

**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-LED

JURY TRIAL DEMANDED

**AOL'S MOTION TO EXPEDITE THE BRIEFING SCHEDULE REGARDING ITS
MOTION FOR SUMMARY JUDGMENT OF NONINFRINGEMENT OF U.S. PATENT
NO. 5,893,120 FOR LACK OF PERFORMANCE**

AOL Inc. ("AOL") respectfully files this Emergency Motion to Expedite the Briefing Schedule regarding its Motion for Summary Judgment of Noninfringement, pending the Court granting AOL's Motion for Leave to file that motion. Plaintiff Bedrock Computer Technologies, LLC ("Bedrock") opposes this Motion.

AOL's Motion for Summary Judgment seeks relief in light of admissions recently made by Bedrock that are entirely case dispositive for AOL. Expedited briefing is warranted because AOL's Emergency Motion for Leave involves an important and straight-forward legal issue that needs to be decided before trial on April 11, 2011. An expedited briefing schedule will provide the Court with the competing arguments as soon as possible, and provide time for briefing of the accompanying summary judgment motion before trial on April 11, 2011 if the Emergency Motion is granted. Pursuant to L.R. CV-7(k), if the Emergency motion is granted, the motion for summary judgment is deemed filed as of the original date of its filing. The proposed expedited briefing schedule below runs from that date, such that all briefing is complete as of the day

briefing for motions *in limine* is complete. As Bedrock is receiving a copy of the motion on the day it is filed, they are not prejudiced by this proposed schedule. AOL requests that the Court order the following expedited briefing schedule for AOL's Motion for Summary Judgment if AOL's Emergency Motion for Leave to file the Summary Judgment motion is granted:

Brief	Deadline
Bedrock's Response to the Motion for Summary Judgment	Wednesday, March 9, 2011
AOL's Reply, as needed	Tuesday, March 15, 2011
Sur-reply, as needed	Thursday, March 17, 2011

For the foregoing reasons, the Court should grant AOL's Motion to Expedite the Briefing Schedule Regarding its Motion for Leave to File a Motion for Summary Judgment.

Respectfully submitted, this the 22nd day of February 2011.

/s/ Deron Dacus

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CERTIFICATE OF CONFERENCE

Counsel for AOL conferred via electronic mail and on the telephone with counsel for Bedrock concerning this Motion to Expedite the Briefing Schedule. Bedrock opposes this Motion.

/s/ Alan L. Whitehurst

CERTIFICATE OF SERVICE

This is to certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this 22nd day of February, 2011. Any other counsel of record will be served by first class mail.

/s/ Alan L. Whitehurst