appropriate tool software on the Source Code Computers, which shall be installed by the producing party, including text editors and multi-file text search tools such as “grep.” Specific tools may include (but not be limited to): Understand C, Visual Slick Edit, Source-Navigator, PowerGrep, and ExamDiff Pro, or similar programs. Should it be necessary, other mutually agreed upon tools may be used. Licensed copies of agreed upon tool software shall be downloaded and installed on the Source Code Computers by the producing party, and paid for by the receiving party. In no event shall the receiving party use any compilers, interpreters or simulators in connection with the producing party’s source code.
- vii. The Source Code Computers shall be made available from 9 am to 5 pm local time, Monday through Friday (excluding holidays), and other days and/or times upon reasonable request and three business days advanced written notice until the close of discovery in this action.
- viii. The source code is to be treated as **HIGHLY CONFIDENTIAL—SOURCE CODE**. In addition, the source code is to be treated as **HIGHLY CONFIDENTIAL – OUTSIDE COUNSEL ONLY**, and the receiving party may not disclose the source code or the content of the source code to anyone who has not executed a Confidentiality Agreement in the form attached as Attachment A. No employee of the receiving party may access or obtain the source code. In no case shall any information designated as **HIGHLY CONFIDENTIAL—SOURCE CODE** by a Defendant be provided to any other Defendant or Defendant’s counsel by any party or counsel absent explicit agreement from the Defendant designating the information.
- ix. No more than two (2) individuals, per producing party, who qualify under paragraph 7.1D, above, for each receiving party, may have access to the Source Code Computers. As an example to illustrate the foregoing sentence, Plaintiff may have up to eighteen (18) individuals have access to the source code of nine (9) Defendants, however no more than two (2) individuals may have access to any one Defendant's source code. For each day that counsel for the receiving party requests a review of the Source Code Computers, it must give at least three business days (and at least 72

hours) notice to the counsel for the producing party that it will be sending individual(s) authorized to review the source code made available on the Source Code Computers. 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.

- x. Proper identification of all authorized persons shall be provided prior to any access to the secure facility or the Source Code Computers. Proper identification is hereby defined as a photo identification card sanctioned by the government of a U.S. state, by the United States federal government, or by the nation state of the authorized person's current citizenship. Access to the secure facility or the Source Code Computers may be denied, at the discretion of the producing party, to any individual who fails to provide proper identification.
- xi. The Source Code Computers shall be equipped with a printer to print copies of the source code on yellow, pre-Bates numbered paper, which shall be provided by the producing party. All printed source code shall be logged by the receiving party to facilitate destruction certification as described in paragraph xiv below. In addition to other reasonable steps to maintain the security and confidentiality of the producing party's source code, all printed copies of the source code maintained by the receiving party must be kept in a locked storage container when not in use. No electronic copies of the source code shall be made by the receiving party except for electronic copies made for filing (under seal) in a proceeding with the Court, in an expert's report, or for use for presentation purposes at trial or in a hearing in this matter. The receiving party will limit its requests for paper copies of the source code to source code that is reasonably related to this case.
- xii. Other than in connection with pleadings filed under seal and depositions designated HIGHLY CONFIDENTIAL – SOURCE CODE, no subsequent copies shall be made of the printed copies provided by the producing party to the requesting party. Hard copies of the source code also may not be converted into an electronic document, and may not be scanned using optical character recognition ("OCR") technology;
- xiii. No outside electronic devices, including but not limited to laptops, floppy drives, zip drives, or other hardware shall be permitted in the secure room. Nor shall any cellular telephones, personal digital assistants (PDAs), Blackberries, cameras, voice recorders, Dictaphones, telephone jacks or other devices be permitted inside the secure room. The producing party must make a telephone available in the secure room for the use (including long-distance calls) by the reviewer(s) of the source code. The producing party must also give the reviewer of the source code instructions on how to operate the telephone if requested. The producing party must keep and be

responsible for the items prohibited in this section and may not inspect the prohibited items in any way. The producing party must keep the items prohibited in this section in a place that is in close proximity to the secure computer room.

