SPENCER HOSIE (CA Bar No. 101777)
shosie@hosielaw.com
GEORGE F. BISHOP (CA Bar No. 89205)
gbishop@hosielaw.com
DIANE S. RICE (CA Bar No. 118303)
drice@hosielaw.com
HOSIE RICE LLP
600 Montgomery Street, 34th Floor
San Francisco, CA 94111
(415) 247-6000 Tel.
(415) 247-6001 Fax

Attorneys for Plaintiff
MASTEROBJECTS, INC.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MASTEROBJECTS, INC.,	Case No. C 11-2539 JSW
Plaintiff,	
v.	**FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**
YAHOO! INC.,	
Defendant.	

Plaintiff MasterObjects, Inc. ("MasterObjects" or "Plaintiff") hereby files its

amended complaint against defendant Yahoo! Inc. ("Yahoo" or "Defendant"), for patent

infringement. For its amended complaint, Plaintiff alleges, on personal knowledge as to its

own acts and on information and belief as to all other matters, as follows:

PARTIES

1.   MasterObjects is a corporation organized under the laws of the State of

Delaware, with its principal place of business in San Francisco, California, prior to January 1,

2010, and now Maarssen, Netherlands.

2.   Yahoo is a corporation organized under the laws of the State of Delaware,

with its principal place of business in Sunnyvale, California.

JURISDICTION AND VENUE

3.   This complaint asserts a cause of action for patent infringement under the

Patent Act, 35 U.S.C. § 271. This Court has subject matter jurisdiction over this matter by

virtue of 28 U.S.C. § 1338(a). Venue is proper in this Court by virtue of 28 U.S.C. § 1391(b)

and (c) and 28 U.S.C. § 1400(b), in that Yahoo may be found in this district, has committed

acts of infringement in this district, and a substantial part of the events giving rise to the

claim occurred in this district.

4.   This Court has personal jurisdiction over Yahoo because Yahoo has a place of

business in, and provides infringing products and services in, the Northern District of

California.

INTRADISTRICT ASSIGNMENT

5.   Pursuant to Civil LR 3-2(c), this case should be subject to district-wide

assignment because it is an Intellectual Property Action.

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I.   STATEMENT OF FACTS.

A.   The Plaintiff MasterObjects and its Instant Search Technology.

6.   From the earliest days of Internet search, the search process has been hampered by what is known as the "request-response loop." The user would type a query into a static input field, click a "submit" or "search" button, wait for the query to be sent to a remote database, wait for the result set to be returned to the server, wait for the server to build an HTML page, wait for the page to load into the browser, and then wait for the client window to be redrawn so that the result set could be viewed.

7.   Inherent in the "request-response loop" is the pragmatic reality that, if the result set did not match user expectations, the entire process had to be repeated, recursively, until the results satisfied the user.

8.   In 2000, Mark Smit, the founder of Plaintiff MasterObjects, invented a novel approach to search, an approach that solved the "request-response loop" problem. Smit envisioned a system where a dynamic and intelligent search field would immediately begin submitting a search query as soon as the user began typing characters into the query field. Using asynchronous communications technology, as the user typed more characters, the results in the drop-down box would change dynamically, becoming increasingly relevant as the string of characters lengthened. In essence, search would become effective and granular at the *character* level, not the block request *submit* level. More, this would happen real-time, as the user typed in characters, and not be dependent on hitting a "search" or "submit button."

9.   MasterObjects filed its first patent application in August 2001, "System and Method for Asynchronous Client Server Session Communication."

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10.   MasterObjects filed its second patent application in 2004, as a continuation-in-part of the 2001 filing. This second application, titled "System and Method for Utilizing Asynchronous Client Server Communications Objects," issued as U.S. Patent No. 7,752,326 in July 2010 ("'326 patent" or "instant search").

11.   The '326 patent Abstract summarizes the invention as follows:

> A session-based client-server asynchronous information search and retrieval system for sending character-by-character or multi-character strings of data to an intelligent server, that can be configured to immediately analyze the lengthening string and return to the client increasingly appropriate search information. Embodiments include integration within an Internet, web or other online environment, including applications for use in interactive database searching, data entry, online searching, online purchasing, music purchasing, people-searching, and other applications. In some implementations the system may be used to provide dynamically focused suggestions, auto-completed text, or other input-related assistance, to the user.

12.   A continuation of the '326 patent, also titled "System and Method for Utilizing Asynchronous Client Server Communications Objects," issued on November 15, 2011 as U.S. Patent No. 8,060,639 (the "'639 patent").

