

EXHIBIT B

1 [SEE SIGNATURE PAGE FOR COUNSEL]

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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 (RS)

**PLAINTIFFS' FIRST SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS
AND THINGS TO SOFTWARE RIGHTS
ARCHIVE, LLC**

Pursuant to Federal Rule of Civil Procedure 34, Plaintiffs Google Inc., AOL LLC, Yahoo!
Inc., IAC Search & Media, Inc., and Lycos, Inc. request that Defendant Software Rights Archive,
LLC, produce for inspection and copying all of the following documents and other tangible things
that are in their possession, custody, or control. Production shall take place within 30 (thirty) days
of service of this request at the offices of Fish & Richardson P.C., 5000 Bank One Center, 1717
Main Street, Dallas, TX 75201, or at such other location and time as the parties may agree. The
following definitions and instructions shall apply:

DEFINITIONS

1
2 1. “SOFTWARE RIGHTS ARCHIVE,” “YOU” and “YOUR” means Software Rights
3 Archive, LLC., individually and collectively, including without limitation all of your corporate
4 locations, all predecessors (including Software Rights Archive, Inc.), and all directors, officers,
5 agents, representatives, employees, consultants, attorneys, and all entities acting in consort, joint-
6 venture or partnership relationships with, and others acting on behalf of, Software Rights Archive,
7 LLC.

8 2. “SRA, LLC” means SRA, LLC, the party identified as wholly owning Software
9 Rights Archive, LLC in Docket No. 3, individually and collectively, including without limitation
10 all of its corporate locations, all predecessors, and all directors, officers, agents, representatives,
11 employees, consultants, attorneys, its parents, and all entities acting in consort, joint-venture or
12 partnership relationships with, and others acting on behalf of, SRA, LLC.

13 3. “GOOGLE” means Google Inc., including its directors, officers, agents,
14 representatives, employees, consultants, attorneys, subsidiaries, affiliates, and divisions.

15 4. “AOL” means AOL LLC, including its directors, officers, agents, representatives,
16 employees, consultants, attorneys, subsidiaries, affiliates, and divisions.

17 5. “YAHOO!” means Yahoo! Inc. including its directors, officers, agents,
18 representatives, employees, consultants, attorneys, subsidiaries, affiliates, and divisions.

19 6. “IACSAM” means IAC Search & Media, Inc. including its directors, officers,
20 agents, representatives, employees, consultants, attorneys, subsidiaries, affiliates, and divisions.

21 7. “LYCOS” means Lycos, Inc. including its directors, officers, agents,
22 representatives, employees, consultants, attorneys, subsidiaries, affiliates, and divisions.

23 8. “PLAINTIFFS” means Google, Yahoo!, IACSAM, Lycos, and AOL, collectively
24 and individually.

25 9. “PATENTS-IN-SUIT” means U.S. Patent No. 5,544,352 (“the ’352 patent”), U.S.
26 Patent No. 5,832,494 (“the ’494 patent”), and U.S. Patent No. 6,233,571 (“the ’571 patent”), and
27 any application from which each such patent issued.

28

1 10. “RELATED APPLICATION” means any application, either in the United States or
2 any other jurisdiction, which includes a claim of priority, directly or indirectly, to any application
3 from which a PATENT-IN-SUIT issued.

4 11. “RELATED PATENTS” means any patent, other than a PATENT-IN-SUIT,
5 issuing from a RELATED APPLICATION.

6 12. “DOCUMENT” is defined broadly to be given the full scope of that term
7 contemplated in Federal Rule of Civil Procedure 34, and includes all tangible things, all originals
8 (or, if originals are not available, identical copies thereof), all non-identical copies of a document,
9 all drafts of final documents, all other written, printed, or recorded matter of any kind, and all
10 other data compilations from which information can be obtained and translated if necessary, that
11 are or have been in your actual or constructive possession or control, regardless of the medium on
12 which they are produced, reproduced, or stored (including without limitation electronic messages,
13 computer programs and files containing any requested information), and any recording or writing,
14 as these terms are defined in Rule 1001, Federal Rules of Evidence. Any document bearing
15 marks, including without limitation, initials, stamped initials, comments, or notations not a part of
16 the original text or photographic reproduction thereof, is a separate document.

