

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

**NOTICE OF MOTION TO SEAL PORTIONS OF GOOGLE INC.'S OPPOSITION TO  
PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF CUSTODIAL  
DOCUMENTS; PORTIONS OF THE DECLARATION OF KRISTIN ZMRHAL IN  
SUPPORT OF GOOGLE INC.'S OPPOSITION TO PLAINTIFF'S MOTION TO  
COMPEL PRODUCTION OF CUSTODIAL DOCUMENTS; AND EXHIBITS H, O, Q, R,  
S AND U TO THE DECLARATION OF EMILY C. O'BRIEN IN SUPPORT OF  
OPPOSITION**

PLEASE TAKE NOTICE THAT Defendant Google Inc. ("Google"), by counsel, pursuant to Rule 5 of the Local Rules of Practice for the United States District Court for the Eastern District of Virginia and the Protective Order [Dkt. No. 85] entered in this matter, has moved the Court for leave to file under seal (1) Portions of Google Inc.'s Opposition to Plaintiff's Motion to Compel Production of Custodial Documents ("Portions of Google's Opposition"); (2) Portions of the Declaration of Kristin Zmrhal in Support of Google Inc.'s Opposition to Plaintiff's Motion to Compel Production of Custodial Documents ("Portions of the Zmrhal Declaration"); and (3) Exhibits H, O, Q, R, S and U to the Declaration of Emily C. O'Brien in Support of Google Inc.'s Opposition to Plaintiff's Motion to Compel Production of Custodial Documents ("Certain Exhibits to the O'Brien Declaration"). Grounds and authorities for this Motion are set forth in Google's Memorandum in Support of Motion to Seal. Portions of

Google's Opposition and Certain Exhibits to the Zmrhal Declaration contain confidential information and, under the Protective Order (Dkt. No. 85), should be filed under seal.

Before this Court may seal Court documents, it must: (1) provide public notice with an opportunity to object; (2) consider less drastic alternatives; and (3) state specific findings in support of a decision to seal and reject 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 *Ashcroft v. Conoco, Inc.*, 218 F.3d 282, 288 (4<sup>th</sup> Cir. 2000)).

In compliance with Local Rule 5 of the Rules of this Court and *Ashcroft*, the Court posts the following notice to the public: "This serves as public notice that Google, Inc. has moved to file under seal Portions of Google's Opposition and Certain Exhibits to the Zmrhal Declaration. Objections to this Motion should be filed in the Civil Section of the Clerk's Office. The Notice will be posted for a minimum of forty-eight (48) hours."

DATED: April 20, 2012

/s/ Stephen E. Noona

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## **CERTIFICATE OF SERVICE**

I hereby certify that on April 20, 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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