- xiv. Within sixty (60) days after the issuance of a final, non-appealable decision resolving all issues in the case, the receiving party must either serve upon the producing party, or certify the destruction of, all paper copies of the producing party's source code as well as documents, pleadings, reports, and notes reflecting or referring to such source code.
- xv. Access to and review of the source code shall be strictly for the purpose of investigating the claims and defenses at issue in the above-styled case. No person shall review or analyze any source code for purposes unrelated to this case.
- xvi. Nothing herein shall be deemed a waiver of a Party's right to object to the production of source code. Absent a subsequent and specific court order, nothing herein shall obligate a Party to breach any third party license agreement relating to such source code.
- xvii. The Parties further acknowledge that some or all of the source code may be owned by non-Parties and outside a Party's possession, custody or control. Nothing herein shall be deemed a waiver of any non-Party's right to object to the production of source code or object to the manner of any such production.

DISCLOSURE TO TECHNICAL ADVISORS, CONSULTANTS AND EXPERTS

9. Before counsel for a party receiving Protected Documents may disclose any such material designated CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, and/or HIGHLY CONFIDENTIAL – PLAINTIFF'S OUTSIDE COUNSEL ONLY to a proposed technical advisor, consultant, or testifying expert under paragraph 7.1D:

- (i) Counsel shall provide a copy of this Protective Order to such person, who shall sign the Confidentiality Agreement attached hereto as Attachment A; and
- (ii) At least ten (10) business days before the first such disclosure, counsel for the receiving party shall notify the producing party in writing of the

intent to disclose CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, and/or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY discovery material to such person. The notice must be accompanied by the person’s curriculum vitae and include the following information about the person: (a) business address; (b) business title; (c) business or profession; (d) any previous or current relationship (personal or professional) with any of the parties; and (e) a listing of other cases in which the individual has testified (at trial or deposition), and all companies that have employed the individual within the preceding four years.

10. If the producing party objects to its Protected Documents being disclosed to such person identified in a receiving party’s notice given pursuant to this paragraph, the producing party shall notify counsel for the receiving party in writing of the producing party’s objection(s) to such disclosure within five (5) business days of receiving notice of the intent to disclose (plus three (3) days if notice is served other than by hand delivery, e-mail transmission or facsimile transmission). Any objection must be made for good cause, stating with particularity the reasons for the objection. Untimely objections or objections not stating their basis will be deemed ineffective. If the producing party serves an effective written objection in response to the receiving party’s written notice given pursuant to this paragraph, the parties must attempt in good faith to resolve the objection. If the parties are unable to resolve the objection, the producing party has five (5) days from the date of the written objection (plus three (3) days if notice is served other than by hand delivery, e-mail transmission or facsimile transmission), to move the Court for an appropriate protective order. If the producing party serves an effective written objection and files a motion for protective order within the prescribed period, the receiving party may not disclose the producing party’s CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, and/or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY

material to the such person before the objection has been resolved by the Court. If the producing party fails to make an effective objection or fails to move for a protective order within the prescribed period, any objection is waived and its CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, and/or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY material may be then be disclosed to such person provided that the person has signed the Confidentiality Agreement appended as Attachment A to this Order. Such Confidentiality Agreement must be retained by counsel for the party that retained such person, but need not be disclosed to any other party unless the Court so orders.

11. Protected Documents may not be disclosed to a proposed technical advisor, consultant, testifying expert, or in-house counsel until after the objection period provided in Paragraph 9 has expired except with the producing party’s written consent.

