

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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**MEMORANDUM IN SUPPORT OF MOTION TO SEAL I/P ENGINE’S
MEMORANDUM IN SUPPORT OF SECOND MOTION FOR DISCOVERY
SANCTIONS REGARDING UNTIMELY DISCOVERY RESPONSES ALONG WITH
EXHIBITS 2, 4, 5, 7, 8, 9, 13 AND 14 IN SUPPORT**

In support of its Motion to Seal pursuant to Local Rule 5, Plaintiff I/P Engine, Inc. (“I/P Engine”) states the following:

1. I/P Engine moves the Court for leave to file under seal its Memorandum in Support its Second Motion for Discovery Sanctions Regarding Untimely Discovery Responses along with Exhibits 2, 4, 5, 7, 8, 9, 13 and 14 in support. The afore-mentioned contain information that is marked as confidential by Defendants under the Protective Order entered in this matter on January 23, 2012 (D.I. 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 *Ashcroft v. Conoco, Inc.*, 218 F.3d 282, 288 (4th Cir. 2000)). I/P Engine's Memorandum in Support its Second Motion for Discovery Sanctions Regarding Untimely Discovery Responses along with Exhibits 2, 4, 5, 7, 8, 9, 13 and 14 in support contain information that is marked by Defendants as confidential. An in camera copy of the aforementioned is being provided to the Court. In light of Defendant's representation that this is confidential material under the Protective Order, there appears to be no alternative that appropriately serves Defendants' confidentiality concerns.

3. The information contained in the Memorandum and these exhibits contain Google's proprietary and confidential information.

4. For the sake of consistency with practices governing the case as a whole, I/P Engine believes its Memorandum and Exhibits 2, 4, 5, 7, 8, 9, 13 and 14 in support should remain sealed and be treated in accordance with the terms and conditions of the Protective Order.

5. Accordingly, and in satisfaction of the requirements of Local Rule 5, I/P Engine respectfully asks the Court to enter the Proposed Agreed Order sealing its Memorandum in Support its Second Motion for Discovery Sanctions Regarding Untimely Discovery Responses along with Exhibits 2, 4, 5, 7, 8, 9, 13 and 14 in support.

Dated: September 21, 2012

By: /s/ Jeffrey K. Sherwood
Donald C. Schultz (Virginia Bar No. 30531)
W. Ryan Snow (Virginia Bar No. 47423)
CRENSHAW, WARE & MARTIN PLC
150 West Main Street
Norfolk, VA 23510
Telephone: (757) 623-3000
Facsimile: (757) 623-5735

Jeffrey K. Sherwood (Virginia Bar No. 19222)
Frank C. Cimino, Jr.
Kenneth W. Brothers
DeAnna Allen
Charles J. Monterio, Jr.
DICKSTEIN SHAPIRO LLP
1825 Eye Street, NW
Washington, DC 20006
Telephone: (202) 420-2200
Facsimile: (202) 420-2201

Counsel for Plaintiff I/P Engine, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of September, 2012, the foregoing

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EXHIBITS 2, 4, 5, 7, 8, 9, 13 AND 14 IN SUPPORT, was served via the Court's CM/ECF

system and via Hand Delivery, on the following:

Stephen Edward Noona
Kaufman & Canoles, P.C.
150 W Main St
Suite 2100
Norfolk, VA 23510
senoona@kaufcan.com

David Bilsker
David Perlson
Quinn Emanuel Urquhart & Sullivan LLP
50 California Street, 22nd Floor
San Francisco, CA 94111
davidbilsker@quinnemanuel.com
davidperlson@quinnemanuel.com

Robert L. Burns
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
Two Freedom Square
11955 Freedom Drive
Reston, VA 20190
robert.burns@finnegan.com

Cortney S. Alexander
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
3500 SunTrust Plaza
303 Peachtree Street, NE
Atlanta, GA 94111
cortney.alexander@finnegan.com

/s/ Jeffrey K. Sherwood