

## **Exhibit 9**



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1200  
  
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Andrew D. Weiss  
E-mail: aweiss@raklaw.com

October 27, 2009

**Via Email**

Jason C. White  
Howrey LLP  
32 North Clark Street  
Suite 3400  
Chicago, IL 60654-4717

**Re: *Bright Response v. Yahoo! Inc. et al.; nXn v. Yahoo! Inc. et al.***

Dear Jason:

In the course of our clients' inspection of the source code from Yahoo!, it has become apparent that source code for certain core functionality has not been produced by Yahoo! in this case. This source code should have been produced by Yahoo! over a year ago and my clients continue to be prejudiced by Yahoo!'s refusal to produce this code.

For example, Yahoo! has refused to produce the following source code:

- **Yahoo!'s Toolbar and Web Browser:** This code was originally produced but has apparently been removed from the inspection computer. This source code is relevant. Please put it back on the inspection computer. With respect to the web browser code, we are specifically requesting the source code that supports Yahoo!'s generic search engine webpage as well as the My Yahoo!'s personalized webpages.
- **Yahoo! Mail:** Bright Response's infringement contentions specifically mention functionality related to Yahoo! Mail but it does not appear as if Yahoo! has produced this source code.
- **Yahoo!'s Click Server and associated software:** This source code is relevant to tracing the functionality that occurs after a user's click. The documents that have been produced to date indicate that the data stored as result of these clicks are relevant to both nXn's and Bright Response's infringement claims.

Please produce the missing source code immediately. If you contend that the source code has already been produced, please let us know where it can found.



Jason C. White  
October 27, 2009  
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To the extent Yahoo! continues to refuse to produce this source code, nXn will include this fact in its Motion to Compel. Further, Bright Response will be advising the Court of Yahoo!'s continued failure to produce such code during the November 5, 2009 hearing on its Motion to Compel.

Sincerely,  
Russ, August & Kabat

/s/ Andrew D. Weiss

Andrew D. Weiss

ADW