PROSECUTION BAR

12. Any information designated CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY by a Defendant is automatically subject to a **PROSECUTION BAR**. Any person who receives a document designated subject to the **PROSECUTION BAR** may not participate, directly or indirectly, or prosecute, supervise, or assist in the prosecution, preparation, or amending of any patent claim or application on behalf of any party—other than the producing party of the information that is designated CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY—involving the particular technology or

information disclosed in the Protected Documents from the time of receipt of such information through and including one (1) year following the entry of a final non-appealable judgment or order or the complete settlement of all claims against all parties in this action. In addition to and notwithstanding the preceding sentence, any person subject to the **PROSECUTION BAR** shall not draft or assist in the drafting of any claim or amendment to any claim of the patent-in-suit pursuant to a re-examination proceeding for a period ending one (1) year after the final resolution of this litigation (including any appeals); otherwise, participation, including but not limited to the discharge of the duty of candor and good faith, in re-examination proceedings is permitted.

NO WAIVER OF PRIVILEGE

13. Consistent with Federal Rules of Evidence 502, if a party notifies another party that it has disclosed documents (including physical objects) that are protected by the attorney-client privilege or work product doctrine and/or any other applicable privilege or immunity, or a party receiving documents for inspection or production discovers such disclosure, the disclosure shall not be deemed a waiver in whole or in part of the of the applicable privilege or protection either as to the specific material or information disclosed or as to any other material or information relating thereto on the same or related subject matter. Upon request or discovery of such materials, the receiving party must immediately, but in no case later than ten (10) days from said request or discovery, return all paper copies and destroy all electronic copies of such disclosed document(s). After returning all papers copies and destroying all electronic copies, the receiving party may challenge the propriety of the asserted privilege or immunity by submitting a written challenge to the Court.

CHALLENGES TO CONFIDENTIALITY DESIGNATIONS

14. At any time after the delivery of Protected Documents, counsel for the party or parties receiving the Protected Documents may challenge the confidentiality designation of all or any portion thereof by providing written notice thereof to counsel for the party disclosing or producing the Protected Documents. If the parties are unable to agree as to whether a confidentiality designation is appropriate, the party challenging the designation may file and serve, within ten (10) business days after it provided the written notice, a motion for a further order of this Court directing that the designation be changed or removed.

LIMITATIONS ON THE USE OF CONFIDENTIAL INFORMATION

15. Information designated CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, and/or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY must be held in confidence by each person to whom it is disclosed, may be used only for purposes of this litigation, may not be used for any business purpose, and may not be disclosed to any person who is not permitted by this Order to receive such information. A producing party’s CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, and/or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY information must be carefully maintained by the receiving party to prevent access by persons who are not permitted to receive it. However, nothing in this Order prevents any court reporter, videographer, mediator, or their employees, or the Court, any employee of the Court or any juror from reviewing any evidence in this case for the purpose of these proceedings. Further, nothing in this Order affects the admissibility of any document or other evidence at any hearing or at trial.

16. Except as the Court otherwise orders, any person may be examined as a witness at a deposition, hearing or trial and may testify concerning all Protected Documents of which such person has prior personal knowledge. Specifically, but without limitation:

(a) A present director, officer, and/or employee of a producing party may be examined and may testify concerning all Protected Documents which have been produced by that party;

(b) A former director, officer, agent and/or employee of a producing party may be interviewed, examined and may testify concerning all Protected Documents of which he or she has prior knowledge, including any Protected Document that refers to matters of which the witness has personal knowledge, which has been produced by that party and which pertains to the period or periods of his or her employment; and

(c) Nonparties may be examined or testify concerning any Protected Document which appears on its face or from other documents or testimony to have been received from or communicated to the nonparty as a result of any contact or relationship with the producing party, or a representative of such producing party. Any person other than the witness, his or her attorney(s), and any person qualified to receive Protected Documents under this Order may be excluded, at the request of the producing party, from the portion of the examination concerning such information, unless the producing party consents to such persons being present at the examination. If the witness is represented by an attorney who is not permitted under this Order to receive such information, then prior to the examination, the attorney must be requested to provide a Confidentiality Agreement in the form of Attachment A to this Order. If such attorney refuses to sign such a Confidentiality Agreement, the parties, by their attorneys, may prior to the

examination, jointly seek a protective Order from the Court prohibiting such attorney from disclosing such Protected Documents.

