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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

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

Plaintiff,

v.

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

Defendant.

Case No. C07-02151 CW/JCS

**ORDER DISMISSING DEFENDANT'S
MOTION FOR PROTECTIVE ORDER
AND (IN THE ALTERNATIVE)
[PROPOSED] INTERIM PROTECTIVE
ORDER**

Magistrate Judge: Hon. Joseph C. Spero

[PROPOSED] ORDER

The Defendant's Motion to for Protective Order Governing Confidential Information is hereby DENIED.

**[IN THE ALTERNATIVE]
[PROPOSED] INTERIM PROTECTIVE ORDER**

1. PURPOSES AND LIMITATIONS

This temporary, interim Protective Order applies only to documents and other items of information produced or disclosed in connection with the Defendants' pleadings and

1 other court submissions related to their Motion to Dismiss and related preliminary pleadings prior
2 to the Case Management Conference and the initiation of the discovery process, and to Plaintiff's
3 responses thereto. A Permanent Protective Order is required to deal with materials related to
4 discovery and other aspects of the litigation process.

5 Defendants have indicated a need for securing protected, confidential status on a
6 preliminary basis, prior to discovery, for documents they wish to use in support of their pleadings
7 associated with a Motion to Dismiss to be filed with the court on August 27, 2007.

8 Defendants have indicated that their response(s) to the Second Amended
9 Complaint in this action associated with their Motion to Dismiss submissions may involve
10 production or disclosure of confidential, proprietary, or private information for which special
11 protection from public disclosure and from use for any purpose other than prosecuting this
12 litigation would be warranted. Plaintiffs' pleadings on these matters may include documents or
13 other items justifying similar treatment. Accordingly, the Court hereby enters following Interim
14 Protective Order. This Order does not confer blanket protections on all disclosures or responses
15 to discovery, and to other general litigation matters. The protection it affords extends only to the
16 limited information or items specifically described herein related to pre-discovery issues, and that
17 are entitled under the applicable legal principles to treatment as confidential. This Interim
18 Protective Order creates no entitlement to file confidential information under seal; Civil Local
19 Rule 79-5 sets forth the procedures that must be followed and reflects the standards that will be
20 applied when a party seeks permission from the court to file material under seal. This Interim
21 Protective Order only applies to documents produced, filed, disclosed or exchanged in connection
22 with the Defendants' response(s) to the Second Amended Complaint and the corresponding
23 briefing on these issues by both parties.

24 2. DEFINITIONS

25 2.1 Party: any party to this action, including all of its officers, directors,
26 employees, consultants, retained experts, and outside counsel (and their support staff).

27 2.2 Disclosure or Discovery Material: all items or information, regardless of
28 the medium or manner generated, stored, or maintained (including, among other things,

1 testimony, transcripts, or tangible things) that are produced, filed, exchanged or disclosed in
2 connection to the response(s) to the Second Amended Complaint.

3 2.3 “Confidential” Information or Items: information (regardless of how
4 generated, stored or maintained) or tangible things that qualify for protection under standards
5 developed under F.R.Civ.P. 26(c) or any other applicable rule or law.

6 (a) For the purposes of this Preliminary Order, this protective
7 designation covers the methodologies used by Yahoo!, Inc. and YHKL to track the traffic on their
8 websites, which Defendants describe as proprietary information. This information will be labeled
9 “Confidential: Proprietary Methodology Used for Tracking Website Visitors.”

10 (b) Other categories of information may also be designated
11 “Confidential” if they have been specifically approved for confidential designation by court order
12 or stipulation prior to their designation, and have been assigned a specific label.

13 (c) Information that is part of the public record does not qualify for
14 “confidential” designation.

15 2.4 “Highly Confidential – Attorneys’ Eyes Only” Information or Items:
16 extremely sensitive “Confidential Information or Items” whose disclosure to another Party or
17 nonparty would create a substantial risk of serious injury that could not be avoided by less
18 restrictive means.

