

# **EXHIBIT 11**

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

BEDROCK COMPUTER )  
TECHNOLOGIES LLC )

DOCKET NO. 6:09cv269

-vs- )

Tyler, Texas

YAHOO!, INC. )

1:15 p.m.

April 27, 2011

TRANSCRIPT OF TRIAL  
AFTERNOON SESSION  
BEFORE THE HONORABLE LEONARD DAVIS,  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S

FOR THE PLAINTIFF:

MR. DOUGLAS A. CAWLEY  
MR. THEODORE STEVENSON, III  
MR. SCOTT W. HEJNY  
MR. JASON D. CASSADY  
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MR. ROBERT M. PARKER  
MR. ROBERT CHRISTOPHER BUNT  
PARKER, BUNT & AINSWORTH  
100 E. Ferguson, Ste. 1114  
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COURT REPORTERS:

MS. JUDY WERLINGER  
MS. SHEA SLOAN

Proceedings taken by Machine Stenotype; transcript was  
produced by a Computer.

1 MS. DOAN: Casey, if you'll go to 471,  
2 Page 702.

3 471, Page 702. 471, Defendant's -- I'm  
4 sorry -- 471 -- 147. I'm sorry.

5 Q. (By Ms. Doan) The reexamination certificate is  
6 what you just went over with Mr. Cawley, so we know you  
7 didn't look at the Yahoo! code, right?

8 A. Correct, ma'am.

9 Q. And we know you didn't look at the code that's  
10 in Linux 2.6.9 or any of the accused versions on the  
11 internet, right?

12 A. Correct.

13 Q. And we know you didn't look at the Kuznetsov  
14 code, right?

15 A. Correct.

16 Q. And we also know that you didn't look at the  
17 NRL code either, right?

18 A. That's correct, ma'am.

19 Q. And if you'll look at the references that are  
20 on the reexamination certificate -- and I'm sorry that I  
21 left off some of it -- it looks like they're on Page 1  
22 and then again on Page 2.

23 None of those references mention the NRL code,  
24 do they, sir?

25 A. You know, I'd have to go through this and

1 look. Would you like me to --

2 Q. You haven't done that before you got in front  
3 of this jury to testify about the reexamination  
4 certificate, did you, sir?

5 A. No.

6 Q. So you're not prepared to testify on this, are  
7 you, sir?

8 A. That's correct, ma'am.

9 Q. Any reason you don't believe me that the NRL  
10 code is not on the references on the reexam?

11 A. I have no reason not to believe you.

12 Q. Okay. And obviously, of course, if it were on  
13 the references for the reexam, that would mean that the  
14 Patent Examiner considered it, right? If it were listed  
15 here, it would mean that it was considered in reexam,  
16 right?

17 A. I'm not -- I'm really not familiar with the  
18 internal operations of the Patent Office.

19 Q. Okay. But it's your understanding that the  
20 rule is that if it's listed on the face of the reexam,  
21 it's been considered, right?

22 A. I'm not sure.

23 Q. Do you know if the Kuznetsov 1995 old Linux  
24 code, whether that's listed on the face of the reexam,  
25 either on Page 1 or Page 2?

1 A. I have no idea.

2 Q. You don't have any evidence, as you sit here  
3 today making a claim against Yahoo!, that the Kuznetsov  
4 code or the NRL code has been submitted to the Patent  
5 Examiner, do you, sir?

6 A. I have no idea.

7 Q. And you know, of course, since the patent is  
8 in reexam or was in reexam and it's your patent, the  
9 '120 patent, that you had a duty to produce all code,  
10 all known prior art code, or accused prior art code to  
11 the Patent Examiner, right?

12 A. I am not a patent attorney. I'm really not  
13 sure about that.

14 Q. But you understand that it's your duty to  
15 produce everything in this litigation to the Patent  
16 Examiner, as well as any other type of prior art that's  
17 being accused, right?

18 A. I'm not certain of that, no.

19 Q. Do you know whether you, sir, have produced  
20 the NRL code to the Patent Examiner?

21 A. I did not, no.

22 Q. Did you produce it to them in the original  
23 application for the '120 patent?

24 A. No, I did not, ma'am.

25 Q. And you didn't produce it to them in the

1 reexamination either, did you, sir?

2 A. Me personally?

3 Q. You or -- you or Bedrock?

4 A. I -- I wasn't the one that submitted things  
5 for the reexam, so I can't say what others did. But I  
6 personally did not do that.

7 Q. You are the representative of Bedrock, right,  
8 in this --

9 A. Yes.

10 Q. And you're bringing a big lawsuit for \$32  
11 million against Yahoo!, right?

12 A. That's correct, ma'am.

13 Q. And you can't tell this jury -- you've known  
14 that our defense is the NRL code as well as the '495 as  
15 well as -- as well as other prior art, correct?

16 A. I've heard that today, ma'am.

17 Q. All right. And you can't tell this jury that  
18 you submitted it to the Patent Office in reexamination?

19 A. I personally did not submit it, ma'am.

20 Q. And you can't tell this jury as a  
21 representative of Bedrock that you were sure that your  
22 company did?

23 A. I'm not sure what my company did, ma'am.

24 Q. You agree you have a duty of candor to the  
25 Patent Office?

1 A. Yes, I do, ma'am.

2 Q. But you can't tell this jury that you have, in  
3 fact, complied with that duty of candor as far as  
4 production of the NRL code, can you, sir?

5 A. I can't testify to the NRL code in the reexam.

6 Q. I think I misstated this before.

7 The NRL code is not on -- not listed as one of  
8 the publications in the reexamination certificate, is  
9 it, sir?

10 A. I would have to read through the entire  
11 list --

12 Q. Even though you knew the NRL code was one of  
13 our major pieces of prior art and you're the  
14 representative of Bedrock, you're not prepared to review  
15 the reexamination certificate and tell this jury what it  
16 says?

17 A. Well, I am willing. If you would like, I  
18 could go through this and tell you if it's on the list.

19 Q. I tell you what, if it's on the list, I am  
20 sure that your attorneys will bring it out.

21 Now, I want to talk about your Claim 1 on the  
22 '120 patent. You told Mr. Cawley that it doesn't have  
23 to describe a particular lock. It can describe any type  
24 of lock, right?

25 A. There are many mechanisms for achieving a