13.   On November 28, 2011 the USPTO issued to MasterObjects a Notice of Allowance for U.S. Patent Application No. 09/933,493 (the "'493 application"), titled "System and Method for Asynchronous Client Server Session Communication," which is related to the '326 patent and '639 patent. The '493 application will issue shortly as a U.S. patent. The '326 patent, the '639 patent, and the '493 application are sometimes referred-to collectively herein as the Patents-in-Suit.

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14.   MasterObjects makes and sells products that practice the Patents-in-Suit, and MasterObjects has been selling these products from approximately 2004 forward. MasterObjects remains a going concern today, selling products that practice its patented technology.

15.   By no later than December 13, 2010, Yahoo had been notified in writing of MasterObjects' '326 patent. At that time, MasterObjects emailed Yahoo, to inform it, *inter alia*: "On July, 2010, MasterObjects was granted a patent (U.S. Patent No. 7,752,326) for the only practical system for creating intelligent, autocomplete search fields used by websites to query and retrieve data from remote databases. This means that . . . web-based autocomplete search fields . . . infringe on our patent." By no later than September 8, 2011 for the '639 patent and no later than December 1, 2011 for the '493 application, Yahoo had been notified in writing of the '693 patent and '493 application, and that Yahoo's products, identified below, infringe this patent and this application. Since that time, Yahoo's continuing manufacture, use and sale of the infringing products and services identified below have been done knowing, and in deliberate disregard of a known risk, that MasterObjects had the protective Patents-in-Suit covering Yahoo's products and activities.

B.   The Infringing Yahoo Products.

16.   Yahoo products and services infringe the claims of MasterObjects' '326 and '639 patents, and the '493 application, as set out below.

17.   Yahoo's search engine is one of the world's leading Internet search engines, available at yahoo.com and search.yahoo.com. Yahoo is also one of the world's leading Internet Web portal sites, offering a variety of services.

Search Assist

18.   Yahoo enhanced the search capabilities available at its website in 2009, with the introduction of "Search Assist" (sometimes referred to by Yahoo as Yahoo Suggest), a feature that suggests search queries as the user types. Using this feature, a visitor to Yahoo's website using a web browser is presented with a ubiquitous search field at the top of the Yahoo web page. As the user begins typing individual characters in the search field, Yahoo's enhanced search system anticipates the user's query, and asynchronously suggests complete queries that match the partial query being typed by retrieving from Yahoo's servers a set of suggested queries. As the user types in additional characters, Search Assist updates its list of suggested queries. As Yahoo states, Search Assist "automatically offers search terms and phrases in real time." "By making suggestions as you type, it eliminates one of the hardest parts of searching—coming up with the right query." Yahoo explains further: "As you type into the search box, Search Assist compares it to searches all other Yahoo! users have composed and offers suggestions in real time."

19.   These enhancements provide numerous benefits to Yahoo and its customers, including speeding the search process, lessening user typing, catching mistakes mid-query, and otherwise increasing user efficiency.

20.   Yahoo search matches increasingly focused query strings against cached search results, and if no matching cache entry is found, matches the query string against other content sources including Yahoo's search indexer. Yahoo employs caching and content sources that includes the following: Yahoo search dedicates fast memory cache that can store up to k search result pages. For each query in the stream of user-submitted search queries, the engine first looks it up in the cache, and if results for that query are stored in the cache—a cache hit—it quickly returns the cached results to the user. Upon a cache miss— when the query's results are not cached—the engine obtains results from the content

database. The results are returned to the user. These methods are employed at least in Yahoo Search Assist and Search Direct.

21.   On March 23, 2011, Yahoo announced Search Direct. As Yahoo states, Search Direct "delivers answers and direct access to websites before you complete a query, hit the search button, or go to a search results page." Search Direct "predicts the search term as you type, providing the 10 most likely searches," and updates the list of likely searches as characters continue to be typed. Search Direct also provides "instant answers" asynchronously, "before you click the Search button." When a user begins to type a search query into the search box, Search Direct returns search predictions in the left box, with the predictions changing as characters continue to be typed by the user. Also while the user is typing, Search Direct, in the right box, returns answers, which also are updated as the user types. ("As a user types in the search box, search suggestions are shown . . . while we simultaneously generate and display rich content"). Search Direct instant answers include "top trending searches, movies, TV, sports teams and players, weather, local, travel" and more. For the 10 most likely searches returned, with a mouse-over "you can then easily scan each option to see the related top results and find the best match for your needs." Search Direct interacts with back end systems that generate the likeliest query matches and "simultaneously generate and display rich content associated with" the query.

