

**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

**GOOGLE'S OBJECTIONS TO PLAINTIFF  
BEDROCK COMPUTER TECHNOLOGIES, LLC'S PRE-TRIAL DISCLOSURES**

Pursuant to Paragraph 7 of the Court's Discovery Order and the Docket Control Order, Dkt. No. 556, Defendant Google Inc. ("Google") respectfully submits the following objections to Plaintiff Bedrock Computer Technologies LLC's ("Bedrock") pre-trial disclosures. Google reserves all of its rights to make any additional objections to Bedrock's pre-trial disclosures.

By making these objections, Google does not waive any right or argument associated with Google's pending motions in limine and pending motions to strike expert testimony.

**I. Objections to Bedrock's Contentions in the Joint Pretrial Order**

1. Google objects to Bedrock's contention that Google infringes by "making, using, offering for sale, selling, and/or importing various products and/or services in the United States." According to Bedrock, it accuses Google solely of *using* Linux code on its servers.

2. Google objects to any implication by Bedrock that willfulness will be at issue during the main trial. The Court has ordered the willfulness issue to be tried, if necessary, separately after the jury's verdict.

3. Google objects to any implication by Bedrock that it is alleging anything other than literal direct infringement. Bedrock admits that it is not asserting contributory infringement, inducement, or doctrine of equivalents.

## **II. Objections to Bedrock's Witnesses**

Google objects to the following on Bedrock's Witness List:

1. Google objects that Bedrock refuses to bring David Garrod, Bedrock's President, to testify live at trial. Dr. Garrod is one of only three Bedrock shareholders and Bedrock's *sole* officer. Dr. Garrod also has unique knowledge regarding issues crucial to trial that no other Bedrock shareholder has, including Bedrock's negotiations with each of the settling defendants whose license form the basis of Bedrock's damages expert opinion—nearly half of which were not entered at the time of Dr. Garrod's deposition. Google has requested that Bedrock accept service of a trial subpoena; Bedrock refuses. Google continues to attempt service of a trial subpoena on Dr. Garrod, but have thus far been unable to serve him. Dr. Garrod should be compelled to attend the trial to provide live testimony in the case.

2. Google objects that Bedrock has thus far refused to accept service of a trial subpoena for Richard Nemes. Dr. Nemes is the named inventor of the patent-in-suit and is listed as a "will call" witness for Bedrock, yet Bedrock has thus far refused to accept service of a trial subpoena on behalf of Dr. Nemes.

3. Google objects to the scope of the testimony of Roy Weinstein, based on the previously filed *Daubert* motion to exclude and strike his testimony, as well as certain pending motions *in limine*, including numbers 1, 2, 3 and 7.

4. Google objects to the scope of the testimony of Mark Jones, based on the previously filed *Daubert* motion to exclude and strike his testimony, as well as certain pending motions *in limine*, including numbers 3, 4, 5, 6, 8, 9 and 11.

5. Google generally objects to Bedrock's deposition designations for Sunil Daluvoy. Google identified Mr. Daluvoy as Google's 30(b)(6) witness for topics related to licensing. Given the opinions set forth in Mr. Weinstein's damages report, Mr. Daluvoy's testimony has no relevance to the issues in this case and would be a waste of jury time.

6. Google generally objects to Bedrock's deposition designations for Neena Budhiraja. Google identified Ms. Budhiraja as Google's 30(b)(6) witness for topics related to financial documents Google produced in the case reflecting Google's revenues. Given the opinions set forth in Mr. Weinstein's damages report, and as fully set forth in Defendants' pending *Daubert* and motions *in limine*, Ms. Budhiraja's testimony has no relevance to the issues in this case, would be prejudicial to Google and would be a waste of jury time.

### **III. Other Objections**

Google's objections to Bedrock's exhibit list and its objections and counterdesignations to Bedrock's deposition designations are being filed contemporaneously as exhibits to the parties' Joint Pretrial Order.

Dated: March 18, 2011

Respectfully submitted,

/s/ Evette D. Pennypacker

(with permission by Michael E. Jones)

Michael E. Jones

State Bar No. 10929400

POTTER MINTON

110 N. College

Tyler, Texas 75702

Telephone: (903) 597-8311

Facsimile: (903) 593-0846

Email: mikejones@potterminton.com

Claude M. Stern

Evette D. Pennypacker

Todd M. Briggs

QUINN EMANUEL URQUHART &

SULLIVAN, LLP

555 Twin Dolphin Dr., Suite 560

Redwood Shores, CA 94065

Telephone: 650-801-5000

Facsimile: 650-801-5100

Email: claudestern@quinnemanuel.com

Email: toddbriggs@quinnemanuel.com

**ATTORNEYS FOR GOOGLE INC. and  
MATCH.COM, LLC**

**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 18th day of March 2011. Any other counsel of record will be served by first class mail.

/s/ Michael E. Jones

Michael E. Jones