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11 UNITED STATES DISTRICT COURT  
 12 NORTHERN DISTRICT OF CALIFORNIA  
 13 SAN JOSE DIVISION

14 SOFTWARE RIGHTS ARCHIVE, LLC,  
 15 Plaintiff,  
 16 v.  
 17 GOOGLE INC., YAHOO! INC., IAC  
 18 SEARCH & MEDIA, INC., AOL LLC,  
 19 and LYCOS, INC.  
 20 Defendants.

Case No. Misc. Action C-09-80004-RMW<sup>1</sup>  
 (Case No. 2:07-cv-511 (CE) pending in the  
 Eastern District of Texas)

**YAHOO!'S RESPONSE TO SOFTWARE  
 RIGHTS ARCHIVE, LLC'S STATEMENT  
 OF RECENT DECISION**

**HEARING REQUESTED**

Date: April 17, 2009  
 Time: 9:00 AM  
 Judge: Ronald M. Whyte

<sup>1</sup> Consolidated for hearing with *Google v. Egger*, Case No. 5:08-03172-RMW.

1           On March 31, 2009, Magistrate Judge Everingham issued a memorandum opinion and  
2 order denying Defendants'<sup>2</sup> motion to dismiss the Texas action for lack of standing. On April 2,  
3 2009, Software Rights Archive, LLC ("SRA") submitted a "Statement of Recent Decision"<sup>3</sup>  
4 attaching this order. In its Statement, SRA suggests that the order "moot[s] [Yahoo!']s motions  
5 to compel discovery from WSGR and Murray."

6           For the reasons set forth in (1) Yahoo!'s reply brief in support of its motions to compel  
7 and (2) Plaintiffs' reply brief in support of their motion to compel production of documents,<sup>4</sup> both  
8 of which are filed concurrently herewith, SRA's suggestion is incorrect. The ruling on the motion  
9 to dismiss was premised on the court's conclusion that patent rights were transferred prior to the  
10 commencement of Chapter 11 proceedings by Site Technologies, Inc. ("Site Tech"). The ruling  
11 does not change the fact that Jeffrey Ait, who was named "Responsible Person" under Site Tech's  
12 Chapter 11 plan, has been discharged from his duties as Responsible Person and thus has no  
13 authority to assert privilege on behalf of Site Tech. In addition, the subpoenaed documents  
14 remain relevant not only to the standing issue, but also to the central issues of patent  
15 infringement, validity, and damages. As to the standing issue itself, the documents are critical to  
16 any motion to reconsider Judge Everingham's order.

17  
18           Dated: April 3, 2009

MORRISON & FOERSTER LLP

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20           By: \_\_\_\_\_ /s/  
21                 Richard S.J. Hung  
22                 Attorneys for Defendant Yahoo! Inc.

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

27           <sup>3</sup> Docket No. 94 (Case No. 5:08-03172-RMW).

28           <sup>4</sup> Defendants in the Texas action are Plaintiffs in the declaratory judgment action before  
this Court.