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17 Attorneys for Plaintiffs

18 **UNITED STATES DISTRICT COURT**  
 19 **NORTHERN DISTRICT OF CALIFORNIA**  
 20 **OAKLAND DIVISION**

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

25 Plaintiffs,

26 v.

27 YAHOO, INC., a Delaware Corporation,  
 28 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,

Defendants.

Case No. C07-02151 CW

**TORT DAMAGES CLAIM**

**PLAINTIFFS' MOTION TO ENLARGE  
 TIME TO RESPOND TO DEFENDANTS'  
 MOTIONS TO DISMISS AND ASSOCIATED  
 MOTIONS, PENDING A DECISION ON  
 PLAINTIFFS' MOTION FOR INITIAL AND  
 JURISDICTIONAL DISCOVERY;  
 ALTERNATIVE MOTION FOR AN  
 ENLARGEMENT OF TIME FOR  
 PLAINTIFFS' RESPONSE; AND PROPOSED  
 ORDER**

**Administrative Motion: No Hearing Required;  
 To Be Decided on Written Submissions.**

**Expedited Decision Respectfully Requested by  
 Sept. 21, 2007, or Sept. 25 at the latest.**

**Judge: Hon. Claudia Wilken**

1 Pursuant to Civil Local Rules 6-1, 6-3, 7-11, and 16-2(d), Plaintiffs Wang Xiaoning, Yu  
2 Ling, and Shi Tao move for an enlargement of time and an order holding in abeyance the  
3 Response from the Plaintiffs on Defendants' three Motions to Dismiss and two associated  
4 Motions, due on September 26, 2007, until after the Court decides Plaintiffs' accompanying  
5 Motion for Initial and Jurisdictional Discovery, filed concurrently with this Motion and noticed  
6 for a consolidated hearing with the Case Management Conference on November 1, 2007. If the  
7 Court orders limited and jurisdictional discovery, Plaintiffs will file their opposition to the  
8 Defendants' five motions within 14 days of completing discovery. If the Court denies Plaintiffs'  
9 motion for limited and jurisdictional discovery, Plaintiffs will file their opposition to Defendants'  
10 motions within 14 days of that order. *In the alternative*, if the Court does not approve this  
11 Motion to Enlarge the Time for the Response relative to the pending Motion for Initial and  
12 Jurisdictional Discovery, Plaintiffs request a 21-day enlargement of time for filing their Response  
13 to Defendants' Motions, due to the number of motions Defendants filed on August 27, the  
14 complex factual and legal issues raised in those Motions, and the numerous supporting  
15 declarations and documents Defendants submitted with the Motions.

16 Plaintiffs respectfully request an expedited decision on this administrative motion by  
17 September 21, 2007, or if that is not possible then by September 25, because the deadline to file  
18 their Response to the Motions to Dismiss and associated Motions is now scheduled for September  
19 26, pursuant to the Court's Order of July 26, 2007, which also established August 27 as the  
20 deadline for Defendants to respond to the Complaint.

21 Plaintiffs move for this extension of time and abeyance of the briefing schedule because,  
22 concurrent with this Motion, Plaintiffs are filing a Motion for Initial and Jurisdictional Discovery  
23 in order to properly respond to Defendants' three motions to dismiss (Motion to Dismiss for Lack  
24 of Personal Jurisdiction over Yahoo! Hong Kong, Motion to Dismiss for lack of subject matter  
25 jurisdiction under Federal Rules 12(b)(1) and (7), Motion to Dismiss under Rule 12(b)(6) for  
26 failure to state a claim), and the two accompanying motions filed on the same day (a Motion to  
27 Strike State of California Causes of Action Pursuant to the Anti-SLAPP Statute and an  
28 Alternative Motion for a More Definite Statement under Rule 12(e)). In these five motions,

1 Defendants have raised a number of complex arguments as to why this court should not exercise  
2 jurisdiction over these proceedings, and have supplemented their arguments with a substantial  
3 number of factual presentations and documents.

4 As indicated in the accompanying motion to initiate limited discovery, the various  
5 relevant subsections of Rule 12 of the Federal Rules of Civil Procedure and the case law  
6 interpreting those provisions recognize the right of the non-moving party to obtain the facts that  
7 they need to properly and fairly counter the moving party's claims through initial or jurisdictional  
8 discovery, and to place in abeyance the court's consideration and resolution of the Defendants'  
9 motions, including submission of the non-moving party's substantive response to the Motions to  
10 Dismiss, until the limited discovery process is completed. This cannot happen under the current  
11 briefing schedule, which requires Plaintiffs to file their opposition on September 26, more than a  
12 month before the hearing on their discovery motion, scheduled to take place on November 1.  
13 Simply put, requiring Plaintiffs to file their opposition on September 26 would make Plaintiffs'  
14 motion for initial and jurisdictional discovery moot.