19 (a) Categories of information may be designated as “Highly
20 Confidential – Attorneys’ Eyes Only” only if they have been specifically approved for highly
21 confidential designation by court order or stipulation prior to their designation.

22 (b) Information that is part of the public record does not qualify for
23 “highly confidential” designation.

24 2.5 Receiving Party: a Party that receives Disclosure or Discovery Material
25 from a Producing Party.

26 2.6 Producing Party: a Party or non-party that produces Disclosure or
27 Discovery Material in this action.
28

1 2.7 Designating Party: a Party or non-party that designates information or
2 items that it produces as “Confidential” or “Highly Confidential — Attorneys’ Eyes Only.”

3 2.8 Protected Material: any Disclosure or Discovery Material that is designated
4 as “Confidential” or as “Highly Confidential – Attorneys’ Eyes Only.”

5 2.9 Outside Counsel: attorneys who are not employees of a Party but who are
6 serving as counsel or co-counsel for a Party in this action (as well as their volunteer and paid
7 staffs).

8 2.10 House Counsel: attorneys who are employees of a Party.

9 2.11 Counsel (without qualifier): Outside Counsel and House Counsel (as well
10 as their volunteer and paid staffs.

11 2.12 Expert: a person with specialized knowledge or experience in a matter
12 pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert
13 witness or as a consultant in this action and who is not a past or a current employee of a Party or
14 of a competitor of a Party’s and who, at the time of retention, is not anticipated to become an
15 employee of a Party or a competitor of a Party’s. This definition includes a professional jury or
16 trial consultant retained in connection with this litigation.

17 2.13 Professional Vendors: persons or entities that provide litigation support
18 services (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations;
19 organizing, storing, retrieving data in any form or medium; etc.) and their employees and
20 subcontractors.

21 3. SCOPE

22 The protections conferred by this Stipulation and Order cover not only Protected
23 Material (as defined above), but also any information copied or extracted therefrom, as well as all
24 copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or
25 presentations by parties or counsel to or in court or in other settings that might reveal Protected
26 Material. Protected Material and information derived solely therefrom shall not be used by the
27 parties or their counsel except as expressly permitted herein. This Interim Protective Order only
28 applies to documents produced, filed, disclosed or exchanged through the Defendants’

1 response(s) to the Second Amended Complaint and the corresponding briefing by both parties. A
2 permanent Protective Order may be entered later to govern confidentiality designations during the
3 regular discovery process.

4 4. DURATION

5 Even after the termination of this litigation or the entering of a later Protective
6 Order, the confidentiality obligations imposed by this Order shall remain in effect until a
7 Designating Party agrees otherwise in writing or a court order otherwise directs.

8 5. DESIGNATING PROTECTED MATERIAL

9 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
10 Party or non-party that designates information or items for protection under this Order must take
11 care to limit any such designation to specific material that qualifies under the appropriate
12 standards. A Designating Party must take care to designate for protection only those parts of
13 material, documents, items, or oral or written communications that qualify – so that other portions
14 of the material, documents, items, or communications for which protection is not warranted are
15 not swept unjustifiably within the ambit of this Order. The Designating Party shall indicate the
16 legal basis for the protected status designation of each document (or portion thereof) as part of the
17 label or descriptive information indicating claimed protected status.

18 Mass, indiscriminate, or routinized designations are prohibited. Designations that
19 are shown to be clearly unjustified, or that have been made for an improper purpose (e.g., to
20 unnecessarily encumber or retard the case development process, or to impose unnecessary
21 expenses and burdens on other parties), expose the Designating Party to sanctions.

22 If it comes to a Party's or a non-party's attention that information or items that it
23 designated for protection do not qualify for protection at all, or do not qualify for the level of
24 protection initially asserted, that Party or non-party must promptly notify all other parties that it is
25 withdrawing the mistaken designation.

26 5.2 Information in the Public Domain. The following information shall not be
27 regarded as "Confidential" or "Highly Confidential" and thus shall not be considered protected by
28 this Order:

1 (a) Information that is in the public domain at the time of disclosure,
2 as evidenced by a written public document; and

3 (b) Information that becomes part of the public domain subsequent to
4 disclosure or production, as evidenced by a written public document, through no fault of the
5 Receiving party.

