

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

**DECLARATION OF EMILY C. O'BRIEN IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S MOTION FOR DISCOVERY SANCTIONS**

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 Google Inc., IAC Search & Media, Inc., Gannett Co., Inc. and Target Corporation ("Defendants") 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 A is a true and correct copy of the parties' November 4, 2011 Stipulation.
3. Attached hereto as Exhibit B is a true and correct copy of the parties' draft discovery plan as of December 7, 2011.

4. Attached hereto as Exhibit C is a true and correct copy of an email from Margaret Kammerud dated January 17, 2012.
5. Attached hereto as Exhibit D is a true and correct copy of Google's Third Set of Interrogatories to I/P Engine, served February 17, 2012.
6. Attached hereto as Exhibit E is a true and correct copy of I/P Engine's Response to Google's Third Set of Interrogatories to I/P Engine, served March 22, 2012.
7. Attached hereto as Exhibit F is a true and correct copy of I/P Engine's First Set of Interrogatories to Google, served November 7, 2011.
8. Attached hereto as Exhibit G is a true and correct copy of Google's Response to I/P Engine's First Set of Interrogatories, served December 7, 2011.
9. Attached hereto as Exhibit H is a true and correct copy of I/P Engine's Second Supplemental Response to Google's First Set of Interrogatories, served May 11, 2012.
10. Attached hereto as Exhibit I is a true and correct copy of I/P Engine's Third Supplemental Response to Google's First Set of Interrogatories, served July 2, 2012.
11. Attached hereto as Exhibit J is a true and correct copy of selected pages of Plaintiff's *Markman* hearing PowerPoint presentation.
12. Attached hereto as Exhibit K is a true and correct copy of the transcript from the Court's *Markman* hearing.
13. Attached hereto as Exhibit L is a true and correct copy of Google's Third Supplemental Response to I/P Engine's First Set of Interrogatories, served July 2, 2012, and Exhibits A-7, A-8 and A-9 to this response.

14. Attached hereto as Exhibit M is a true and correct copy of I/P Engine's Second Preliminary Disclosure of Asserted Claims and Infringement Contentions as to Google AdWords and Google AdSense for Search, served February 17, 2012.
15. Attached hereto as Exhibit N is a true and correct copy of I/P Engine's Third Preliminary Disclosure of Asserted Claims and Infringement Contentions as to Google AdWords and Google AdSense for Search, served July 2, 2012.
16. Attached hereto as Exhibit O is a true and correct copy of an email chain between Joshua Sohn and Charles Monterio, with the most recent email dated July 19, 2012.
17. Attached hereto as Exhibit P is a true and correct copy of I/P Engine's Preliminary Disclosure of Asserted Claims and Infringement Contentions as to Google AdWords and Google AdSense for Search, served November 7, 2011.
18. Google raised with the Court during a telephonic hearing Plaintiff's failure to provide a definite conception or reduction to practice date in its May 11, 2012 Second Supplemental Response to Google's First Set of Interrogatories, as required by the Court's Order. The Court invited Google to file a formal motion to compel in light of Plaintiff's failure to comply with the Court's Order. As a result of additional correspondence between the parties, and in an attempt to resolve the issue and avoid further motion practice, the parties agreed that Plaintiff would supplement its interrogatory again to comply with the Court Order.
19. On August 2 – one month after Defendants' July 2 supplementation and one week after service of the Invalidity Report of Defendants' Expert Dr. Ungar – Plaintiff stated that it wished to discuss Defendants' July 2 supplementation during a meet-and-confer already set for later that day on another issue. During this meet-and-confer, Plaintiff first stated its intention to strike the Bowman, Culliss, and Ryan references.

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

Dated: August 17, 2012



Emily C. O'Brien

DATED: August 17, 2012

/s/ Stephen E. Noona

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CO., INC.*

CERTIFICATE OF SERVICE

I hereby certify that on August 17, 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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