

# Exhibit 1

**Exhibit 1**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION**

I/P ENGINE, INC.

Plaintiff,

v.

AOL INC., *et al.*,

Defendants.

Civil Action No. 2:11-cv-512

**PROPOSED ORDER**

Before the Court is the Motion to Seal (“Defendants’ Motion to Seal”) filed by Defendants Google Inc., Target Corporation, IAC Search & Media, Inc., Gannett Co., Inc. and AOL Inc. (collectively “Defendants”).

After considering the Motion to Seal, Order and related filings, the Court is of the opinion that the Motion to Seal should be granted. It is therefore ORDERED as follows:

1. Defendants have asked to file under seal (1) Portions of the Declaration of Kristin Zmrhal in Support of Defendants’ Opposition to Plaintiff’s Motion for Leave to File Supplemental Memorandum Regarding Motion to Show Cause (“Portions of the Zmrhal Declaration”); (2) Portions of Exhibits 6-8 to the Declaration of Joshua L. Sohn in Support of Defendants’ Opposition to Plaintiff’s Motion for Leave to File Supplemental Memorandum Regarding Motion to Show Cause and Motion to Strike Plaintiff’s Supplemental Memorandum (“Portions of Exhibits 6-8 to the Sohn Declaration”); and (3) Exhibits 9-10 to the Declaration of Joshua L. Sohn in Support of Defendants’ Opposition to Plaintiff’s Motion for Leave to File

Supplemental Memorandum Regarding Motion to Show Cause and Motion to Strike Plaintiff's Supplemental Memorandum ("Exhibits 9-10 to the Sohn Declaration") as they contain data that is confidential under the Protective Order entered in this matter on January 23, 2012 (Doc. No. 85) ("Protective Order").

2. There are three requirements for sealing court filings: (1) public notice with an opportunity to object; (2) consideration of less drastic alternatives; and (3) a statement of specific findings in support of a decision to seal and rejecting alternatives to sealing. *See, e.g., Flexible Benefits Council v. Feldman*, No. 1:08-CV-371, 2008 U.S. Dist. LEXIS 93039 (E.D. Va. Nov. 13, 2008) (citing *Ashcraft v. Conoco, Inc.*, 218 F.3d 282, 288 (4<sup>th</sup> Cir. 2000)).

3. This Court finds that Portions of the Zmrhal Declaration, Portions of Exhibits 6-8 to the Sohn Declaration and Exhibits 9-10 to the Sohn Declaration contain data that is confidential under the Protective Order; that public notice has been given, that no objections have been filed; that the public's interest in access is outweighed by the interests in preserving such confidentiality; and that there are no alternatives that appropriately serve these interests.

4. Specifically, the Court finds the following reasons for sealing the requested pleadings: Portions of the Zmrhal Declaration, Portions of Exhibits 6-8 to the Sohn Declaration and Exhibits 9-10 to the Sohn Declaration contain highly confidential business and trade secret information all of which is not generally known, has economic value, and the disclosure of which would cause competitive harm if made widely public. The Court also finds that by filing narrowly redacted public pleadings, the Defendants have made all reasonable efforts to limit their redactions in compliance with the law of this Circuit.

5. *In camera* copies of Portions of the Zmrhal Declaration, Portions of Exhibits 6-8 to the Sohn Declaration and Exhibits 9-10 to the Sohn Declaration have been reviewed by the

Court. In light of Defendants' concerns and the Protective Order, there appears to be no alternative other than the narrowly redacted public pleadings that appropriately serves Defendants' expressed confidentiality concerns.

6. For the sake of consistency with practices governing the case as a whole, Portions of the Zmrhal Declaration, Portions of Exhibits 6-8 to the Sohn Declaration and Exhibits 9-10 to the Sohn Declaration shall remain sealed and be treated in accordance with the terms and conditions of the Protective Order.

Accordingly, it is ORDERED that Portions of the Zmrhal Declaration, Portions of Exhibits 6-8 to the Sohn Declaration and Exhibits 9-10 to the Sohn Declaration shall be filed under seal. The Court shall retain sealed materials until forty-five (45) days after entry of a final order after appeal.

Entered: \_\_\_\_/\_\_\_\_/\_\_\_\_

---

United States District Court  
Eastern District of Virginia

**WE ASK FOR THIS:**

/s/Stephen E. Noona  
Stephen E. Noona  
Virginia State Bar No. 25367  
KAUFMAN & CANOLES, P.C.  
150 West Main Street, Suite 2100  
Norfolk, VA 23510  
Telephone: (757) 624-3000  
Facsimile: (757) 624-3169  
senoona@kaufcan.com

David Bilsker  
David A. Perlson  
QUINN EMANUEL URQUHART &  
SULLIVAN, LLP  
50 California Street, 22nd Floor  
San Francisco, California 94111  
Telephone: (415) 875-6600  
Facsimile: (415) 875-6700  
davidbilsker@quinnemanuel.com  
davidperlson@quinnemanuel.com

*Counsel for Defendants Google Inc.,  
Target Corporation, IAC Search &  
Media, Inc., and Gannett Co., Inc.*

/s/ Stephen E. Noona  
Stephen E. Noona  
Virginia State Bar No. 25367  
KAUFMAN & CANOLES, P.C.  
150 West Main Street, Suite 2100  
Norfolk, VA 23510  
Telephone: (757) 624-3000  
Facsimile: (757) 624-3169  
senoona@kaufcan.com

Robert L. Burns  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
Two Freedom Square  
11955 Freedom Drive  
Reston, VA 20190  
Telephone: (571) 203-2700  
Facsimile: (202) 408-4400

Courtney S. Alexander  
FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, LLP  
3500 SunTrust Plaza  
303 Peachtree Street, NE  
Atlanta, GA 94111  
Telephone: (404) 653-6400  
Facsimile: (415) 653-6444

*Counsel for Defendant AOL Inc.*