22.   Search Direct is intended to apply to both PC and mobile devices, including tablets.

Yahoo Search Powered by Bing

23.   On August 24, 2010, Microsoft Corp. announced that Microsoft Bing was powering Yahoo's search results. Bing includes Suggestions, a feature that suggests to the user possible search queries as the user types. Using the Suggestions feature, as a user begins

typing individual characters in the search field, Bing's enhanced search system anticipates the user's query, and asynchronously suggests complete queries that match or enhance the partial query being typed by retrieving from servers a set of suggested queries. As the user types additional characters in the search box, the client asynchronously communicates with the server, and the server returns a more focused and/or predictive set of potentially matching queries to the user. This process continues as the user continues to type characters, until a query is selected and search results are retrieved.

24.   These enhancements provide numerous benefits to Yahoo and its customers, including speeding the search process, lessening user typing, catching mistakes mid-query, and otherwise increasing user efficiency.

25.   Beginning at least in March 2011, Microsoft has been providing previews of a new version of Bing for HTML5-compatible browsers. Unlike previous versions of Microsoft's search engine offering, this new version of Bing not only provides suggested search queries as a user types, but also provides "instant" search results: using asynchronous communication technology, search results are sent to the user as the user types, character-by-character. Search results are changed based on the additional characters inputted by the user, that is, as the query character string lengthens.

COUNT I

PATENT INTRINGEMENT
(The '326 Patent)

26.   On July 6, 2010, United States Patent No. 7,752,326 entitled "System and Method For Utilizing Asynchronous Client Server Communications Objects" was duly and legally issued. A true and correct copy of the '326 patent is attached as Exhibit A.

27. Mark Smit is the inventor of the '326 instant search patent. The '326 patent has been assigned to Plaintiff. Plaintiff MasterObjects is the sole legal and rightful owner of the '326 patent.

28. Yahoo makes, uses, and sells products that infringe the '326 patent, as alleged above in paragraphs 14 through 25 and incorporated here by reference. This conduct constitutes infringement under 35 U.S.C. § 271(a).

29. In addition, Yahoo has infringed and is still infringing the '326 patent in this country through, *inter alia*, its active inducement of others to make, use, and/or sell the systems, products and methods claimed in one or more claims of the patents. Yahoo licenses infringing products and technology from others, including Microsoft. Yahoo supplies infringing products and technology to others. Yahoo's customers and licensors (Microsoft) directly infringe the '326 patent, and were induced to do so by Yahoo. Yahoo knows of the '326 patent and its contents, having been specifically informed of the '326 patent on December 13, 2010, and has deliberately disregarded a known risk that MasterObjects had obtained the '326 patent. Yahoo actively and knowingly encouraged, aided and abetted its licensors and customers to directly infringe the '326 patent. Yahoo offered its infringing products for sale or distribution with the intent of promoting their use to infringe, and obtained its infringing products from licensors with the intent that they make, use, and sell the infringing products. Yahoo intentionally encouraged its licensors and customers to infringe the '326 patent by advertising its products for infringing uses, and instructing its customers how to use the products to engage in infringement. Yahoo had specific intent to encourage customers to infringe the '326 patent, knew of or deliberately disregarded a known risk that MasterObjects had obtained the '326 patent, and knew or should have known that its

1   actions would encourage customers to actually infringe the '326 patent. This conduct

2   constitutes infringement under 35 U.S.C. § 271(b).

3   30.   In addition, Yahoo has infringed and is still infringing the '326 patent in this

4   country through, *inter alia*, providing and selling goods and services including the infringing

5   products and services designed for use in practicing one or more claims of the '326 patent,

6   where the goods and services constitute a material part of the invention and are not staple

7   articles of commerce, and which have no use other than infringing one or more claims of the

8   '326 patent. Yahoo's customers commit the entire act of direct infringement. Yahoo has

9   committed these acts with knowledge that the goods and services it provides are specially

10   made for use in a manner that directly infringes the '326 patent. This conduct constitutes

11   infringement under 35 U.S.C. § 271(c).

12   31.   As a result of the infringement by Yahoo, Plaintiff has been damaged, and

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14   will continue to be damaged, until this Defendant is enjoined from further acts of

15   infringement.

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17   32.   Yahoo will continue to infringe unless enjoined by this Court. Plaintiff faces

18   real, substantial and irreparable damage and injury of a continuing nature from infringement

19   for which Plaintiff has no adequate remedy at law.

