

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

**BRIEF IN SUPPORT OF DEFENDANTS' MOTION FOR LEAVE TO FILE RESPONSE
TO PLAINTIFF I/P ENGINE, INC.'S SUPPLEMENTAL MEMORANDUM IN
SUPPORT OF REQUEST FOR DEFAULT JUDGMENT IN I/P ENGINE'S MOTION
FOR DEFENDANTS TO SHOW CAUSE UNDER RULE 37 FOR NONCOMPLIANCE
WITH THE AUGUST 13, 2013 ORDER**

On October 7, 2013, Plaintiff filed its Motion for Leave to File Supplemental Memorandum of New Additional Facts Justifying Its Motion for Defendants to Show Cause Under Rule 37 for Noncompliance with August 13, 2013 Order. (Dkt. 993.) On the same day, Plaintiff filed its supplemental memorandum that was the subject of the motion for leave. (Dkt. 998.) On October 21, 2013, Defendants filed their opposition responding to Plaintiff's motion for leave. (Dkt. 1003.) Because Plaintiff had separately filed the Supplemental Memorandum at the same time as its Motion for Leave (Dkt. 998), Defendants responded to Plaintiff's motion for leave and additionally responded to the Supplemental Memorandum.

On October 30, 2013, the Court Granted Plaintiff's Motion and gave Plaintiff leave to file a supplemental memorandum that "shall not exceed ten (10) pages including any attachments." (Dkt. 1016.) Plaintiff filed its Supplemental Memorandum on October 31, 2013. (Dkt. 1032.)

While Defendants have previously explained why the arguments in Plaintiff's Supplemental Memorandum (filed along with the original Motion for Leave at Dkt. 998) are flawed (Dkt. 1003), Defendants seek leave to file their response to Plaintiff's new Supplemental Memorandum in the event that (1) the Court would prefer in the record a separate brief in response to the Supplemental Memorandum, or (2) if the Court had not considered Defendants' response to Plaintiff's Supplemental Memorandum in ruling on Plaintiff's Motion for Leave to File the Supplemental Memorandum. Accordingly, Defendants respectfully request that this Court grant Defendants leave to file a ten-page memorandum (including any attachments) responding to Plaintiff's October 31, 2013 memorandum. Defendants' proposed memorandum is attached hereto as Exhibit A.

DATED: November 5, 2013

/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 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 W. 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

Cortney 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.

CERTIFICATE OF SERVICE

I hereby certify that, on November 5, 2013, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

Jeffrey K. Sherwood
Kenneth W. Brothers
DICKSTEIN SHAPIRO LLP
1825 Eye Street NW
Washington, DC 20006
Telephone: (202) 420-2200
Facsimile: (202) 420-2201
sherwoodj@dicksteinshapiro.com
brothersk@dicksteinshapiro.com

Donald C. Schultz
W. Ryan Snow
Steven Stancliff
CRENSHAW, WARE & MARTIN, P.L.C.
150 West Main Street, Suite 1500
Norfolk, VA 23510
Telephone: (757) 623-3000
Facsimile: (757) 623-5735
dschultz@cwm-law.com
wrsnow@cwm-law.com
sstancliff@cwm-law.com

Counsel for Plaintiff, I/P Engine, 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