

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

**BEDROCK COMPUTER,
TECHNOLOGIES, LLC**

v.

**SOFTLAYER TECHNOLOGIES,
INC., ET AL.**

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No. 6:09cv269 LED-JDL

JURY DEMANDED

ORDER

The Court received an agenda of topics to be addressed at the pre-trial hearing on April 4, 2011. Some of these topics will not be heard at pre-trial given the following rulings.

The Court **ORDERS** as follows:

- Bedrock's Motion *in Limine* J (Doc. No. 664) is **GRANTED** without prejudice to approaching the bench;
- Bedrock's Motion for Leave to Supplement Expert Report of Roy Weinstein (Doc. No. 666) is **GRANTED**; and
- Defendants' Motion for Leave to Serve an Expert Report Regarding Reexamination Procedures in the USPTO (Doc. No. 668) is **DENIED**.

In addition, AOL's Motion for Clarification (Doc. No. 665) will not be heard at the pre-trial hearing.

To further address Bedrock's Motion for Leave to Supplement, while this Court has expressed its view that litigation licenses are typically not admissible at trial, there is some uncertainty on that issue due to cases such as *ResQNet*, *Data Treasury*, and *ReedHycalog*.

Therefore, the Court will provide Bedrock the opportunity to supplement its report to conform to the Court's ruling as to the extrapolation of a per server royalty from the litigation licenses. In addition,

Defendants have leave to depose Mr. Weinstein on the subject matter contained in his supplemental report. If needed, Defendants are also given leave to provide Bedrock with a supplemental report responding to Weinstein's supplemental report. Any objections to the opinions expressed in Weinstein's supplemental report may be made at trial.

So ORDERED and SIGNED this 31st day of March, 2011.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE