

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

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I/P ENGINE, INC.,

Plaintiff,

v.

AOL, INC. et al.,

Defendants.

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Civ. Action No. 2:11-cv-512

**MEMORANDUM IN SUPPORT OF PLAINTIFF I/P ENGINE’S MOTION TO  
SHORTEN GOOGLE’S TIME TO RESPOND TO I/P ENGINE’S MOTION TO  
COMPEL DEFENDANT GOOGLE INC.’S CUSTODIAL DOCUMENT PRODUCTION**

As set forth in I/P Engine’s Motion to Compel Defendant Google Inc.’s Custodial Document Production, more than six months ago, on November 7, 2011, I/P Engine, Inc. (“I/P Engine”) served its initial document requests upon Defendant Google Inc. (“Google”). Six months later, however, Google has not produced a *single* custodial document, even though it acknowledges that it has collected those documents. I/P Engine repeatedly has been requesting Google for these documents, but without success. On April 9, 2012, Google for the first time identified a target date for the production of those documents: June 15, 2012 – more than eight months after service of I/P Engine’s document requests.

Google’s delays, and its proposed production date, are unreasonable, reflect a disregard for discovery procedures in this judicial district, and create tremendous prejudice for I/P Engine. Google should be ordered to immediately produce its custodial documents. As explained by Google, the only reason it says it needs until June 15, 2012 to produce the custodial documents is because it claims it would take that long to review the documents it already has collected. In

other words, Google's delay is nothing more than a question of allocation of resources. Google's counsel has the manpower and the resources to review the documents in whatever amount of time the Court orders. Reviewing the documents will take the same number of hours and will incur the same expense whether it is done over the next two weeks, or the next sixty days. It is not a matter of burden or expense – Google simply does not want to review and produce the documents quickly. This Court cannot allow Google to evade its discovery obligations simply by choosing to allocate fewer resources to a task so that it takes longer. I/P Engine's Motion to Compel requests relief from the Court to address these delays, however, time is of the essence. Initial expert reports are due on July 18, 2012. Trial is set for October 16, 2012.

Local Rule 7(F)(1) provides that a party has eleven (11) days to respond to a motion (which is increased by three (3) days by service by electronic means), "unless otherwise directed by the Court." Good cause exists for this Court to direct a shorter time.

The parties are at an impasse. Counsel, in good faith, tried to reach out to Google's counsel by leaving two phone messages and sending one email over the past two days. Google's counsel has not yet responded. In an effort to expedite the briefing process for I/P Engine's

Motion to Compel and for the foregoing reasons, I/P Engine respectfully asks this Court to require Google to respond to I/P Engine's Motion to Compel on or before April 18, 2012

Dated: April 11, 2012

By: /s/ Jeffrey K. Sherwood

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 11th day of April, 2012, the foregoing **MEMORANDUM IN SUPPORT OF PLAINTIFF I/P ENGINE'S MOTION TO SHORTEN GOOGLE'S TIME TO RESPOND TO I/P ENGINE'S MOTION TO COMPEL DEFENDANT GOOGLE INC.'S CUSTODIAL DOCUMENT PRODUCTION**, was served via the Court's CM/ECF system, on the following:

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