(d) In addition to the restrictions on the uses of all types of Protected Documents set forth in this Order, the following provisions apply to use of documents that a party has designated HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY at a deposition:

- (i) A witness who previously had access to Protected Documents, but who is not under a present non-disclosure agreement with the producing party that covers that document, may be shown the document if a copy of this Order is attached to any subpoena or notice or request served on the witness for the deposition; and the witness is advised on the record of the existence of this Order and that it requires the parties to keep confidential any questions, testimony or documents that are designated as CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY.
- (ii) The witness may not copy, take notes on or retain copies of any Protected Documents used or reviewed at the deposition. The witness may not take out of the deposition room any exhibit that is marked CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY. The producing party of any Protected Documents used at the deposition may also require that the transcript and exhibits not be copied by the witness or his counsel, that no notes may be made of the transcript or the exhibits, and that the transcript and exhibits may only be reviewed by the witness in the offices of one of the counsel representing a party in this case (or another firm acting for one of the counsel representing a party in his case and under the supervision of one of the lawyers who is bound by the terms of the order).

17. All transcripts of depositions, exhibits, answers to interrogatories, pleadings, briefs, and other documents submitted to the Court designated as CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE

CODE, and/or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY or which contain information so designated, must be filed under seal.

18. Nothing in this Order prohibits transmission or communication of CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, and/or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY information between or among qualified recipients (i) by hand-delivery; (ii) in sealed envelopes or containers via the mails or an established freight, delivery or messenger service; or (iii) by telephone, telegraph, email, facsimile or other electronic transmission system; where, under the circumstances, there is no reasonable likelihood that the transmission will be intercepted or misused by any person who is not a qualified recipient.

19. Protected Documents may not be copied or otherwise reproduced by a receiving party, except for transmission to qualified recipients, without the written permission of the producing party or order of the Court. However, a qualified recipient may make working copies, abstracts, digests and analyses of Protected Documents which will be deemed designated CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, and/or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY according to the designation of the original documents upon which they are based. In addition, a qualified recipient may convert or translate CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY information into machine-readable form for incorporation into a data retrieval system used in connection with this action unless that information is also designated “NO ELECTRONIC COPIES,” and provided that access to CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, or

HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY information in whatever form stored or reproduced, must be limited to qualified recipients.

DISCOVERY FROM EXPERTS

20. Testifying experts are not subject to discovery about any draft report and such draft reports and notes or outlines for draft reports are also exempt from discovery.

21. Discovery of materials provided to testifying experts is limited to those materials, facts, consulting expert opinions, and other matters actually relied upon by the testifying expert in formulating his final report, trial or deposition testimony or any opinion in this action. No discovery may be taken from or about any consulting expert except to the extent that consulting expert has provided information, opinions or other materials that a testifying expert relied on in formulating his final report, trial or deposition testimony or any opinion in this action.

22. No conversations or communications between counsel and any testifying or consulting expert will be subject to discovery unless the conversations or communications are actually relied upon by a testifying expert in formulating his final report, trial or deposition testimony or any opinion in this action.

23. Materials, communications and other information exempt from discovery under the foregoing Paragraphs will be treated as attorney-work product for the purposes of this Order and this litigation.

24. Nothing in Paragraphs 20-23 above changes the requirements in Paragraph 8 regarding printing of code and Paragraph 8 controls that issue.

NONPARTY USE OF THIS PROTECTIVE ORDER

25. A nonparty producing information or material voluntarily or pursuant to a subpoena or a court order may designate such material or information in the same manner and will enjoy the same level of protection under this Order as any party to this action.

26. A nonparty who produces information or material designated as CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, and/or HIGHLY CONFIDENTIAL – SOURCE CODE pursuant to this Order is not entitled to have access to Protected Documents produced by any party in this action.

MISCELLANEOUS PROVISIONS

27. Any of the notice requirements provided in this Order may be waived, in whole or in part, but only by a writing signed by the attorney of record for the party against whom such waiver is asserted.

