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28United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CUNZHU ZHENG, et al.,

No. C-08-1068 MMC

Plaintiffs,

**ORDER DIRECTING PLAINTIFFS TO
SHOW CAUSE WHY CLAIMS AGAINST
PEOPLES REPUBLIC OF CHINA
SHOULD NOT BE DISMISSED FOR
FAILURE TO PROSECUTE AND TO
SERVE**

v.

YAHOO! INC. et al.,

Defendants

By separate order filed concurrently herewith, the Court has dismissed with prejudice plaintiffs' claims against Yahoo!, Inc. and Yahoo! Hong Kong, Ltd. The remaining defendant in the instant action is the Peoples Republic of China ("PRC").

Plaintiffs named the PRC as a defendant in the First Amended Complaint, filed June 16, 2008, and subsequently named the PRC as a defendant in the Second Amended Complaint as well as in the current operative complaint, specifically, the Third Amended Complaint. Although almost a year and a half has passed since the date the PRC was first named as a defendant, the record contains no indication that plaintiffs have served the PRC. Under the circumstances, it appears plaintiffs have failed to prosecute the instant action against the PRC and have failed to effectuate timely service on the PRC. See, e.g., Cyrsen/Montenay Energy Co. v. E & C Trading Ltd. (In re Cyrsen/Montenay Energy Co.), 166 B.R. 546, 550-53 (S.D. N.Y. 1994) (holding, where plaintiff failed to serve Swiss

1 corporation for approximately two years following filing of complaint, action properly
2 dismissed for failure to prosecute and failure to effectuate timely service).

3 Accordingly, plaintiffs are hereby ORDERED TO SHOW CAUSE, in writing and no
4 later than December 23, 2009, why plaintiffs' claims against the PRC should not be
5 dismissed for failure to prosecute and failure to effectuate timely service. If plaintiffs fail to
6 timely respond or fail to show good cause for the protracted period of delay, the Court will
7 dismiss plaintiffs' claims against the PRC without prejudice.

8 **IT IS SO ORDERED.**

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10 Dated: December 2, 2009


MAXINE M. CHESNEY
United States District Judge

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