17 13. “PERSON” includes not only natural persons, but also, firms, partnerships,
18 associations, corporations, and other legal entities, and divisions, departments, or other units
19 thereof.

20 14. “RELATES TO”, “RELATING TO” and “RELATED TO” mean describing,
21 discussing, concerning, evidencing, reflecting, comprising, illustrating, containing, embodying,
22 constituting, analyzing, stating, identifying, referring to, dealing with, or in any way pertaining to.

23 15. “COMMUNICATION” means any form of transmittal of information without
24 limitation as to means of transmittal, including meetings, telephone conversations,
25 correspondence, electronic messages, memoranda, contracts, agreements, and verbal or nonverbal
26 actions intended to or actually conveying information.

27 16. “DESCRIBE,” “DESCRIBE IN DETAIL” and “DESCRIPTION” mean to give a
28 full and complete explanation of the requested information, including identifying all relevant

1 circumstances, all relevant dates, all persons involved or having relevant knowledge, all relevant
2 documents, and explaining the significance or the role of each date, person, and document.

3 17. When referring to a person, "IDENTIFY" and "IDENTIFICATION" means to
4 give, to the extent known, the person's full name, present or last known address, and, when
5 referring to a natural person, to additionally give the person's present or last known place of
6 employment and title. When referring to a document, "IDENTIFY" and "IDENTIFICATION"
7 means to provide the range of production numbers corresponding to the document or to give, to
8 the extent known, (a) type of document; (b) general subject matter; (c) date of the document; and
9 (d) author(s), addressee(s), and recipient(s).

10 18. The singular form of a word should be interpreted in the plural as well. Any
11 pronoun shall be construed to refer to the masculine, feminine, or neutral gender as in each case is
12 most appropriate. The words "and" and "or" shall be construed conjunctively or disjunctively,
13 whichever makes the interrogatory more inclusive.

14 INSTRUCTIONS

15 1. These requests are continuing pursuant to Rule 26(e) of the Federal Rules of Civil
16 Procedure and require supplemental production of documents and things if Software Rights
17 Archive discovers responsive documents and things after the date of response hereto despite a
18 diligent effort to provide all responsive documents within the time specified.

19 2. These requests shall apply to all documents in your possession, custody, or control
20 at the present time, or coming into your possession, custody, or control during the pendency of this
21 action, and shall include all documents known and available to you regardless of whether such
22 documents are possessed directly by you, any parent, subsidiary, or affiliate, or any of your
23 officers, directors, employees, agents, representative or attorneys. If you know of the existence,
24 past or present, of any documents or things requested below, but are unable to produce such
25 documents or things because they are not presently in your possession, custody, or control, you
26 shall so state and identify such documents or things, and the person who has possession, custody,
27 or control.

28 3. Documents attached to each other must not be separated.

1 4. If no documents are responsive to a particular request, state that no responsive
2 documents exists.

3 5. If any request is objected to in part, a complete production to all portions of the
4 request not objected to should be provided.

5 6. For any document or thing that has been lost, destroyed, or withheld on any ground,
6 provide a written statement setting forth, at a minimum:

- 7 (a) an identification of the document;
- 8 (b) the nature of the document;
- 9 (c) the identity of all person(s) from and to whom the document, or its contents,
10 has been communicated;
- 11 (d) a brief description of the subject matter of the information; and
- 12 (e) the circumstances of the loss or destruction of the document.

13 7. If you decline to produce any document or part thereof based on a claim of
14 privilege or any other claim, you shall describe the nature and basis of your claim and the
15 information withheld in a manner sufficient to:

- 16 (a) disclose the facts upon which you rely in asserting your claim;
- 17 (b) identify the legal and factual ground(s) upon which you rely in withholding
18 the information in sufficient detail so that the Court may make a
19 determination on your claim of privilege; and
- 20 (c) permit the information withheld to be unambiguously identified.

21 8. To the extent these requests seek information that is recorded in any form of
22 document or thing, including electronically stored documents such as word processing files, voice
23 files, and e-mail, or to the extent these requests seek documents, including electronically stored
24 documents, you are asked to take steps to ensure that all such documents and things are preserved
25 for this litigation, and to take steps to ensure that no responsive electronically stored documents
26 are erased or deleted. Sanctions may be imposed for failure to maintain evidence within your care,
27 custody or control.

