

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”) Portions of the Declaration of Michael Hochberg in Support of Plaintiff’s and Defendants’ Motions to Seal (“Portions of the Hochberg Declaration”). After considering the Motion to Seal, Order and related filings, the Court is of the opinion that Defendants’ Motion to Seal should be granted. It is therefore ORDERED as follows:

1. Defendants have asked to file under seal Portions of the Hochberg 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 the Hochberg Declaration may 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: The Hochberg Declaration contains a detailed description of the confidential technical details of how the accused systems work, and in particular how Google determines which advertisements to serve. This information and related documents contain extraordinarily sensitive and valuable information regarding Google's products and the confidential manner in which they work, the public disclosure of which would cause Google economic and competitive harm and could hurt Google's customers by increasing the rankings of lower quality advertisements. A lack of Court protection of the aforementioned information would cause Google severe economic harm because the information could be used by Google's competitors to attempt to mimic Google's unique, successful, and, thus far, confidential details of its advertising system.

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. An *in camera* copy of the Hochberg Declaration *has 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 the Hochberg 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 the Hochberg 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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