

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION

|                   |             |   |                             |
|-------------------|-------------|---|-----------------------------|
| <hr/>             |             | ) |                             |
| 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  
THIRD MOTION FOR DISCOVERY SANCTIONS  
REGARDING UNTIMELY DISCOVERY RESPONSES**

Pursuant to Federal Rules of Civil Procedure 16(b) and 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 Defendant Google Inc. and strike (1) the more than 250 pages of source code that Google first made available on September 14, 2012, 10 days after the close of discovery, and (2) Google’s Supplemental Responses to I/P Engine’s Interrogatory Nos. 21 and 22, which reference that source code.

For the reasons set forth in the accompanying Memorandum in Support of Plaintiff I/P Engine, Inc.’s Third Motion for Discovery Sanctions Regarding Untimely Discovery Response,

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

By: /s/ Jeffrey K. Sherwood  
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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 THIRD 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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