6 5.3 Manner and Timing of Designations. Except as otherwise provided in this
7 Order (see, e.g., second paragraph of section 5.2(a), below), or as otherwise stipulated or ordered,
8 material that qualifies for protection under this Order must be clearly so designated before the
9 material is disclosed or produced.

10 Designation in conformity with this Order requires:

11 (a) for information in documentary form (apart from transcripts of
12 depositions or other pretrial or trial proceedings), that the Producing Party affix the legend
13 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” at the top
14 of each page that contains protected material. If only a portion or portions of the material on a
15 page qualifies for protection, the Producing Party also must clearly identify the protected
16 portion(s) (e.g., by making appropriate markings in the margins) and must specify, for each
17 portion, the level of protection being asserted (either “CONFIDENTIAL” or “HIGHLY
18 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”).

19 A Party or non-party that makes original documents or materials available for
20 inspection need not designate them for protection until after the inspecting Party has indicated
21 which material it would like copied and produced. During the inspection and before the
22 designation, all of the material made available for inspection shall be deemed “HIGHLY
23 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the
24 documents it wants copied and produced, the Producing Party must determine which documents,
25 or portions thereof, qualify for protection under this Order, then, before producing the specified
26 documents, the Producing Party must affix the appropriate legend (“CONFIDENTIAL” or
27 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) at the top of each page that
28 contains Protected Material. If only a portion or portions of the material on a page qualifies for

1 protection, the Producing Party also must clearly identify the protected portion(s) (e.g., by making
2 appropriate markings in the margins) and must specify, for each portion, the level of protection
3 being asserted (either “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’
4 EYES ONLY”).

5 (b) for testimony given in deposition or in other pretrial or trial
6 proceedings, that the Party or non-party offering or sponsoring the testimony identify on the
7 record, before the close of the deposition, hearing, or other proceeding, all protected testimony,
8 and further specify any portions of the testimony that qualify as “HIGHLY CONFIDENTIAL –
9 ATTORNEYS’ EYES ONLY.” When it is impractical to identify separately each portion of
10 testimony that is entitled to protection, and when it appears that substantial portions of the
11 testimony may qualify for protection, the Party or non-party that sponsors, offers, or gives the
12 testimony may invoke on the record (before the deposition or proceeding is concluded) a right to
13 have up to 20 days to identify the specific portions of the testimony as to which protection is
14 sought and to specify the level of protection being asserted (“CONFIDENTIAL” or “HIGHLY
15 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”). Only those portions of the testimony that
16 are appropriately designated for protection within the 20 days shall be covered by the provisions
17 of this Interim Protective Order.

18 Transcript pages containing Protected Material must be separately bound by the
19 court reporter, who must affix to the top of each such page the legend “CONFIDENTIAL” or
20 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” as instructed by the Party or
21 nonparty offering or sponsoring the witness or presenting the testimony.

22 (c) for information produced in some form other than documentary,
23 and for any other tangible items, that the Producing Party affix in a prominent place on the
24 exterior of the container or containers in which the information or item is stored the legend
25 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only
26 portions of the information or item warrant protection, the Producing Party, to the extent
27 practicable, shall identify the protected portions, specifying whether they qualify as
28 “Confidential” or as “Highly Confidential – Attorneys’ Eyes Only.”

1 5.4 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
2 to designate qualified information or items as “Confidential” or “Highly Confidential –
3 Attorneys’ Eyes Only” does not, standing alone, waive the Designating Party’s right to secure
4 protection under this Order for such material. If material is appropriately designated as
5 “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” after the material was initially
6 produced, the Receiving Party, on timely notification of the designation, must make reasonable
7 efforts to assure that the material is treated in accordance with the provisions of this Order.

8 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

9 6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party’s
10 confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary
11 economic burdens, or a later significant disruption or delay of the litigation, a Party does not
12 waive its right to challenge a confidentiality designation by electing not to mount a challenge
13 promptly after the original designation is disclosed.

