

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 PORTIONS OF GOOGLE
INC.'S REPLY BRIEF IN SUPPORT OF GOOGLE'S MOTION TO COMPEL
PLAINTIFF TO PRODUCE DOCUMENTS**

In support of its Motion to Seal pursuant to Local Rule 5, and the Protective Order [Dk. 85] entered in this matter, Defendant, Google Inc. ("Google") states the following:

1. Defendant has moved the Court for leave to file under seal Portions of Google Inc.'s Reply Brief in Support of Google's Motion to Compel Plaintiff to Produce Documents ("Google's Reply Brief"). Google's Reply Brief 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)). Google contends that Google's Reply Brief contains data that is and should be kept confidential. An *in camera* copy of Google's Reply Brief is being provided to the Court. In light of the Google's concerns

and the Protective Order, there appears to be no alternative that appropriately serves Google's expressed confidentiality concerns.

3. For the sake of consistency with practices governing the case as a whole, Google believes Google's Reply Brief 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, Google respectfully asks the Court to seal Google's Reply Brief.

DATED: September 4, 2012

/s/ Stephen E. Noona

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CERTIFICATE OF SERVICE

I hereby certify that on September 4, 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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