28

1 **REQUESTS FOR DOCUMENTS AND THINGS**

2 **RELATING TO JURISDICTIONAL ISSUES**

3 **REQUEST FOR PRODUCTION NO.1:**

4 All DOCUMENTS RELATING TO any activity conducted by or for YOU and/or SRA,
5 LLC in California and/or with or involving any PERSON located, residing in, and/or doing
6 business in California.

7 **REQUEST FOR PRODUCTION NO.2:**

8 DOCUMENTS sufficient to IDENTIFY each PERSON that YOU have a contractual
9 and/or other business relationship with involving any of the following (i) a PERSON located,
10 residing in, and/or doing business in California, (ii) California law, and/or (iii) anticipated or
11 actual performance or activity in California.

12 **REQUEST FOR PRODUCTION NO.3:**

13 All DOCUMENTS RELATING TO any contact by YOU and/or SRA, LLC with
14 California or California law, including any COMMUNICATIONS to a California address,
15 California telephone number, and/or PERSON located, residing in, and/or doing business in
16 California.

17 **REQUEST FOR PRODUCTION NO.4:**

18 All DOCUMENTS RELATING TO any capital, equity, loans, line of credit, or funds
19 obtained from, or solicited from PERSONS located, residing in, and/or doing business in
20 California, by YOU, YOUR agents, YOUR principals, any related or controlling entities, and/or
21 any PERSON acting on YOUR behalf.

22 **REQUEST FOR PRODUCTION NO.5:**

23 All DOCUMENTS RELATING TO any prospectus, subscription, subscription agreement,
24 portfolio, disclosure, agreement, fund, trust, and/or other vehicle, identifying YOU, SRA, LLC,
25 this litigation, *Software Rights Archive, LLC. v. Google Inc. et al.*, Civil Action No.2:07-cv-511
26 (CE) (Eastern District of Texas), and/or the PATENTS-IN-SUIT, and DOCUMENTS sufficient to
27 IDENTIFY all PERSONS receiving such document or participating in such investment who have
28 a residence, domicile, or place of business in California.

1 **REQUEST FOR PRODUCTION NO.6:**

2 All DOCUMENTS RELATING TO any and all of YOUR activities *other than* “in
3 February 2005, ... acquir[ing] the patents-in-suit ... and in November 2007, ... fil[ing] its patent
4 lawsuit against Plaintiffs in the Eastern District of Texas.”

5 **REQUEST FOR PRODUCTION NO.7:**

6 All DOCUMENTS RELATING TO YOUR purported “Archive [that] contains a large
7 library of licensed source code, rare forms of technical literature and documentation, and oral
8 histories ...,” including any promotional materials, correspondence, websites, indexes, catalogs,
9 news media, presentations, memoranda, and notes regarding such “Archive.”

10 **REQUEST FOR PRODUCTION NO.8:**

11 DOCUMENTS sufficient to IDENTIFY all YOUR current directors and to identify the
12 PERSONS that excise control over YOU.

13 **REQUEST FOR PRODUCTION NO.9:**

14 DOCUMENTS sufficient to IDENTIFY all owners and/or beneficiaries having an interest
15 in YOU, including any such PERSONS having a domicile, residence, or place of business in
16 California.

17 **REQUEST FOR PRODUCTION NO.10:**

18 DOCUMENTS sufficient to IDENTIFY each PERSON who stands to directly or indirectly
19 benefit from any alleged recovery that is sought by YOU in this case and/or in *Software Rights*
20 *Archive, LLC. v. Google Inc. et al.*, Civil Action No.2:07-cv-511 (CE) (Eastern District of Texas),
21 including any such PERSONS having a domicile, residence, or place of business in California.

22 **REQUEST FOR PRODUCTION NO.11:**

23 DOCUMENTS sufficient to fully DESCRIBE YOUR relationship with Altitude Capital
24 Partners, L.P., any partners thereof, and any predecessors or successors-in-interest thereof.

25 **REQUEST FOR PRODUCTION NO.12:**

26 DOCUMENTS sufficient to fully DESCRIBE YOUR relationship with Open Source
27 Research Management, Inc., any partners thereof, and any predecessors or successors-in-interest
28 thereof.