14 6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating
15 Party’s confidentiality designation must do so in good faith and must begin the process by
16 conferring directly (in voice to voice dialogue; other forms of communication are not sufficient)
17 with counsel for the Designating Party. In conferring, the challenging Party must explain the basis
18 for its belief that the confidentiality designation was not proper and must give the Designating
19 Party an opportunity to review the designated material, to reconsider the circumstances, and, if no
20 change in designation is offered, to explain the basis for the chosen designation. A challenging
21 Party may proceed to the next stage of the challenge process only if it has engaged in this meet
22 and confer process first.

23 6.3 Judicial Intervention. A Party that elects to press a challenge to a
24 confidentiality designation after considering the justification offered by the Designating Party
25 may file and serve a motion under Civil Local Rule 7 (and in compliance with Civil Local Rule
26 79-5, if applicable) that identifies the challenged material and sets forth in detail the basis for the
27 challenge. Each such motion must be accompanied by a competent declaration that affirms that
28 the movant has complied with the meet and confer requirements imposed in the preceding

1 paragraph and that sets forth with specificity the justification for the confidentiality designation
2 that was given by the Designating Party in the meet and confer dialogue.

3 The burden of persuasion in any such challenge proceeding shall be on the
4 Designating Party. Until the court rules on the challenge, all parties shall continue to afford the
5 material in question the level of protection to which it is entitled under the Producing Party's
6 designation.

7 7. ACCESS TO AND USE OF PROTECTED MATERIAL

8 7.1 Basic Principles. A Receiving Party may use Protected Material that is
9 disclosed or produced by another Party or by a non-party in connection with this case only for
10 prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be
11 disclosed only to the categories of persons and under the conditions described in this Order.
12 When the litigation has been terminated, a Receiving Party must comply with the provisions of
13 section 11, below (FINAL DISPOSITION).

14 Protected Material must be stored and maintained by a Receiving Party at a
15 location and in a secure manner that ensures that access is limited to the persons authorized under
16 this Order.

17 7.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise
18 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
19 disclose any information or item designated CONFIDENTIAL only to:

20 (a) the Receiving Party's Counsel of record in this action, as well as
21 volunteer and paid staff of said Counsel to whom it is reasonably necessary to disclose the
22 information for this litigation and who have signed the "Agreement to Be Bound by Interim
23 Protective Order" that is attached hereto as Exhibit A;

24 (b) The Receiving Party itself;

25 (1) If the Plaintiffs are the Receiving Party, to Wang Xiaoning,
26 Yu Ling, Shi Tao and any later identified plaintiffs

27 (2) If the Defendants are the Receiving Party, to the officers,
28 directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is

1 reasonably necessary for this litigation and who have signed the “Agreement to Be Bound by
2 Interim Protective Order” (Exhibit A);

3 (c) experts (as defined in this Order) of the Receiving Party to whom
4 disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be
5 Bound by Interim Protective Order” (Exhibit A);

6 (d) the Court and its personnel;

7 (e) court reporters, their staffs, and professional vendors to whom
8 disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be
9 Bound by Interim Protective Order” (Exhibit A);

10 (f) during their depositions, witnesses in the action to whom disclosure
11 is reasonably necessary and who have signed the “Agreement to Be Bound by Interim Protective
12 Order” (Exhibit A). Pages of transcribed deposition testimony or exhibits to depositions that
13 reveal Protected Material must be separately bound by the court reporter and may not be
14 disclosed to anyone except as permitted under this Interim Protective Order.

15 (g) the author of the document or the original source of the
16 information.

