

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 EXHIBIT P TO THE
DECLARATION OF JENNIFER GHAUSSY IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO TAKE 30(B)(1)
DEPOSITIONS**

In support of its Motion to Seal pursuant to Local Rule 5, and the Protective Order [Dk. 85] entered in this matter, Defendants AOL Inc. (“AOL”), Gannett Company, Inc. (“Gannett”), Google Inc. (“Google”), IAC Search & Media, Inc. (“IAC”), and Target Corporation (“Target”) (collectively “Defendants”) state the following:

1. Defendants move the Court for leave to file under seal Exhibit P to the Declaration of Jennifer Ghaussy in Support of Defendants’ Opposition to Plaintiff’s Motion for Leave to Take 30(b)(1) Depositions (“Exhibit P to Ghaussy Declaration”). Exhibit P to Ghaussy Declaration contains 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)). Defendants contend that Exhibit P to Ghaussy Declaration contains data that is and should be kept confidential. An *in camera* copy of Exhibit P to Ghaussy Declaration is being provided to the Court. In light of Defendants' concerns and the Protective Order, there appears to be no alternative that appropriately serves Defendants' expressed confidentiality concerns.

3. For the sake of consistency with practices governing the case as a whole, Defendants believe Exhibit P to Ghaussy 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, Defendants respectfully ask the Court to seal the Exhibit P to Ghaussy Declaration.

Dated: July 6, 2012

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CERTIFICATE OF SERVICE

I hereby certify that on July 6, 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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