20   **COUNT II**

21   **PATENT INTRINGEMENT**
22   **(The '639 Patent)**

23   33.   On November 15, 2011, United States Patent No. 8,060,639 entitled "System

24   and Method For Utilizing Asynchronous Client Server Communications Objects" was duly

25   and legally issued. A true and correct copy of the '639 patent is attached as Exhibit B.

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34.   Mark Smit and Stefan van den Oord are the inventors of the '639 patent. The

'639 patent has been assigned to Plaintiff. Plaintiff MasterObjects is the sole legal and

rightful owner of the '639 patent.

35.   Yahoo makes, uses, and sells products that infringe the '639 patent by

providing, in response to lengthening query strings input by a user and without requiring

explicit submission by that user, increasingly relevant content such as search suggestions or

search results, as alleged above in paragraphs 14 through 25 and incorporated here by

reference.   This conduct constitutes infringement under 35 U.S.C. § 271(a).

36.   In addition, Yahoo has infringed and is still infringing the '639 patent in this

country through, inter *alia*, its active inducement of others to make, use, and/or sell the

systems, products and methods claimed in one or more claims of the patents. Yahoo licenses

infringing products and technology from others, including Microsoft. Yahoo supplies

infringing products and technology to others. Yahoo's customers and licensors (Microsoft)

directly infringe the '639 patent, and were induced to do so by Yahoo. Yahoo knows of the

'639 patent and its contents, having been specifically informed of the '639 patent on

September 8, 2011, and has deliberately disregarded a known risk that MasterObjects had

obtained such patent. Yahoo actively and knowingly encouraged, aided and abetted its

licensors and customers to directly infringe the '639 patent. Yahoo offered its infringing

products for sale or distribution with the intent of promoting their use to infringe, and

obtained its infringing products from licensors with the intent that they make, use, and sell

the infringing products. Yahoo intentionally encouraged its licensors and customers to

infringe the '639 patent by advertising its products for infringing uses, and instructing its

customers how to use the products to engage in infringement. Yahoo had specific intent to

encourage customers to infringe the '639 patent, knew of or deliberately disregarded a known

risk that MasterObjects had obtained the '639 patent, and knew or should have known that its

actions would encourage customers to actually infringe the '639 patent. This conduct

constitutes infringement under 35 U.S.C. § 271(b).

37.   In addition, Yahoo has infringed and is still infringing the '639 patent in this

country through, *inter alia*, providing and selling goods and services including the infringing

products and services designed for use in practicing one or more claims of the '639 patent,

where the goods and services constitute a material part of the invention and are not staple

articles of commerce, and which have no use other than infringing one or more claims of the

'639 patent. Yahoo's customers commit the entire act of direct infringement. Yahoo has

committed these acts with knowledge that the goods and services it provides are specially

made for use in a manner that directly infringes the '639 patent. This conduct constitutes

infringement under 35 U.S.C. § 271(c).

38.   As a result of the infringement by Yahoo, Plaintiff has been damaged, and

will continue to be damaged, until this Defendant is enjoined from further acts of

infringement.

39.   Yahoo will continue to infringe unless enjoined by this Court. Plaintiff faces

real, substantial and irreparable damage and injury of a continuing nature from infringement

for which Plaintiff has no adequate remedy at law.

COUNT III

PATENT INTRINGEMENT
(The '493 Application)

40.   On November 28, 2011, a Notice of Allowance was issued for U.S. Patent

Application No. 09/933,493 entitled "System and Method for Asynchronous Client Server

Session Communication." A true and correct copy of the Notice of Allowance is attached as Exhibit C. A true and correct copy of the '493 application is attached as Exhibit D.

41.   Mark Smit and Stefan Van den Oord are the inventors of the '493 application. The patent will be assigned to plaintiff. Plaintiff MasterObjects will be the sole legal and rightful owner of the issued patent.

42.   Yahoo makes, uses, and sells products that infringe the '493 application by providing, in response to lengthening query strings input by a user and without requiring explicit submission by that user, increasingly relevant content such as search suggestions or search results, as alleged above in paragraphs 14 through 25 and incorporated here by reference.   This conduct constitutes infringement under 35 U.S.C. § 271(a).

