

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

**GOOGLE INC., AOL LLC, YAHOO! INC.,
IAC SEARCH & MEDIA, INC.,
and LYCOS, INC.,**

Plaintiffs,

v.

**L. DANIEL EGGER, SOFTWARE RIGHTS
ARCHIVE, LLC, and
SITE TECHNOLOGIES, INC.,**

Defendants.

MISC NO. 09-017 (JJF)

**PENDING IN THE UNITED STATES
DISTRICT COURT FOR THE
NORTHERN DISTRICT OF
CALIFORNIA (SAN JOSE
DIVISION)**

Civil Action No. CV08-03172RMW

SOFTWARE RIGHTS ARCHIVE, LLC,

Plaintiff,

v.

**GOOGLE INC., YAHOO! INC., IAC SEARCH
& MEDIA, INC., AOL LLC, and LYCOS, INC.,**

Defendants.

**PENDING IN THE UNITED STATES
DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
(MARSHALL DIVISION)**

Civil Action No. 2:07-cv-511 (CE)

NOTICE OF RECENT DECISION

Pursuant to Local Rule 7.1.2(b), Movants Google Inc., Yahoo! Inc., IAC Search & Media, Inc., AOL LLC, and Lycos, Inc. (collectively, "Movants") submit this Notice of Recent Decision in order to complete the record and respectfully show the Court as follows:

1. On May 1, 2009, non-party Altitude Capital Partners, L.P. ("Altitude") filed a "Notice of Development in Related Cases"¹ to inform the Court of two recent decisions in two

¹ D.I. 25 ("Notice").

related cases in the United States District Court for the Eastern District of Texas (Marshall Division) and the United States Bankruptcy Court for the Northern District of California (San Jose Division). In its Notice, Altitude contended that these decisions “provide further support for its position that the discovery [sought from SRA, LLC and Altitude] is improper or moot.”

2. Altitude’s Notice, however, failed to advise the Court of the most recent decision affecting these parties that was issued from another related case in the United States District Court for the Northern District of California (San Jose Division).² In this decision, dated April 30, 2009, and attached as Exhibit 1, Judge Whyte granted Movants’ motion to compel discovery from Software Rights Archive, LLC and denied Software Rights Archive’s motion to quash Movants’ Rule 30(b)(6) deposition notice of Software Rights Archive. Notably, Judge Whyte issued this order *after* he had been advised of the Texas decision and *after* the bankruptcy case had already been closed.

3. Judge Whyte’s April 30, 2009 decision confirms that Movants’ motion to compel discovery from SRA, LLC and Altitude³ should be granted. Judge Whyte’s order, which authorized discovery from Software Rights Archive, LLC, confirms that discovery from non-parties SRA, LLC and Altitude is neither “improper” nor “moot,” as Altitude claims.

4. As reflected in Exhibit 1, Movants’ response in opposition to a motion to dismiss, transfer, or stay pending before Judge Whyte in the Northern District of California is now due on Friday, May 29, 2009. Accordingly, for the same reasons set forth in our Motion to Compel, resolution of the pending motion is needed in advance of this May 29, 2009 deadline.

² Case No. 08-CV-3172, D.I. 112.

³ D.I. 1 (Movants’ Motion to Compel the Production of Documents by SRA, LLC and Altitude Capital Partners, L.P. Pursuant to Rule 45 Subpoenas).

Dated: May 5, 2009

Respectfully submitted,

By: /s/ Gregory R. Booker

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served by FEDEX on the following counsel for SRA, LLC and Altitude Capital Partners, L.P. on May 5, 2009:

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