

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION

_____ )		
I/P ENGINE, INC., )		
	)	
Plaintiff, )		
v. )		Civ. Action No. 2:11-cv-512
	)	
AOL, INC. et al., )		
	)	
Defendants. )		
_____ )		

**MEMORANDUM IN SUPPORT I/P ENGINE’S MOTION TO SEAL EXHIBITS 1 AND 2  
TO I/P ENGINE’S RESPONSE TO DEFENDANTS’ MOTION TO SEAL DOCUMENTS  
AND CLOSE THE COURTROOM DURING PRESENTATION OF CONFIDENTIAL  
MATERIAL AT TRIAL**

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 Exhibits 1 and 2 to its Response to Defendants’ Motion to Seal Documents and Close the Courtroom During Presentation of Confidential Materials at Trial. 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)). Exhibits 1 and 2

to its Response to Defendants' Motion to Seal Documents and Close the Courtroom During Presentation of Confidential Materials at Trial contain information that is marked by Defendants as confidential. An in camera copy of the afore-mentioned 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 Exhibits 1 and 2 contains Google's proprietary and confidential information.

4. For the sake of consistency with practices governing the case as a whole, I/P Engine believes Exhibits 1 and 2 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 Exhibits 1 and 2 to its Response to Defendants' Motion to Seal Documents and Close the Courtroom During Presentation of Confidential Materials at Trial.

Dated: October 1, 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 1st day of October, 2012, the foregoing **MEMORANDUM IN SUPPORT I/P ENGINE'S MOTION TO SEAL EXHIBITS 1 AND 2 TO I/P ENGINE'S RESPONSE TO DEFENDANTS' MOTION TO SEAL DOCUMENTS AND CLOSE THE COURTROOM DURING PRESENTATION OF CONFIDENTIAL MATERIAL AT TRIAL**, was served via the Court's CM/ECF system, on the following:

Stephen Edward Noona  
Kaufman & Canoles, P.C.  
150 W Main St  
Suite 2100  
Norfolk, VA 23510  
[senoona@kaufcan.com](mailto:senoona@kaufcan.com)

David Bilsker  
David Perlson  
Quinn Emanuel Urquhart & Sullivan LLP  
50 California Street, 22nd Floor  
San Francisco, CA 94111  
[davidbilsker@quinnemanuel.com](mailto:davidbilsker@quinnemanuel.com)  
[davidperlson@quinnemanuel.com](mailto: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](mailto: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](mailto:cortney.alexander@finnegan.com)

/s/ Jeffrey K. Sherwood \_\_\_\_\_