17 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
18 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in writing by
19 the Designating Party, a Receiving Party may disclose any information or item designated
20 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

21 (a) the Receiving Party’s Counsel of record in this action, as well as
22 volunteer and paid staff of said Counsel to whom it is reasonably necessary to disclose the
23 information for this litigation and who have signed the “Agreement to Be Bound by Interim
24 Protective Order” that is attached hereto as Exhibit A;

25 (b) Experts (as defined in this Order) (1) to whom disclosure is
26 reasonably necessary for this litigation, (2) who have signed the “Agreement to Be Bound by
27 Interim Protective Order” (Exhibit A), and (3) as to whom the procedures set forth in paragraph
28 7.4, below, have been followed;

- 1 (c) the Court and its personnel;
- 2 (d) court reporters, their staffs, and professional vendors to whom
- 3 disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be
- 4 Bound by Interim Protective Order” (Exhibit A); and
- 5 (e) the author of the document or the original source of the
- 6 information.

7 7.4 Procedures for Approving Disclosure of “HIGHLY CONFIDENTIAL –

8 ATTORNEYS’ EYES ONLY” Information or Items to “Experts.”

9 (a) Unless otherwise ordered by the court or agreed in writing by the

10 Designating Party, a Party that seeks to disclose to an “Expert” (as defined in this Order) any

11 information or item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’

12 EYES ONLY” first must make a written request to the Designating Party that (1) identifies the

13 specific HIGHLY CONFIDENTIAL information that the Receiving Party seeks permission to

14 disclose to the Expert, (2) sets forth the full name of the Expert and the city and state of his or her

15 primary residence, (3) attaches a copy of the Expert’s current resume, (4) identifies the Expert’s

16 current employer(s), (5) identifies each person or entity from whom the Expert has received

17 compensation for work in his or her areas of expertise or to whom the expert has provided

18 professional services at any time during the preceding five years, and (6) identifies (by name and

19 number of the case, filing date, and location of court) any litigation in connection with which the

20 Expert has provided any professional services during the preceding five years.

21 (b) A Party that makes a request and provides the information specified

22 in the preceding paragraph may disclose the subject Protected Material to the identified Expert

23 unless, within seven court days of delivering the request, the Party receives a written objection

24 from the Designating Party. Any such objection must set forth in detail the grounds on which it is

25 based.

26 (c) A Party that receives a timely written objection must meet and

27 confer with the Designating Party (through direct voice to voice dialogue) to try to resolve the

28 matter by agreement. If no agreement is reached, the Party seeking to make the disclosure to the

1 Expert may file a motion as provided in Civil Local Rule 7 (and in compliance with Civil Local
2 Rule 79-5, if applicable) seeking permission from the court to do so. Any such motion must
3 describe the circumstances with specificity, set forth in detail the reasons for which the disclosure
4 to the Expert is reasonably necessary, assess the risk of harm that the disclosure would entail and
5 suggest any additional means that might be used to reduce that risk. In addition, any such motion
6 must be accompanied by a competent declaration in which the movant describes the parties'
7 efforts to resolve the matter by agreement (i.e., the extent and the content of the meet and confer
8 discussions) and sets forth the reasons advanced by the Designating Party for its refusal to
9 approve the disclosure.

10 In any such proceeding the Party opposing disclosure to the Expert shall bear the
11 burden of proving that the risk of harm that the disclosure would entail (under the safeguards
12 proposed) outweighs the Receiving Party's need to disclose the Protected Material to its Expert.

13 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
14 OTHER LITIGATION.

15 If a Receiving Party is served with a subpoena, discovery request or an order
16 issued in other litigation that would compel disclosure of any information or items designated in
17 this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
18 ONLY," the Receiving Party must so notify the Designating Party, in writing (by email and fax, if
19 possible) immediately and in no event more than three court days after receiving the subpoena,
20 discovery request or order. Such notification must include a copy of the subpoena, discovery
21 request or court order.

22 The Receiving Party also must immediately inform in writing the Party who
23 caused the subpoena, discovery request or order to issue in the other litigation that some or all the
24 material covered by the subpoena, discovery request or order is the subject of this Interim
25 Protective Order. In addition, the Receiving Party must deliver a copy of this Interim Protective
26 Order promptly to the Party in the other action that caused the subpoena, discovery request or
27 order to issue.

