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9 **UNITED STATES DISTRICT COURT**  
 10 **NORTHERN DISTRICT OF CALIFORNIA**

11 SOFTWARE RIGHTS ARCHIVE, LLC

12 Plaintiff,

13 vs.

14 GOOGLE INC., YAHOO! INC., IAC  
 15 SEARCH & MEDIA, INC., AOL, LLC  
 AND LYCOS, INC.

16 Defendants.  
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**Case No. Misc. Action C-09-80004**

**Case No.: 2:07-cv-511 (CE)**  
**EASTERN DISTRICT OF TEXAS**

**OPPOSITION TO MOTION TO  
 COMPEL COMPLIANCE WITH  
 YAHOO! INC.'S SUBPOENA ON  
 MURRAY & MURRAY PC**

19 MURRAY & MURRAY, PC ("Murray") was served a subpoena by Yahoo! Inc.  
 20 ("Yahoo!") on December 22, 2008. Murray responded and objected to the subpoena in a  
 21 timely manner. Copies of the Yahoo! subpoena and Murray's response to same are  
 22 attached as Exhibits A and B to Mr. De Hope's declaration.

23 Murray met its affirmative obligation to object to a subpoena seeking disclosure of  
 24 privileged information by asserting the attorney client privilege, the work product  
 25 privilege, the privacy rights of its client, similar privileges and immunities, and  
 26 documents subject to non-disclosure agreements. (Business and Professions Code  
 27 Section 6068(e); Evidence Code section 955; California Rules of Professional Conduct,  
 28

1 Rule 3-100). MURRAY may not and has not disclosed client confidential information  
2 without the consent of Site Technologies, Inc. and/or any successor in interest.

3 Murray also objected due to the burdensome and expensive nature of the overly  
4 broad requests. Murray further objected to the requests to the extent they exceeded the  
5 agreed scope of discovery as set forth in the objections of plaintiff.

6 Without waiving its objections, Murray explained that all of the documents it has  
7 in its possession relating to the requests are documents maintained, obtained, prepared,  
8 and/or considered by or on behalf of MURRAY or are otherwise within the course and  
9 scope of its legal representation of the debtor in United States Bankruptcy Court,  
10 Northern District of California Case No. 99-50736. This demonstrates that the  
11 documents may not be produced for the reasons stated.

12 Murray understands that the parties to this extensive litigation, filed in several  
13 courts and jurisdictions, dispute the existence or extent of the privileges. Murray has  
14 been placed in an untenable position by these differing positions. If Murray complies  
15 with the subpoena and produces documents as requested, Murray is subject to a possible  
16 claim by its client or others claiming that the documents should not be produced. By  
17 asserting the privileges, Murray faces this motion to compel for failing to comply with  
18 the subpoena.

19 **Murray seeks guidance from this Court.** Murray asks the Court to determine  
20 whether there is an existing holder of the privileges, whether a holder of the privileges  
21 may be reinstated if there is no existing holder of the privileges, whether a person or  
22 entity will be appointed as the holder of the privileges or whether the privileges, in whole  
23 or in part, are irrevocably waived or no longer available to any person or entity that holds,  
24 ever held or may hereafter assert the privileges.

25 Further, as stated in the declaration of Joseph J. De Hope, Jr., filed herewith, the  
26 cost of complying with the subpoena is substantial and it is not fair to require that a third  
27 party incur these costs. If Murray is required to respond to the subpoena, it is respectfully  
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1 submitted that the cost of responding should be borne by the party requesting the  
2 documents.

3 DATED: March 24, 2009

HINSHAW & CULBERTSON LLP



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Joseph J. De Hope, Jr.  
Attorneys for Third Party  
MURRAY & MURRAY

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