

Case of imprisoned China journalist highlights risks for Net companies operating in the mainland

## Boycott threat shames Yahoo

Michael Logan, Bien Perez and Jamil Anderlini in Hangzhou

Bloggers and human rights groups are calling for a boycott of Yahoo after the United States internet giant supplied information to the Chinese central government that led to a 10-year prison sentence for mainland journalist Shi Tao.

Privacy International said a boycott would send a clear message to Yahoo, while Reporters Without Borders said it would ask institutional shareholders to raise the issue of Yahoo's behaviour with the company's management.

Several posters to internet forums and blog sites criticised Yahoo for its actions and promised to quit using the company's services.

"I do not intend to click on Yahoo ever again, and I'm urging everyone I know to do the same," one internet poster said.

The controversy surrounding Yahoo's involvement in the case highlights the risks foreign internet companies take on as they pursue the lucrative mainland market: complying with the government's strict demands on regulation of the internet could end up damaging a company's reputation back home.

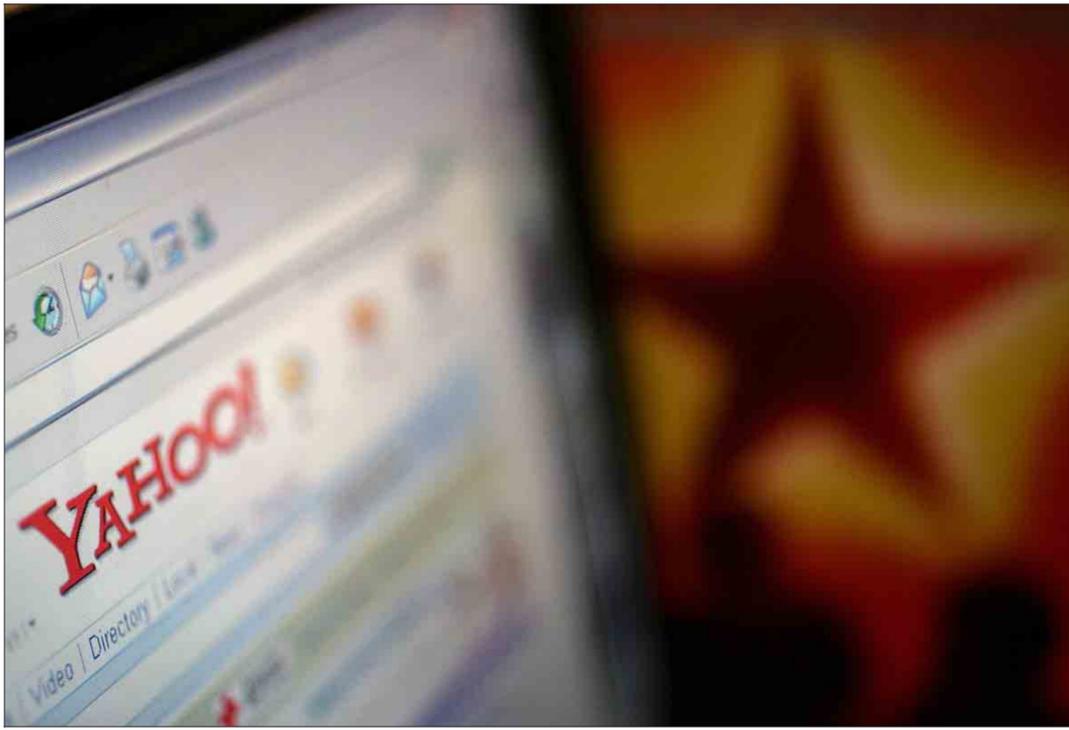
This is not the first time a foreign internet company has come under fire for its actions in China. Critics have blasted Microsoft for censoring words such as "freedom" and "democracy" in its blogging service MSN Spaces, while Google has been accused of removing sensitive pages from its search index.

