

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 REPLY BRIEF
IN SUPPORT OF MOTION TO COMPEL AND EXHIBITS AA AND BB TO THE
DECLARATION OF EMILY C. O'BRIEN IN SUPPORT OF THE REPLY**

In support of its Motion to Seal pursuant to Local Rule 5, and the Protective Order [Dk. 85] entered in this matter, Google Inc. ("Google") and IAC Search & Media, Inc. (IAC Search) state the following:

1. Google and IAC Search move the Court for leave to file under seal Portions of Defendants' Reply Brief in Support of Motion to Compel ("Portions of Defendants' Reply Brief") and Exhibits AA and BB to the Declaration of Emily C. O'Brien in Support of the Reply ("Certain Exhibits to O'Brien Declaration"). Portions of Defendants' Reply Brief and Certain Exhibits to the O'Brien Declaration contain data that is confidential under the Protective Order entered in this matter on January 23, 2012 (Dkt. No. 85) ("Protective Order").

2. There are three requirements for sealing court findings: (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)). Google and IAC Search contend that Portions of Defendants' Reply Brief and Certain Exhibits to the O'Brien Declaration contain data that is and should be kept confidential. *In camera* copies of Portions of Defendants' Reply Brief and Certain Exhibits to the O'Brien Declaration are being provided to the Court. In light of Google's and IAC Search's concerns and the Protective Order, there appears to be no alternative that appropriately serves Google's and IAC Search's expressed confidentiality concerns.

3. For the sake of consistency with practices governing the case as a whole, Google and IAC Search believe Portions of Defendants' Reply Brief and Certain Exhibits to the O'Brien Declaration 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, Google and IAC Search respectfully asks the Court to seal the Portions of Defendants' Reply Brief and Certain Exhibits to the O'Brien Declaration.

DATED: April 19, 2012

/s/ Stephen E. Noona

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CERTIFICATE OF SERVICE

I hereby certify that on April 19, 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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