

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

DECLARATION OF EMILY O'BRIEN IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S MOTION TO COMPEL COMPLIANCE WITH THE
COURT'S SCHEDULING ORDER

I, Emily O'Brien, declare as follows:

1. I am an attorney in the law firm of Quinn Emanuel Urquhart & Sullivan, LLP and am counsel for Defendants IAC Search & Media, Inc., Gannett Co., Inc., Target Corporation, and Google Inc. in the above-captioned case. I provide this declaration upon personal knowledge and, if called upon as a witness, would testify competently as to the matters recited herein.
2. On April 9, the parties further discussed their claim construction issues during a meet and confer. Defendants noted that they believed the parties already had no more than 10 issues for the Court to address. Defendants further noted that they hoped to be able to reach agreement on Plaintiff's proposals for the terms "informon" and "user," as well as for the relevance terms. Counsel for Defendants agreed to discuss with their clients, and get back to Plaintiff as soon as

possible. Given the hour, however, the Defendants could not do that, and also get their Opposition on file that night. Thus, Defendants asked if Plaintiff would be willing to agree to a one or two day extension of time for Defendants' opposition to Plaintiff's motion, in order to focus their attention on resolving the claim construction issues and providing proposals, rather than finalize their Opposition to Plaintiff's motion. Defendants pointed out this extension would not prejudice Plaintiff, as no ruling on Plaintiff's motion would be likely before the parties file their Opening *Markman* brief just a few days later. Nevertheless, Plaintiff refused, forcing Defendants to file their Opposition.

3. Even after Defendants told Plaintiff that they could not engage in further meeting and conferring on the claim construction terms the evening of April 9 because they needed to focus on finishing this brief, Plaintiff continued to press for agreement on its proposed constructions and also misrepresent the statements made by Defendants' counsel regarding those constructions.

4. I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Dated: April 9, 2012



Emily O'Brien

DATED: April 9, 2012

/s/ Stephen E. Noona

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CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2012, 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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