But the Yahoo case is different because the company's actions resulted in the imprisonment of a journalist accused of passing state secrets via e-mail.

Vincent Drossel, head of the Asia-Pacific desk at Reporters Without Borders, said: "It is the life and freedom of a man, Shi Tao, that has been jeopardised because Yahoo gave information to the Chinese police."

Reaction to the case already shows signs of growing into a wide campaign aimed at pressuring Yahoo to change its business practices in China, much in the same way that consumer activism forced apparel and shoe manufacturers such as Nike to raise labour standards in the country.

Julien Pain, head of the internet desk at Reporters Without Borders, said: "So far, we have not asked for any embargo on Yahoo products. But I have received many e-mails and I've seen posts on news groups saying that people didn't trust Ya-



Yahoo has been accused of putting business ahead of integrity by succumbing to China's pressure to provide sensitive information. Photo: AFP

hoo any more and they were about to change their e-mail accounts."

Yahoo said it had no choice but to comply with the law when its Hong Kong unit was asked to turn over details to mainland authorities concerning e-mail account huoyan1989@yahoo.com.cn.

Yahoo co-founder Jerry Yang was unapologetic when reporters

pressed the issue during an internet conference held in Hangzhou at the weekend.

"To be doing business in China or anywhere else in the world we have to comply with local law. I will not put our employees at risk," Mr Yang said.

"When it comes to seeking information on our users, we have a

very clear-cut set of rules that any government has to engage with us through court documents, legal documents and legal procedures.

"We get a lot of those every day around the world. We get hundreds of those in the US, we get hundreds in Europe, we get a lot of them in China. We do not know what they want that information

for. We're not told what they look for. If they give us the proper documentation and a court order, we give them things that satisfy both our privacy policy and the local rules."

Lawrence Sussman, a lawyer at O'Melveny & Myers in Beijing, said failure to comply with the government's demands would have

### TRANSLATION OF CRIMINAL VERDICT AGAINST JOURNALIST SHI TAO

"Shi Tao leaked this information to an overseas hostile element, taking advantage of the fact that he was working overtime alone in his office to connect to the internet through his phone line and use his personal e-mail account (huoyan1989@yahoo.com.cn) to send his notes.

"Account holder information furnished by Yahoo Holdings (Hong Kong) Ltd, which confirms that for IP address 218.76.8.201 at 11:32:17pm on April 20, 2004, the corresponding user information was as follows: user telephone number: 0731-4376362 located at the Contemporary Business News office in Hunan; address: 2F, Building 88, Jianxiang New Village, Kaifu District, Changsha."

Source: Reporters Without Borders (www.rsf.org)

**"To be doing business in China or anywhere else in the world we have to comply with local law. I will not put our employees at risk"**

Jerry Yang  
Yahoo co-founder



## Sparks fly as Microsoft and Google spar over key player

A court battle between the arch rivals over alleged Taiwanese defector Lee Kai-fu has shown up naked China ambition and mutual hostility

Stuart Biggs

Two technology giants, ambitions in China, a rudimentary manual on mainland business techniques and its Taiwanese-born author Lee Kai-fu combined to produce some of the technology industry's best theatre yet in a Seattle court last week.

Allegations of chair-throwing and expletives from Microsoft chief executive Steve Ballmer and assertions from Bill Gates that his company had been "f\*\*\*\*\*" by the Chinese added spice to a legal dispute over a non-compete clause that quickly morphed into a virtual slanging match between two companies desperate to crack the mainland market.

A decision by King County superior court judge Steven Gonzalez risks appearing an afterthought, although less so for Lee Kai-fu, the man accused by Microsoft of violating his contractual obligations when he jumped ship to work for Google last July.

Microsoft is seeking a preliminary injunction to prevent Mr Lee working for its arch rivals pending a full trial scheduled for January. Mr Gonzalez is expected to make a decision later today.