1 **REQUEST FOR PRODUCTION NO.13:**

2 All DOCUMENTS RELATING TO any website currently or formerly maintained by
3 YOU, on YOUR behalf, and/or at the web address "srarchive.com," including any DOCUMENTS
4 RELATING TO the registration of the domain name "srarchive.com" and any records of access
5 made to any such website.

6 **REQUEST FOR PRODUCTION NO.14:**

7 All DOCUMENTS RELATING TO any travel to California by any of YOUR employees,
8 principals, officers, agents, attorneys, and/or owners before July 1, 2008.

9
10 Dated: November 21, 2008

Respectfully submitted,

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

12 Thomas B. Walsh, IV

13 *pro hac vice*

14 Texas Bar No. 00785173

15 E-mail: walsh@fr.com

16 Fish & Richardson P.C.

17 1717 Main Street

18 Suite 5000

19 Dallas, TX 75201

20 Telephone: (214) 747-5070

21 Facsimile: (214) 747-2091

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24 Attorneys for Plaintiffs GOOGLE INC. and AOL
25 LLC

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Attorneys for Plaintiffs IAC SEARCH &
MEDIA, INC. and LYCOS, INC.

1 **PROOF OF SERVICE**

2 I am employed in the County of San Diego. My business address is Fish & Richardson
3 P.C., 12390 El Camino Real, San Diego, California 92130. I am over the age of 18 and not a
4 party to the foregoing action.

5 I am readily familiar with the business practice at my place of business for collection and
6 processing of correspondence for personal delivery, for mailing with United States Postal Service,
7 for facsimile, and for overnight delivery by Federal Express, Express Mail, or other overnight
8 service.

9 On November 21, 2008, I caused a copy of the following document(s):

10 **PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS
11 AND THINGS TO SOFTWARE RIGHTS ARCHIVE, LLC**

12 to be served on the interested parties in this action by placing a true and correct copy thereof,
13 enclosed in a sealed envelope, and addressed as follows:

14 Lee Landa Kaplan
15 Email: lkaplan@skv.com
16 Jeffrey A. Potts
17 Email: jpotts@skv.com
18 Narasa Raju Duvvuri
19 Email: rduvvuri@skv.com
20 Smyser Kaplan & Veselka
21 700 Louisiana St., Suite 2300
22 Houston, TX 77002
23 Telephone: (713) 221-2300
24 Facsimile: (713) 221-2320

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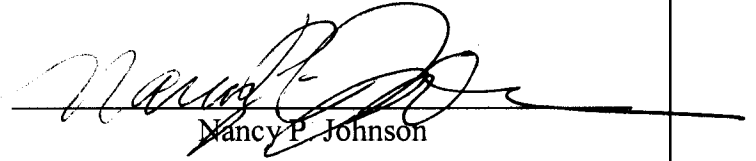
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Attorneys for Plaintiff
IAC SEARCH & MEDIA, INC. and
LYCOS, INC.

- 14 **MAIL:** Such correspondence was deposited, postage fully paid, with the
15 United States Postal Service on the same day in the ordinary course
of business.
- 16 **PERSONAL:** Such envelope was delivered by hand to the offices of the addressee.
- 17
- 18 **FACSIMILE:** Such document was faxed to the facsimile transmission machine
19 with the facsimile machine number stated above. Upon completion
of the transmission, the transmitting machine issued a transmission
20 report showing the transmission was complete and without error.
- 21 **ELECTRONIC MAIL:** Such document was transmitted by electronic mail to the addressees'
email addresses as stated above.
- 22 **FEDERAL EXPRESS:** Such correspondence was deposited on the same day in the ordinary
23 course of business with a facility regularly maintained by Federal
Express.
- 24 **EXPRESS MAIL:** Such correspondence was deposited on the same day in the ordinary
25 course of business with a facility regularly maintained by the United
States Postal Service.
- 26 **OVERNIGHT DELIVERY:** Such correspondence was given on the same day in the ordinary
27 course of business to an authorized courier or a driver authorized by
that courier to receive documents.
- 28

1 I declare that I am employed in the office of a member of the bar of this Court at whose
2 direction the service was made.

3 I declare under penalty of perjury that the above is true and correct. Executed on
4 November 21, 2008, at San Diego, California.

5 
Nancy P. Johnson

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