

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

I/P ENGINE, INC.

Plaintiff,

v.

Civil Action No. 2:11-cv-512

AOL, INC., *et al.*,

Defendants.

**DECLARATION OF EMILY C. O'BRIEN IN SUPPORT OF DEFENDANT GOOGLE
INC.'S AND IAC SEARCH & MEDIA, INC.'S REPLY BRIEF IN SUPPORT OF THEIR
MOTION TO COMPEL PLAINTIFF TO SUPPLEMENT ITS INFRINGEMENT
CONTENTIONS**

I, Emily C. 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. 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. Attached hereto as **Exhibit X** is a true and correct copy of Plaintiff's First Liability Rule 30(b)(6) Notice of Deposition of Google dated April 2, 2012.

3. Attached hereto as **Exhibit Y** is a true and correct copy of Plaintiff's First Liability Rule 30(b)(6) Notice of Deposition of IAC Search dated April 2, 2012.

4. Attached hereto as **Exhibit Z** is a true and correct copy of a letter from David Perlson to Kenneth Brothers dated January 5, 2012.

5. Attached hereto as **Exhibit AA** is a true and correct copy of Google's Second Supplemental Objections and Responses to Interrogatory Nos. 6-7 of Plaintiff's First Set of Interrogatories, dated March 30, 2012.

6. Attached hereto as **Exhibit BB** is a true and correct copy of a letter from Jennifer Ghaussy to Charles Monterio dated April 10, 2012.

7. Google's confirmations that it intended to supplement its non-infringement contentions were not made in response to a threat of a motion to compel. Google confirmed on March 13, 2012 that it would supplement its response to Interrogatory No. 6. On March 15, Google confirmed that this supplementation would be completed by March 30, 2012. Plaintiff did not begin threatening to move to compel Google's non-infringement contentions until March 23, 2012, after Google had already confirmed that it would supplement.

8. In the time period between March 16 and March 27, 2012, the parties engaged in correspondence and meet and confers related to claim construction issues. For example, the parties exchanged correspondence regarding Defendants' proposed terms for construction on March 15 and March 16. On March 19, the parties met and conferred by telephone to discuss the list of proposed terms. That day and the next, the parties exchanged a series of emails negotiating the list of terms to be construed, and on March 21 the parties exchanged some proposed constructions. On March 22, Defendants emailed Plaintiff regarding the list of terms in dispute, and Plaintiff responded the next day. On March 27, Defendants followed up on unanswered questions regarding Plaintiff's proposed constructions and stated that they waited results from Plaintiff's further investigation.

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

Dated: April 19, 2012



Emily C. O'Brien

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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