

Exhibit 1

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

I/P ENGINE, INC.

Plaintiff,

v.

Civil Action No. 2:11-cv-512

AOL INC., *et al.*,

Defendants.

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 Defendants’ Opposition to Plaintiff’s Daubert Motion, and Fourth Motion *in Limine*, to Exclude Lyle Ungar’s New Theory of Invalidity and Opinions Regarding Claim Construction (“Defendants’ Opposition”) and Exhibits 10 and 12 to the Declaration of Howard Chen in Support of Defendants’ Memorandum in Opposition to Plaintiff’s Daubert Motion, and Fourth Motion in Limine, to Exclude Lyle Ungar’s New Theory of Invalidity and Opinions Regarding Claim Construction (“Exhibits 10 and 12 to Chen 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’ Opposition to Plaintiff’s Daubert Motion, and Fourth Motion *in Limine*, to Exclude Lyle Ungar’s New Theory of Invalidity and Opinions Regarding Claim Construction (“Defendants’ Opposition”) and

Exhibits 10 and 12 to Chen 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 *Ashcraft v. Conoco, Inc.*, 218 F.3d 282, 288 (4th Cir. 2000)).

3. This Court finds that the Portions of Defendants' Opposition and Exhibits 10 and 12 to Chen Declaration may contain data that is confidential under the Protective Order; 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' Opposition contain confidential Google technical information that is not generally known, that has economic value, and would cause competitive harm if made public;
- (b) Exhibit 10 to the Chen Declaration contains confidential Google technical information that is not generally known, that has economic value, and would cause competitive harm if made public; and
- (c) Exhibit 12 to the Chen Declaration contains confidential Google technical information that is not generally known, that has 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' Opposition and Exhibits 10 and 12 to Chen 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' Opposition and Exhibits 10 and 12 to Chen Declaration shall remain sealed and be treated in accordance with the terms and conditions of the Protective Order.

Accordingly, it is ORDERED that Exhibits 10 and 12 to Chen Declaration shall be filed under seal. 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: October ____ 2012

Entered: ____ / ____ / ____

United States District Court
Eastern District of Virginia

WE ASK FOR THIS:

/s/Stephen E. Noona

Stephen E. Noona
Virginia State Bar No. 25367
KAUFMAN & CANOLES, P.C.
150 West Main Street, Suite 2100
Norfolk, VA 23510
Telephone: (757) 624.3000
Facsimile: (757) 624.3169
senoona@kaufcan.com

David Bilsker
David A. Perlson
QUINN EMANUEL URQUHART &
SULLIVAN, LLP
50 California Street, 22nd Floor
San Francisco, California 94111
Telephone: (415) 875-6600
Facsimile: (415) 875-6700
davidbilsker@quinnmanuel.com
davidperlson@quinnmanuel.com

*Counsel for Defendants Google Inc.,
Target Corporation, IAC Search &
Media, Inc., and Gannett Co., Inc.*

/s/ Stephen E. Noona

Stephen E. Noona
Virginia State Bar No. 25367
KAUFMAN & CANOLES, P.C.
150 West Main Street, Suite 2100
Norfolk, VA 23510
Telephone: (757) 624-3000
Facsimile: (757) 624-3169
senoona@kaufcan.com

Robert L. Burns
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
Two Freedom Square
11955 Freedom Drive
Reston, VA 20190
Telephone: (571) 203-2700
Facsimile: (202) 408-4400

Courtney S. Alexander
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, LLP
3500 SunTrust Plaza
303 Peachtree Street, NE
Atlanta, GA 94111
Telephone: (404) 653-6400
Facsimile: (415) 653-6444

Counsel for Defendant AOL Inc.

11954661v1