

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

**MEMORANDUM IN SUPPORT OF MOTION TO SEAL PORTIONS OF  
DEFENDANTS' RESPONSIVE BRIEF ON ISSUES RAISED IN THE COURT'S  
AUGUST 14 ORDER**

In support of their Motion to Seal pursuant to Local Rule 5, and the Protective Order entered in this matter on January 23, 2012 (Doc. No. 85), Defendants Google Inc., Target Corporation, IAC Search & Media, Inc., Gannett Co., Inc. and AOL Inc. (collectively "Defendants") state the following:

1. Defendants have moved the court for leave to file under seal Portions of Defendants' Responsive Brief on Issues Raised in the Court's August 14 Order ("Portions of Defendants' Responsive Brief").

2. Portions of Defendants' Defendants' Responsive Brief contain data that is confidential under the Protective Order.

3. 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. Feltman*, 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)). Defendants contend that Portions of Defendants' Responsive Brief contain data that is confidential under the Protective Order. Defendants specifically state as reasons for sealing the requested pleadings that they 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.

Defendants have made all reasonable efforts to narrowly limit their redactions in compliance with the law of this Circuit.

4. *In camera* copies of Portions of Defendants' Responsive Brief have been forwarded to the Court.

5. 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.

6. For the sake of consistency with practices governing the case as a whole, Defendants' Responsive Brief should remain sealed and be treated in accordance with the terms and conditions of the Protective Order.

Accordingly, and in satisfaction of the requirements of Local Rule 5, Defendants respectfully ask the Court to seal Portions of Defendants' Responsive Brief.

DATED: November 11, 2013

/s/ Stephen E. Noona

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 11, 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:

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