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 8 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
 9 **OAKLAND DIVISION**

10 WANG XIAONING, YU LING, SHI
 TAO, and ADDITIONAL PRESENTLY
 11 UNNAMED AND TO BE IDENTIFIED
 INDIVIDUALS,

12 Plaintiffs,

13 v.

14 YAHOO! INC., a Delaware Corporation,
 15 YAHOO! HONG KONG, LTD., a Foreign
 Subsidiary of Yahoo!, AND OTHER
 16 PRESENTLY UNNAMED AND TO BE
 IDENTIFIED INDIVIDUAL
 17 EMPLOYEES OF SAID
 CORPORATIONS,

18 Defendants.
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Case No. C07-02151 CW

**MOTION FOR ADMINISTRATIVE
 RELIEF AND JOINT STIPULATED
 REQUEST FOR ADDITIONAL PAGES
 FOR BOTH YAHOO! INC.'S MOTION TO
 DISMISS AND FOR PLAINTIFFS'
 OPPOSITION**

Judge: Hon. Claudia Wilken

20 Pursuant to Civil Local Rule 7-11, defendant Yahoo!, Inc. ("Yahoo!") moves for an order
 21 increasing the page limit for its motion to dismiss, due August 27, 2006, and for plaintiffs'
 22 opposition to that motion, due September 26, from 25 pages to 50 pages. Plaintiffs agree that a
 23 limit of 50 pages is appropriate, and the parties have filed a joint stipulation in support of this
 24 request, pursuant to Civil Local Rule 7-12. Defendants' reasons for this request are as follows:¹

25 1. This is a complex case. Plaintiffs assert 11 causes of action against two defendants on
 26 behalf of three plaintiffs and invoke international, federal, and California law. Plaintiffs raise

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 28 ¹ To be clear, plaintiffs stipulated to the 50-page limit proposed, but do not stipulate to
 defendants' views concerning the pertinent legal issues at issue in this case, as expressed herein.

1 four different Alien Tort Statute claims (each of which must be addressed specifically) and rely
2 on a secondary, aiding-and-abetting theory of liability against a non-state actor (Yahoo!), which
3 further complicates the analysis under the ATS and other legal sources that plaintiffs invoke.
4 Plaintiffs' case raises issues of Chinese law and the law of nations generally, which require some
5 explication, and presents justiciability concerns not raised in the usual case. This Court and
6 others, in lengthy and scholarly opinions, *see, e.g., Doe v. Qi*, 349 F. Supp. 2d 1258 (N.D. Cal.
7 2004), have devoted a large number of pages to addressing such issues in ATS cases.²

8 2. Indeed, although 50 pages is twice the usual length for a motion to dismiss, it is fairly
9 common for similar motions in ATS cases of this sort. For example, plaintiffs' motion for a
10 default judgment in *Qi* was 45 pages and was supported by well over 75 pages of affidavits on
11 international law. To take just a small sampling of other cases, defendants' memorandum in
12 support of its motion to dismiss in *Mother Doe I ex rel. R.M. v. Al Maktoum*, 2007 WL 2209258
13 (S.D. Fla. 2007) (Brief at 2006 WL 4034319), was 51 pages; defendants' memorandum in
14 support of its motion to dismiss in *Saleh v. Titan Corp.*, 361 F.Supp.2d 1152 (S.D. Cal. 2005),
15 was 51 pages;³ and plaintiffs' opposition to defendants' motion to dismiss in *Turedi v. Coca-Cola*
16 *Company*, 460 F. Supp. 2d 507 (S.D.N.Y. 2006) (Brief at 2006 WL 2310785), was 55 pages.

17 3. Considering the complex legal issues presented by this case, we submit that a brief of
18 50 pages is necessary, appropriate, and reasonable. Among other issues, Yahoo!'s motion will
19 address whether:

- 20 • plaintiffs' claims are justiciable under *Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004),
21 the act of state doctrine, principles of international comity, and the political question
22 doctrine;
- 23 • plaintiffs' claims contravene federal, California, and international law—each of which
24 shields defendants from civil liability for communicating with law enforcement

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26 ² For example, Magistrate Judge Chen's initial Report and Recommendation in *Qi* was 89 pages,
and the final report was 95 pages.

27 ³ After the case was transferred and the case amended, defendants filed another motion to dismiss
28 and supporting memorandum, this one 45 pages. *See Saleh v. Titan Corp.*, 436 F.Supp.2d 55
(D.D.C. 2006) (brief at 2006 WL 1222774).

- 1 officials regarding investigations;
- 2 • plaintiffs have failed to state a claim under the Alien Tort Statute, the Torture Victim
3 Protection Act, the Electronic Communications Privacy Act, and the international and
4 California statutory and common law sources on which they rely; and
 - 5 • whether plaintiffs' case must be dismissed because they failed, pursuant to Rule 19, to
6 join the People's Republic of China or the PRC officials as defendants.

7 Yahoo! intends to address these complicated issues succinctly and requested that plaintiffs
8 stipulate to 60 pages to brief these issues. Plaintiffs agreed to 50 pages, which Yahoo! now
9 requests.

10 For the foregoing reasons:

11 (1) Defendant Yahoo! Inc. should be permitted 50 pages of briefing for their
12 memorandum in support of their upcoming motion to dismiss, due August 27, 2006; and

13 (2) Plaintiffs Wang Xiaoning, Lu Ying, and Shi Tao should be permitted 50 pages of
14 briefing for their opposition in response to Yahoo!'s motion.

15 Dated: August 20, 2007

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By: 

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