28. Within sixty (60) days after the entry of a final non-appealable judgment or order, or the complete settlement of all claims asserted against all parties in this action, each party must, at its option, either return to the producing party or destroy all Protected Documents received from the producing party, and must destroy all other physical objects and documents, in whatever form stored or reproduced, including but not limited to, correspondence, memoranda, notes and other work product materials, that contain or refer to CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, and/or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY information; provided, that all CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, and/or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY information that is not embodied in physical objects and documents will remain subject to this Order. Notwithstanding

the foregoing, counsel may maintain copies of all pleadings, motions and trial briefs (including all supporting and opposing papers and exhibits), written discovery requests and responses (including exhibits), deposition transcripts and exhibits, expert reports and exhibits, trial transcripts, and exhibits offered or introduced into evidence at trial.

29. This Order is entered without prejudice to the right of any party to apply to the Court at any time for additional protection, or to relax or rescind the restrictions of this Order, when convenience or necessity requires. The Court will take appropriate measures to protect CONFIDENTIAL, HIGHLY CONFIDENTIAL - OUTSIDE COUNSEL ONLY, HIGHLY CONFIDENTIAL – SOURCE CODE, and/or HIGHLY CONFIDENTIAL – PLAINTIFF’S OUTSIDE COUNSEL ONLY information at trial and any hearing in this case.

30. The United States District Court for the Eastern District of Texas, Tyler Division, is responsible for interpreting and enforcing this Order. Disputes concerning Protected Documents produced under the protection of this Order will be resolved by the United States District Court for the Eastern District of Texas, Tyler Division.

So ORDERED and SIGNED this 1st day of February, 2010.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**

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.

§
§
§
§
§
§
§
§
§
§

CASE NO. 6:09-cv-269

Jury Trial Demanded

ATTACHMENT A

CONFIDENTIALITY AGREEMENT

I, _____, state:

1. I reside at _____;
2. My present employer is _____;
3. My present occupation or job description is _____;
4. I agree to keep confidential all information provided to me in the matter of

Bedrock Computer Techs. v. Softlayer Techs., et. al, and to be subject to the authority of the United States District Court for the Eastern District of Texas, Tyler Division in the event of any violation of this agreement or dispute related to this agreement.

5. I have been informed of or read the Agreed Protective Order dated _____, and I will not divulge any confidential information to persons other than those specifically authorized by said Order.

6. I state under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on _____.

[Print Name]

[Title]

[Company Name]



Bedrock Technologies, LLC v. Softlayer Technologies, Inc. et al. (New Misc. Case Filing)
 Peterson, Tyler C. (Perkins Coie)
 to:
 'newcases.seattle@wawd.uscourts.gov'
 02/03/2011 12:40 PM
[Show Details](#)

5 Attachments



1 - Motion for a Protective Order.pdf



2 - Declaration of Tyler C. Peterson ISO Microsoft Motion for a Protective Order.pdf



3 - Exh. A to Peterson Declaration.pdf 4 - Exh. B to Peterson Declaration.pdf 5 - Proposed Order.pdf

Greetings.

Attached for filing as a new "miscellaneous case" is a motion for a protective order by non-party Microsoft Corporation involving a subpoena issued through the Court in connection with an out-of-district litigation pending in the Eastern District of Texas. Also attached is a supporting declaration, exhibits thereto, and a proposed order.

Can you contact me at 206-359-8129 regarding paying the \$39 miscellaneous case filing fee? Please let me know if you have any questions.

Thanks,
 Tyler

Tyler C. Peterson | Perkins Coie LLP

1201 Third Avenue, Suite 4800

Seattle, WA 98101-3099

Phone (206) 359-8129

Fax (206) 359-9129

tcpeterson@perkinscoie.com

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with Treasury Department and IRS regulations, we inform you that, unless expressly indicated otherwise, any federal tax advice contained in this communication (including any attachments) is not intended or written by Perkins Coie LLP to be used, and cannot be used by the taxpayer, for the purpose of (i) avoiding penalties that may be imposed on the taxpayer under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein (or any attachments).

NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.