

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

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) Exhibit 1 to the Declaration of Keith Ugone, Ph.D., in Support of Defendants’ Opposition to Plaintiff I/P Engine, Inc.’s Notice of Calculation of Supplemental Damages, Prejudgment Interest and Post-Judgment Interest (“Exhibit 1 to the Ugone Declaration”), and (2) Exhibit B to the Declaration of Margaret Kammerud in Support of Defendants’ Opposition to Plaintiff I/P Engine, Inc.’s Notice of Calculation of Supplemental Damages, Prejudgment Interest and Post-Judgment Interest (“Exhibit B to the Kammerud 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 (4th Cir. 2000)).

3. This Court finds that Exhibit 1 to the Ugone Declaration, and Exhibit B to the Kammerud 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: Exhibit 1 to the Ugone Declaration, and Exhibit B to the Kammerud Declaration contain confidential financial 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 Exhibit 1 to the Ugone Declaration, and Exhibit B to the Kammerud 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, Exhibit 1 to the Ugone Declaration, and Exhibit B to the Kammerud Declaration shall remain sealed and be treated in accordance with the terms and conditions of the Protective Order.

Accordingly, it is ORDERED that Exhibit 1 to the Ugone Declaration, and Exhibit B to the Kammerud 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: 12/23/13 *Man Pro Tunc*
8/26/13
~~Raymond A. Jackson~~
~~United States District Judge~~
United States District Court
Eastern District of Virginia

WE ASK FOR THIS:

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