43.   In addition, Yahoo has infringed and is still infringing the '493 application in this country through, inter *alia*, its active inducement of others to make, use, and/or sell the systems, products and methods claimed in one or more claims of the patents. Yahoo licenses infringing products and technology from others, including Microsoft. Yahoo supplies infringing products and technology to others. Yahoo's customers and licensors (Microsoft) directly infringe the '493 application, and were induced to do so by Yahoo. Yahoo knows of the '493 application and its contents, having been specifically informed of the '493 application no later than December 1, 2011, and has deliberately disregarded a known risk that MasterObjects had obtained such patent. Yahoo actively and knowingly encouraged, aided and abetted its licensors and customers to directly infringe the '493 application. Yahoo offered its infringing products for sale or distribution with the intent of promoting their use to infringe, and obtained its infringing products from licensors with the intent that they make, use, and sell the infringing products. Yahoo intentionally encouraged its licensors and customers to infringe the '493 application by advertising its products for infringing uses, and

instructing its customers how to use the products to engage in infringement. Yahoo had

specific intent to encourage customers to infringe the '493 application, knew of or

deliberately disregarded a known risk that MasterObjects had obtained the '493 application,

and knew or should have known that its actions would encourage customers to actually

infringe the '493 application. This conduct constitutes infringement under 35 U.S.C. §

271(b).

44.   In addition, Yahoo has infringed and is still infringing the '493 application in

this country through, *inter alia*, providing and selling goods and services including the

infringing products and services designed for use in practicing one or more claims of the '493

application, where the goods and services constitute a material part of the invention and are

not staple articles of commerce, and which have no use other than infringing one or more

claims of the '493 application. Yahoo's customers commit the entire act of direct

infringement. Yahoo has committed these acts with knowledge that the goods and services it

provides are specially made for use in a manner that directly infringes the '493 application.

This conduct constitutes infringement under 35 U.S.C. § 271(c).

45.   As a result of the infringement by Yahoo, Plaintiff has been damaged, and

will continue to be damaged, until this Defendant is enjoined from further acts of

infringement.

46.   Yahoo will continue to infringe unless enjoined by this Court. Plaintiff faces

real, substantial and irreparable damage and injury of a continuing nature from infringement

for which Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for entry of judgment:

A.   that the Patents-in-Suit are valid and enforceable;

B.   that Defendant has infringed one or more claims of the Patents-in-Suit;

C.   that Defendant account for and pay to Plaintiff all damages caused by the infringement of the Patents-in-Suit, which by statute can be no less than a reasonable royalty;

D.   that this Court issue a preliminary and final injunction enjoining Yahoo, its officers, agents, servants, employees and attorneys, and any other person in active concert or participation with them, from continuing the acts herein complained of, and more particularly, that Yahoo and such other persons be permanently enjoined and restrained from further infringing the Patents-in-Suit;

E.   that Plaintiff be granted pre-judgment and post-judgment interest on the damages caused to them by reason of Defendant's infringement of the Patents-in-Suit;

F.   that this Court require Defendant to file with this Court, within thirty (30) days after entry of final judgment, a written statement under oath setting forth in detail the manner in which Defendant has complied with the injunction;

G.   that this be adjudged an exceptional case and the Plaintiff be awarded its attorney's fees in this action pursuant to 35 U.S.C. § 285;

H.   that this Court award Plaintiff its costs and disbursements in this civil action, including reasonable attorney's fees; and

I.   that Plaintiff be granted such other and further relief as the Court may deem just and proper under the current circumstances.

Dated: December 9, 2011   Respectfully submitted,

                                            /s/ Spencer Hosie_____
                                            SPENCER HOSIE (CA Bar No. 101777)
                                            shosie@hosielaw.com
                                            GEORGE F. BISHOP (CA Bar No. 89205)
                                            gbishop@hosielaw.com

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DIANE S. RICE (CA Bar No. 118303)
drice@hosielaw.com
HOSIE RICE LLP
600 Montgomery Street, 34th Floor
San Francisco, CA 94111
(415) 247-6000 Tel.
(415) 247-6001 Fax

Attorneys for Plaintiff
MASTEROBJECTS, INC.

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DEMAND FOR JURY TRIAL

Plaintiff, by its undersigned attorneys, demands a trial by jury on all issues so triable.

Dated: December 9, 2011   Respectfully submitted,

/s/ Spencer Hosie
SPENCER HOSIE (CA Bar No. 101777)
shosie@hosielaw.com
GEORGE F. BISHOP (CA Bar No. 89205)
gbishop@hosielaw.com
DIANE S. RICE (CA Bar No. 118303)
drice@hosielaw.com
HOSIE RICE LLP
600 Montgomery Street, 34th Floor
San Francisco, CA 94111
 (415) 247-6000 Tel.
(415) 247-6001 Fax

Attorneys for Plaintiff
MASTEROBJECTS, INC.