

Exhibit 1

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**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

PROPOSED ORDER

Before the Court is the Motion to Seal filed by Defendants Google Inc., Target Corporation, IAC Search & Media, Inc., Gannett Co., Inc. and AOL Inc. (collectively “Defendants”) (“Defendants’ Motion to Seal”) (1) Portions of Memorandum in Support of Defendants’ Motion to Preclude Testimony Dr. Ophir Frieder From Testifying Regarding Untimely Opinions That Were Not Disclosed In His Original Expert Report and Opinions That He Now Concedes Are Incorrect (“Portions of Defendants’ Motion to Preclude Frieder”) and (2) Exhibits A, B, G, and H to the Declaration of Jen Ghaussy in Support of the Defendants’ Motion to Preclude Frieder (“Exhibits A, B, G, and H to the Ghaussy Declaration”). After considering the Motion to Seal, Order and related filings, the Court is of the opinion that the Motion to Seal should be granted. It is therefore ORDERED as follows:

1. Defendants have asked to file under seal Portions of Defendants’ Motion in to Preclude Frieder and Exhibits A, B, G, and H to the Ghaussy Declaration as they contain 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 filings: (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)).

3. This Court finds that Portions of Defendants’ Motion in to Preclude Frieder and Exhibits A, B, G, and H to the Ghaussy Declaration contain data that is confidential under the Protective Order entered in this matter on January 23, 2012; that public notice has been given, that no objections have been filed; that the public’s interest in access is outweighed by the interests in preserving such confidentiality; and that there are no alternatives that appropriately serve these interests.

4. Specifically, the Court finds the following reasons for sealing the requested pleadings:

(a) Portions of Defendants’ Motion in to Preclude Frieder discuss technical details of the operation of AdWords which are not generally known, that have economic value and would cause competitive harm if made public;

(b) Exhibits A and B to the Ghaussy Declaration discuss Google source code which is not generally known, that has economic value and would cause competitive harm if made public; and

(c) Exhibits G and H discuss confidential technical details regarding the accused products which are not generally known, that have economic value and would cause competitive harm if made public.

Additionally, the Court finds that the Defendants have made all reasonable efforts to limit their redactions in compliance with the law of this Circuit.

5. *In camera* copies of Portions of Defendants' Motion in to Preclude Frieder and Exhibits A, B, G, and H to the Ghaussy Declaration *have been reviewed by the Court*. In light of Defendants' concerns and the Protective Order, there appears to be no alternative that appropriately serves Defendants' expressed confidentiality concerns.

6. For the sake of consistency with practices governing the case as a whole, Portions of Defendants' Motion in to Preclude Frieder and Exhibits A, B, G, and H to the Ghaussy Declaration shall remain sealed and be treated in accordance with the terms and conditions of the Protective Order.

Accordingly, it is ORDERED that Defendants' Motion to Seal is granted and Defendants are permitted to file under seal Portions of Defendants' Motion in to Preclude Frieder and Exhibits A, B, G, and H to the Ghaussy Declaration. The Court shall retain sealed materials until forty-five (45) days after entry of a final order. If the case is not appealed, any sealed materials should then be returned to counsel for the filing party.

Dated: September ____, 2012

Entered: ____/____/____

United States District Court
Eastern District of Virginia

WE ASK FOR THIS:

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