1	MICHAEL A. JACOBS (CA SBN 111664)	
2	mjacobs@mofo.com	
3	RICHARD S.J. HUNG (CA SBN 197425) rhung@mofo.com	
4	MORRISON & FOERSTER LLP 425 Market Street San Francisco GA 04105 2482	
5	San Francisco, CA 94105-2482 Telephone: (415) 268-7000 Facsimile: (415) 268-7522	
6	ATTORNEYS FOR YAHOO! INC.	
7		
8	UNITED STATES DISTRICT COURT	
9	NORTHERN DISTRICT OF CALIFORNIA	
10	SAN JOSE DIVISION	
11		
12	SOFTWARE RIGHTS ARCHIVE, LLC,	Case No. Misc. Action C-09-80004-RMW ¹
13	Plaintiff,	(Case No. 2:07-cv-511 (CE) pending in the Eastern District of Texas)
14	V.	YAHOO!'S RESPONSE TO SOFTWARE
15	GOOGLE INC., YAHOO! INC., IAC SEARCH & MEDIA, INC., AOL LLC,	RIGHTS ARCHIVE, LLC'S STATEMENT OF RECENT DECISION
16	and LYCOS, INC.	HEARING REQUESTED
17	Defendants.	Date: April 17, 2009
18		Time: 9:00 AM Judge: Ronald M. Whyte
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27	Consolidated for hearing with <i>Google v. Egger</i> , Case No. 5:08-03172-RMW.	
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	YAHOO!'S RESPONSE TO SRA'S STATEMENT OF RECENT DECISION Case Nos. Misc. Action C-09-80004 & C-08-03172-RMW sf-2666774	

On March 31, 2009, Magistrate Judge Everingham issued a memorandum opinion and order denying Defendants'² motion to dismiss the Texas action for lack of standing. On April 2, 2009, Software Rights Archive, LLC ("SRA") submitted a "Statement of Recent Decision" attaching this order. In its Statement, SRA suggests that the order "moot[s] [Yahoo!'s] motions to compel discovery from WSGR and Murray."

For the reasons set forth in (1) Yahoo!'s reply brief in support of its motions to compel and (2) Plaintiffs' reply brief in support of their motion to compel production of documents, both of which are filed concurrently herewith, SRA's suggestion is incorrect. The ruling on the motion to dismiss was premised on the court's conclusion that patent rights were transferred prior to the commencement of Chapter 11 proceedings by Site Technologies, Inc. ("Site Tech"). The ruling does not change the fact that Jeffrey Ait, who was named "Responsible Person" under Site Tech's Chapter 11 plan, has been discharged from his duties as Responsible Person and thus has no authority to assert privilege on behalf of Site Tech. In addition, the subpoenaed documents remain relevant not only to the standing issue, but also to the central issues of patent infringement, validity, and damages. As to the standing issue itself, the documents are critical to any motion to reconsider Judge Everingham's order.

Dated: April 3, 2009 MORRISON & FOERSTER LLP

By: /s/
Richard S.J. Hung
Attorneys for Defendant Yahoo! Inc.

² "Defendants" refers to Google, Inc., Yahoo!, Inc., IAC Search & Media, Inc., AOL LLC, and Lycos, Inc. (defendants in Case No. 2:07-cv-511 (CE) (E.D. Tex.)).

³ Docket No. 94 (Case No. 5:08-03172-RMW).

⁴ Defendants in the Texas action are Plaintiffs in the declaratory judgment action before this Court.