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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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.

CASE NO. CV 08-03172-RMW

**PLAINTIFFS' ADMINISTRATIVE
MOTION FOR CONTINUANCE OF THE
BRIEFING AND HEARING SCHEDULE
FOR DEFENDANTS' MOTION TO
DISMISS, TRANSFER OR STAY AND
PLAINTIFFS' MOTION TO STRIKE**

1 Pursuant to Civil Local Rule 7-11, Plaintiffs respectfully submit this motion for
2 administrative relief to continue the briefing and hearing schedule for Defendants' Motion to
3 Dismiss, Transfer or Stay Under the First-To-File Rule, Under Rule 12(b)(2) For Lack of Personal
4 Jurisdiction, and Under Rule 12(b)(1) For Lack of Subject Matter Jurisdiction (Dkt. No. 42)
5 (hereinafter "Defendants' Motion to Dismiss, Transfer or Stay") and Plaintiffs' Motion to Strike
6 Site Technologies, Inc.'s Motion to Dismiss, Transfer or Stay (Dkt. No. 64) (hereinafter
7 "Plaintiffs' Motion to Strike"). Plaintiffs' motion is made on the ground that additional time is
8 necessary for Plaintiffs to obtain discovery that is highly relevant to the disposition of Defendants'
9 Motion to Dismiss, Transfer or Stay.

10 1. On April 16, 2009, less than two weeks ago, the Court issued a tentative ruling
11 granting Plaintiffs' Cross-Motion to Compel discovery from Defendant Software Rights Archive,
12 LLC (Dkt. No. 72) (hereinafter "Plaintiffs' Cross-Motion to Compel").

13 2. The following day, on April 17, 2009, counsel for the parties and non-parties
14 Wilson Sonsini Goodrich & Rosati and Murray & Murray, P.C. appeared before the Court for a
15 hearing on (1) Yahoo!'s Motions to Compel Compliance with Subpoenas on Wilson Sonsini
16 Goodrich & Rosati and Murray & Murray, P.C.; (2) Defendant Software Rights Archive, LLC's
17 Motion to Quash Plaintiffs' 30(b)(6) Notice of Deposition; and (3) Plaintiffs' Cross-Motion to
18 Compel.

19 3. As set forth in Plaintiffs' prior briefing, the discovery Plaintiffs seek from
20 Defendant Software Rights Archive, LLC in connection with Plaintiffs' Cross-Motion to Compel
21 is highly relevant to the preparation of Plaintiffs' brief in opposition to Defendants' Motion to
22 Dismiss, Transfer or Stay, which is currently due on Friday, May 1. As of the date of this motion,
23 the Court has not yet issued a final ruling on Plaintiffs' Cross-Motion to Compel.

24 4. Accordingly, in light of the above, Plaintiffs respectfully request that the hearing
25 and briefing schedule for such motions be continued as follows:
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Event	Old Deadline	New Deadline
Plaintiffs' Opposition to Defendants' Motion to Dismiss, Transfer or Stay Defendants' Opposition to Plaintiffs' Motion to Strike	May 1, 2009	30 days after the entry of an Order <u>granting</u> Plaintiffs' Cross-Motion to Compel <u>or</u> 5 business days after the entry of an Order <u>denying</u> Plaintiffs' Cross-Motion to Compel
Defendants' Reply in Support of Their Motion to Dismiss, Transfer or Stay Plaintiffs' Reply in Support of Their Motion to Strike	May 8, 2009	7 days after the filing of Plaintiffs' Opposition to Defendants' Motion to Dismiss, Transfer or Stay
Hearing on (i) Defendants' Motion to Dismiss, Transfer or Stay; and (ii) Plaintiffs' Motion to Strike	May 22, 2009	60 days after the entry of an Order <u>granting</u> Plaintiffs' Cross-Motion to Compel, <u>or</u> on the earliest date thereafter that is convenient for the Court 30 days after the entry of an Order <u>denying</u> Plaintiffs' Cross-Motion to Compel, <u>or</u> on the earliest date thereafter that is convenient for the Court

The above proposed schedule would ensure Plaintiffs have sufficient time to obtain any discovery to which they are entitled before filing their brief in opposition to Defendants' Motion to Dismiss, Transfer or Stay and would obviate the need for the parties to file supplemental briefing if Plaintiffs' Cross-Motion to Compel is granted. The schedule for the briefing and hearing on Plaintiffs' Motion to Strike is being proposed to be moved for the convenience of the parties and the Court, since, as previously noted, it is scheduled to be heard with Defendants' Motion to Dismiss, Transfer or Stay.

5. In accordance with Civil Local Rule 6-3(a), Plaintiffs believe the requested continuance will not prejudice the parties nor significantly impact the case schedule. There have been only four other schedule modifications in this case, all of which were agreed to by the parties. (*See* Dkt. Nos. 20, 60, 78, 81.) Plaintiffs have attempted to obtain a stipulation from

1 Defendants regarding the proposed continuance, however, the parties were unable to reach an
2 agreement. (Declaration of Jennifer A. Kash In Support of Plaintiffs' Administrative Motion for
3 Continuance of the Briefing and Hearing Schedule for Defendants' Motion to Dismiss, Transfer or
4 Stay and Plaintiffs' Motion to Strike ¶ 2.)

5 For all of the foregoing reasons, Plaintiffs respectfully request that the Court issue an order
6 adopting the briefing and hearing schedule set forth above for (i) Defendants' Motion to Stay,
7 Transfer or Dismiss and (ii) Plaintiffs' Motion to Strike.

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1 Dated: April 29, 2009

Respectfully submitted,

2 By: /s/ Thomas B. Walsh, IV

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DECLARATION OF CONSENT

Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from counsel for all Plaintiffs.

/s/ Jennifer A. Kash
Jennifer A. Kash