15 As noted above, Plaintiffs are not requesting an indefinite postponement of their  
16 opposition brief. Plaintiffs merely move that the standing Court-ordered briefing schedule on the  
17 Defendants' motions be put on hold until the Court issues a decision on the Motion for Initial and  
18 Jurisdictional Discovery, at which point the existing schedule will resume immediately.  
19 Plaintiffs' opposition brief will be due either (1) 14 days after the 30-day period for initial and  
20 jurisdictional discovery is completed, or (2) 14 days after the Court denies Plaintiffs' Motion for  
21 Initial and Jurisdictional Discovery. Plaintiffs note that Defendants had more than three months  
22 to prepare the extensive motions to dismiss they filed on August 27. As set forth in the Court  
23 order of July 26, 2007, Defendants' reply to the opposition will be due 21 days after Plaintiffs file  
24 their Response to the Motions to Dismiss and associated Motions.

25 Plaintiffs request that the hearing on November 1, 2007, which is currently noticed by  
26 Defendants and pursuant to the Court's July 26, 2007 order as the date for a consolidated hearing  
27 on all pending motions and the Case Management Conference, be maintained as the date for a  
28 consolidated hearing on Plaintiffs' motion for initial and jurisdictional discovery and the Case

1 Management Conference. This proposal allows the Court to keep the Case Management  
2 Conference on its current schedule, and simultaneously consider how Plaintiffs' motion to initiate  
3 limited discovery to respond to the pending motions fits into the comprehensive discovery plan  
4 for the case, which the Court will consider at the Case Management Conference. Thus the stay  
5 will not delay the overall progress of the case, and in fact will provide all parties and the Court  
6 with the opportunity to consider a more complete and thoughtful Case Management Statement  
7 than might otherwise be possible at this early stage of the litigation. Plaintiffs' proposed order  
8 states that the new date for hearing the Motions to Dismiss and associated motions will be  
9 determined pursuant to the Court's decision on Plaintiffs' Motion for Initial and Jurisdictional  
10 Discovery, since whether the Court grants that motion will determine the subsequent briefing  
11 schedule and hearing date.

12 Plaintiffs have not sought any previous extension of time with respect to their response to  
13 these motions, although Plaintiffs did enter into a Joint Stipulation at the Defendants' request to  
14 extend time for their response to the Plaintiffs' Complaint, which took the form of the  
15 Defendants' motions filed on August 27. As a result of that Joint Stipulation, Defendants had  
16 more than three months to prepare their Motions to Dismiss and associated Motions.

17 Defendants oppose the relief sought through the main motion and the alternative motion  
18 for the reasons stated in the accompanying declaration of Morton Sklar, and have rejected all of  
19 the Plaintiffs' requests for a joint stipulation for enlargement of time, despite approximately three  
20 and one half hours of meet-and-confer telephonic discussions on these matters over a three-day  
21 period.

22 *In the alternative*, if the Court does not approve the Plaintiffs' request to enlarge time and  
23 stay briefing on Defendants' August 27 motions while Plaintiffs' Motion for Initial and  
24 Jurisdictional Discovery is pending, Plaintiffs move for a 21-day enlargement of time for their  
25 opposition, to be filed on October 14, 2007. This enlargement of time is made necessary by the  
26 extensive number of motions Defendants filed on August 27, the length of those Motions, the  
27 number of exhibits and declarations filed with them, and the complexity of their allegations.  
28 Plaintiffs could not have anticipated the multitude of motions Defendants filed on August 27 and

1 will require additional time to properly respond to the issues raised by the motions. Plaintiffs'  
2 attempts to secure a joint stipulation on this alternative motion were not successful, though  
3 Defendants initially indicated they would probably be favorably disposed to supporting this  
4 request. But as described in the accompanying declaration of Morton Sklar, Defendants now  
5 oppose both holding the submission of Plaintiffs' Response to their motions in abeyance pending  
6 initial discovery, and an extension of time for the Response to be filed, taking the position that  
7 since they are categorically opposed to the requested initial and jurisdictional discovery, they will  
8 not accede to a delay in filing a Response to their motions that is linked in any way to  
9 jurisdictional discovery, or to holding the Plaintiffs' Response to their motions in abeyance  
10 pending such discovery.

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Respectfully submitted this 14<sup>th</sup> day of September, 2007, by

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WORLD ORGANIZATION FOR HUMAN  
RIGHTS USA  
*By: /s/ Morton Sklar*  
\_\_\_\_\_  
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