

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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**PLAINTIFF I/P ENGINE, INC.’S
SECOND MOTION FOR DISCOVERY SANCTIONS
REGARDING UNTIMELY DISCOVERY RESPONSES**

Pursuant to Federal Rule of Civil Procedure 37(c)(1), Plaintiff I/P Engine, Inc. (“I/P Engine”) requests that this Court remedy the untimely and highly prejudicial discovery tactics employed by Defendants by precluding them from using in any form (including any reliance thereon by their experts), for any purpose in this litigation:

1. Google’s First Supplemental and Second Supplemental Responses to I/P Engine’s Interrogatory No. 15, served on August 29, and September 13, respectively, which is directed to Google’s revenues for its U.S. based properties. I/P Engine also seeks to have stricken any reliance by Defendants’ damages expert, Dr. Keith Ugone, on these Supplemental Interrogatory Responses or the data included in these responses;
2. Emails and the information provided therein produced as Bates Nos. G-IPE-0888897, G-IPE-0888898-99, G-IPE-0888900 and G-IPE-888901-02. I/P Engine also seeks to preclude and have stricken any reliance by Defendants’ damages expert, Dr. Ugone, on these emails or the data provided therein; and
3. Google’s Supplemental Response to I/P Engine’s Interrogatory No. 9, served on August 30, which is directed to Google’s non-infringing alternatives contentions. I/P Engine also seeks to preclude and have stricken any reliance by Google’s experts, Dr. Ugone and Dr. Ungar, on these responses and the information provided therein.

For the reasons set forth in the accompanying Memorandum in Support of Plaintiff I/P Engine, Inc.'s Second Motion for Discovery Sanctions Regarding Untimely Discovery Response, precluding the use of and striking these untimely discovery responses is the only meaningful remedy for Google's violation of the discovery rules. Any other remedy (such as an extension of time) would reward Google for its dilatory tactics.

Dated: September 21, 2012

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Counsel for Plaintiff I/P Engine, Inc.

CERTIFICATE OF GOOD FAITH

In accordance with Local Rule 37(E), I certify that counsel conferred in good faith to resolve this dispute prior to the filing of the present Motion. Counsel's meet-and-confer efforts included correspondence and telephonic meet-and-confers.

/s/ Charles J. Monterio, Jr.
Charles J. Monterio, Jr.

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of September, 2012, the foregoing **PLAINTIFF I/P ENGINE, INC.'S SECOND MOTION FOR DISCOVERY SANCTIONS REGARDING UNTIMELY DISCOVERY RESPONSES**, was served via the Court's CM/ECF system and via Hand Delivery, on the following:

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