28 The purpose of imposing these duties is to alert the interested parties to the

1 existence of this Interim Protective Order and to afford the Designating Party in this case an
2 opportunity to try to protect its confidentiality interests in the court from which the subpoena,
3 discovery request or order issued. The Designating Party shall bear the burdens and the expenses
4 of seeking protection in that court of its confidential material – and nothing in these provisions
5 should be construed as authorizing or encouraging a Receiving Party in this action to disobey a
6 lawful directive from another court.

7 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

8 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
9 Protected Material to any person or in any circumstance not authorized under this Interim
10 Protective Order, the Receiving Party must immediately (a) notify in writing the Designating
11 Party of the unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected
12 Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the
13 terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and
14 Agreement to Be Bound” that is attached hereto as Exhibit A.

15 10. FILING PROTECTED MATERIAL.

16 Without written permission from the Designating Party or a court order secured
17 after appropriate notice to all interested persons, a Party may not file in the public record in this
18 action any Protected Material. A Party that seeks to file under seal any Protected Material must
19 comply with Civil Local Rule 79-5.

20 11. FINAL DISPOSITION.

21 Unless otherwise ordered or agreed in writing by the Producing Party, within sixty
22 days after the final termination of this action, each Receiving Party must return all Protected
23 Material to the Producing Party. As used in this subdivision, “all Protected Material” includes all
24 copies, abstracts, compilations, summaries or any other form of reproducing or capturing any of
25 the Protected Material. With permission in writing from the Designating Party, the Receiving
26 Party may destroy some or all of the Protected Material instead of returning it. Whether the
27 Protected Material is returned or destroyed, the Receiving Party must submit a written
28 certification to the Producing Party (and, if not the same person or entity, to the Designating

1 Party) by the sixty day deadline that identifies (by category, where appropriate) all the Protected
2 Material that was returned or destroyed and that affirms that the Receiving Party has not retained
3 any copies, abstracts, compilations, summaries or other forms of reproducing or capturing any of
4 the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival
5 copy of all pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney
6 work product, even if such materials contain Protected Material. Any such archival copies that
7 contain or constitute Protected Material remain subject to this Interim Protective Order as set
8 forth in Section 4 (DURATION), above.

9 12. MISCELLANEOUS

10 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
11 person to seek its modification by the Court in the future.

12 12.2 Right to Assert Other Objections. By producing or receiving material
13 under the terms of this Protective Order no Party waives any right it otherwise would have to
14 object to disclosing or producing any information or item on any ground not addressed in this
15 Interim Protective Order. Similarly, no Party waives any right to object on any ground to use in
16 evidence of any of the material covered by this Interim Protective Order.

17 12.3 Injunctive Relief. In the event that any person or party shall violate or
18 threaten to violate the terms of this Interim Protective Order, the aggrieved Designating Party
19 may immediately apply to obtain injunctive relief against any such person or party violating or
20 threatening to violate any of the terms of this Interim Protective Order.

21 IT IS SO ORDERED.

22
23 DATED: _____

24 _____
25 Hon. Joseph C. Spero
26 United States Magistrate Judge
27
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

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I, _____ [print or type full name], of
_____ [print or type full address], declare under penalty of perjury that I have read
in its entirety and understand the Interim Protective Order that was issued by the United States
District Court for the Northern District of California on [date] in the case of *Xiaoning et al. v.*
Yahoo!, Inc. et al, Case No. C07-02151 (CW/JCS). I agree to comply with and to be bound by all
the terms of this Interim Protective Order and I understand and acknowledge that failure to so
comply could expose me to sanctions and punishment in the nature of contempt. I solemnly
promise that I will not disclose in any manner any information or item that is subject to this
Interim Protective Order to any person or entity except in strict compliance with the provisions of
this Order.

I further agree to submit to the jurisdiction of the United States District Court for
the Northern District of California for the purpose of enforcing the terms of this Interim
Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint _____ [print or type full name] of
_____ [print or type full address and telephone
number] as my California agent for service of process in connection with this action or any
proceedings related to enforcement of this Interim Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____
[printed name]

Signature: _____
[signature]