The legal wrangling began in July, when Mr Lee took up a position to lead Google's new product research and development centre in China, scheduled to open in the third quarter.

In a statement at the time, Mi-

crosoft said his hiring was a breach of the "confidentiality and non-compete" agreement with Microsoft. The firm sued Mr Lee and named Google in the suit.

"Mr Lee has accepted a position focused on the same set of technologies and strategies for a direct competitor in egregious violation of his explicit contractual obligations," Microsoft said.

The picture that emerged in court, however, was that Mr Lee was valued by both sides as much for his contacts and knowledge of the central government and busi-

ness procedures as for his technical knowledge.

Both sides argued that those contacts and business relationships were vital to their recruitment and expansion activities in China.

"He was the public face of Microsoft in this recruiting machinery, and he ought not to be the public face of Google," Microsoft lawyer Karl Quackenbush said during the proceedings.

"Microsoft is behaving as if they own Kai-fu - they don't," countered Google spokesman Steve Langdon.

"Microsoft does not own Kai-fu

or China's students. The broad reach they are trying for is very, very dangerous. They should not be allowed to prevent employees working in Redmond from taking a job at another company in Israel, India or any other company."

But the respective legal arguments were far less inflammatory than circumstantial evidence submitted to support each argument.

"The defendant's tactics mean that Microsoft's efforts to enforce its legal rights have cost the company somewhat in terms of public perception," acknowledged Micro-

soft's deputy general counsel Tom Burt.

That may be putting a brave face on it. The first damaging blow came in testimony from Mr Lee as he described a low point in his Microsoft career. In a 2003 e-mail, Mr Lee described a conversation with Bill Gates in which he alleged the chairman had yelled at him, and said the company had been "f\*\*\*\*\*" by the Chinese people and its government. "I didn't know whether I should take it as a statement of ignorance or as an insult," he wrote.

Next up was the declaration of

former Microsoft engineer Mark Lucovsky, who left the firm in November last year to join Google.

"At some point in the conversation, Mr Ballmer said: 'Just tell me it's not Google.' I told him it was Google," Mr Lucovsky stated.

"At that point, Mr Ballmer picked up a chair and threw it across the room hitting a table in his office. Mr Ballmer then said: 'F\*\*\*\*\* [Google chief executive] Eric Schmidt is a f\*\*\*\*\* p\*\*\*\*. I'm going to f\*\*\*\*\* bury that guy, I have done it before, and I will do it again. I'm going to f\*\*\*\*\* kill Google.'"

**"When Dr Lee was an employee at Microsoft, I thought of him as trustworthy. There's a lot of things around his leaving Microsoft that I wouldn't have expected. For example, if you said to me, say, three or four months ago, 'Would Dr Lee mislead us about his intentions relative to his sabbatical? Would he directly mislead us?' Or 'Would Dr Lee go and take a job in Google related to their China activities?' I would have said, 'Absolutely not'. So obviously my view of Dr Lee has been affected by recent events"**



Bill Gates on Lee Kai-fu

**"My efforts to assist Microsoft with its efforts in China principally focused on three areas: preventing Microsoft from embarrassing itself (or apologising for it once it had embarrassed itself) with the Chinese government; helping establish outsourcing to China, to fulfil a commitment Microsoft made to the Chinese government to have tens of millions of dollars worth of work done in China by Chinese contract workers; and attempting (unsuccessfully, at least as of the time of my departure) to establish a coherent management structure for the multiple, often conflicting R&D activities Microsoft carried on in China"**



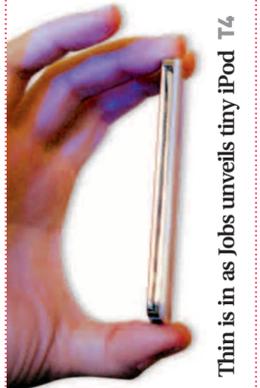
Lee Kai-fu on his time with Microsoft

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