

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

TYLER DIVISION

DATE: April 28, 2011

JUDGE
LEONARD DAVIS

REPORTER: Shea Sloan

LAW CLERKS: Nicole Mitchell & Anna Phillips

BEDROCK TECHNOLOGIES, LLC V YAHOO! INC.	CIVIL ACTION NO: 6:09-CV-269 JURY TRIAL - DAY 2
ATTORNEYS FOR PLAINTIFFS	ATTORNEY FOR DEFENDANT
SEE SIGN-IN SHEETS	

On this day, came the parties by their attorneys and the following proceedings were had:

OPEN: 8:50 am

ADJOURN: 5:10 pm

TIME:	MINUTES:
8:50 am	Trial resumed. Jury not present in the courtroom.
	Court inquired of the parties what matters they had to take up.
	Mr. Stevenson addressed the Court regarding interrogatory response from Yahoo! regarding disclosure that they put Linux without the accused code on their servers and that the change occurred the 1 st of March. Mr. Stevenson requested a limine to keep them from referencing this. Mr. Morisseau responded. Mr. Chaikovsky addressed the Court. Court sustained motion.
	Mr. Cassady addressed the Court on a limine regarding prior art people and Judge Love's ruling regarding lay opinion testimony and that it should not be allowed. Judge Love granted motion in limine as to no lay opinion testimony and yesterday, Ms. Down while Dr. Nemes was on the witness stand, elicited opinion testimony regarding validity. Mr. Cassady argued that Ms. Down opened the door and the other opinions of McDonald and Kuznetsov should be admitted. Mr. Doan responded that the limine addressed just McDonald and Kuznetsov. Court and parties discussed the lay opinions. Mr. Cassady responded as to Dr. Nemes. Court asked for transcript and the emails. Documents tendered to the Court. Court and parties discussed Kuznetsov and the parties are in agreement to that one. Parties to discuss at break and work out when to play what portions of the testimony.

DAVID J. MALAND, CLERK

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BY: *Rosa L. Ferguson*, Courtroom Deputy

TIME:	MINUTES:
	Mr. Cawley addressed the Court on discovery responses regarding number of servers. Parties have agreed that rather than late supplementation to proceed with the discovery number of servers as it now stands. Mr. Morisseau is in agreement. Court addressed parties that if both sides in agreement, will handle post verdict.
	Mr. Cassady addressed the Court and the McDonald issue may come up today and do need to address and referenced the 2 nd email. Ms. Doan not prepared to discuss.
9:00 AM	Court asked for the jury to be brought in. Jury entered and seated in the courtroom.
	Court welcomed the Jury back.
	Dr. MARK JONES on the witness stand. Direct examination of Dr. Jones by Mr. Stevenson continued. Mr. Stevenson tendered the source code to the Jury and the Court. Mr. Morisseau asked to approach the bench. (Bench conference held). Direct examination of Dr. Jones continued.
10:55 am	Court in recess until 11:10 am
11:10 am	Trial resumed. Jury seated in the courtroom.
	Direct examination of Dr. Jones by Mr. Stevenson continued.
11:55 am	Mr. Morisseau asked to approach the bench. (Bench conference held).
	Direct examination of Dr. Jones continued.
12:30 pm	Court in recess until 1:10 pm
1:10 pm	Trial resumed. Jury not present in the courtroom.
	Mr. Bright addressed the Court on affidavit. Mr. Bright presented 2 other issues, one is the slide on the Amazon document. Asking all references to revenue losses be redacted from any exhibits or show to the Jury, one is the Amazon.com document. Mr. Cassady responded. Mr. Bright replied. Court sustains as to Slide 11. Mr. Bright also addressed the Court on exhibits. Mr. Cassady responded. Court ruled that unless documents relate to Yahoo!, they would be excluded. Mr. Cassady addressed the Court for clarification.
	Mr. Bright addressed the Court on Weinstein's report references a Dr. Koomey and a declaration. Mr. Cassady responded. Court's ruling is the same as the Google case. Mr. Bright asked regarding questions on a declaration by Mr. Koomey.
	Mr. Morisseau asked the Court for times. Court gave the parties their times. Defendant has used 2 hours and 15 minutes and plaintiff has used 5 hours and 25 minutes.
	Ms. Doan addressed the Court on another exhibit, Plaintiff's 282. Mr. Cassady responded. Court overruled objection.
	Ms. Doan addressed the Court on insurance policies. Mr. Cassady responded. Court does not want to get into insurance policies. Mr. Cassady addressed the Court on definitions. Court will allow.
1:25 pm	Court asked for the Jury to be brought in. Jury entered and seated in the courtroom.

TIME:	MINUTES:
	Dr. Mark Jones on the witness stand. Cross examination of Dr. Jones by Mr. Morisseau continued. Mr. Stevenson asked to approach bench. (Bench conference held). Cross examination of Dr. Jones continued.
	Mr. Morisseau passed the witness. Redirect exam of Dr. Jones by Mr. Stevenson.
	Mr. Stevenson passed the witness. Recross examination of Dr. Jones.
	Mr. Morisseau passed the witness. No further questions of this witness.
	Mr. Cassady called Dr. ROY WEINSTEIN to the witness stand. Witness previously sworn.
	Direct examination of Dr. Weinstein by Mr. Cassady.
3:10 pm	Court addressed the Jury and recessed them until 3:30 pm.
	Jury not present in the courtroom. Mr. Bright objected regarding a slides. Mr. Cassady responded. Mr. Bright replied. Mr. Cassady further responded. Mr. Bright further replied. Mr. Cassady responded to the Court the relevance. Court and parties continued to discuss. Court will allow it and allow cross examination.
3:15 pm	Court in recess.
3:30 pm	Trial resumed. Jury present in the courtroom.
	Dr. Weinstein on the stand. Direct examination continued.
	Mr. Cassady passed the witness. Cross examination of Dr. Weinstein by Mr. Bright.
	Mr. Bright passed the witness. Redirect examination of Dr. Weinstein by Mr. Cassady.
	Mr. Cassady passed the witness.
	Mr. Morisseau asked to approach. (Bench conference held).
	Mr. Morisseau asked that the Courtroom be sealed.
4:30 pm	SEALED PROCEEDINGS. Redirect examination of Mr. Weinstein continued.
	Mr. Bright asked to approach bench. (Bench conference held).
	Mr. Cassady passed the witness. Recross examination. No further questions
4:45 pm	Mr. Morisseau addressed the Court and indicated the courtroom could be re-open. Court UNSEALED the proceedings.
	Mr. Hejny addressed the Court and they have 3 video depositions. Mr. Hejny called QUINTIN BARNES by Video Deposition. Video played. Mr. Hejny called RICK REED by Video Depositions. Video played. Mr. Hejny called DMITRY PUGACHEVICH by Video Deposition. Video played.
	Court inquired as Plaintiff's remaining witnesses. Mr. Cawley responded.
5:10 pm	Court addressed the Jury and reminded them of the Court's instructions. Court recessed the jury until 9:00 a.m. tomorrow.

TIME:	MINUTES:
	Jury not present in the courtroom. Court gave the parties their times: Plaintiff has used 7 hours and 6 minutes, Defendant has used 3 hours and 45 minutes.
5:10 pm	There being nothing further, Court adjourned for the day.