

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION

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I/P ENGINE, INC.,		)	
		)	
	Plaintiff,	)	
v.		)	Civ. Action No. 2:11-cv-512
		)	
AOL, INC. et al.,		)	
		)	
	Defendants.	)	
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**OPPOSITION TO GOOGLE INC. AND IAC SEARCH & MEDIA, INC.’S  
MOTION FOR RULE 37 SANCTIONS FOR  
I/P ENGINE’S VIOLATION OF MAY 2, 2012 COURT ORDER**

Google Inc. and IAC Search & Media, Inc.’s (collectively “Defendants”) Motion for Rule 37 Sanctions (“Motion”) is premature, improper, and unnecessary. Further, as set forth below, Defendants’ request to preclude I/P Engine from asserting infringement claims against Google Search and IAC Search’s Ask Sponsored Listings is moot because I/P Engine has dropped those allegations from the case.

Had Defendants satisfied this Court’s meet and confer requirement on this issue, Defendants would have known that I/P Engine had decided to drop those claims. I/P Engine did not include those systems in its supplemental infringement contentions, an admission that I/P Engine would not continue pursuing those accused systems, and provided explicit notice of its decision to Defendants on July 25, 2012. Ex. 1. Moreover, as of July 2, I/P Engine had nothing more to supplement. Defendants however refuse to withdraw their Motion.

Defendants “asked that Plaintiff confirm whether it would drop its allegations against Google Search and Ask Sponsored Listings.” Brief in Support of Google Inc. and IAC Search & Media, Inc.’s Motion for Rule 37 Sanctions (“Brief”) at 4. “Plaintiff agreed to provide a response

early in the next week of July 9.” *Id.* Without waiting for a response, Defendants unilaterally resorted to the filing of this Motion.<sup>1</sup> Any perceived prejudice to Defendants was at their own making. Indeed, counsel for Google and IAC was attending a deposition with counsel for I/P Engine on July 11, 2012. Instead of simply asking to clarify this issue, they filed the present motion.

Accordingly, Defendants’ Motion for Sanctions should be denied and Defendants’ request that this Court preclude I/P Engine from asserting infringement claims against Google Search and IAC Search’s Ask Sponsored Listings should be dismissed as moot.

Dated: July 27, 2012

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<sup>1</sup> As this Court is aware, the decision to pursue or drop claims is not a simple discovery decision that can be made by counsel instantly, but requires client input and approval.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of July, 2012, the foregoing **OPPOSITION TO GOOGLE INC. AND IAC SEARCH AND MEDIA, INC.'S MOTION FOR RULE 37 SANCTIONS FOR I/P ENGINE'S VIOLATION OF MAY 2, 2012 COURT ORDER**, was served via the Court's CM/ECF system, on the following:

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