

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 Defendants’ Memorandum in Opposition to Plaintiff’s Second Motion for Discovery Sanctions (“Opposition to Second Motion for Sanctions”); (2) Portions of Defendants’ Memorandum in Opposition to Plaintiff’s Third Motion for Discovery Sanctions (“Opposition to Third Motion for Sanctions”); (3) Portions of the Declaration of Margaret Kammerud in Support of Defendants’ Opposition to Plaintiff’s Second and Third Motions for Discovery Sanctions (“Kammerud Declaration”); (4) Portions of Exhibits A-E, G, I-K to the Declaration of Jennifer Ghaussy in Support of Defendants’ Oppositions to Plaintiff’s Second and Third Motions for Discovery Sanctions (“Exhibits A-E, G, I-K to Ghaussy Declaration”); and Portions of Exhibits L-Q to Kammerud 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 the Opposition to Second Motion for Sanctions, the Opposition to Third Motion for Sanctions, the Kammerud Declaration, Exhibits A-E, G, I-K to Ghaussy Declaration, and Exhibits L-Q to Kammerud 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 Opposition to Second Motion for Sanctions, the Opposition to Third Motion for Sanctions, the Kammerud Declaration, Exhibits A-E, G, I-K to Ghaussy Declaration, and Exhibits L-Q to Kammerud 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) The Opposition to Second Motion for Sanctions contains confidential Google financial information and technical information that is not generally known, that has economic value, and would cause competitive harm if made public;

(b) The Opposition to Third Motion for Sanctions contains confidential Google technical information that is not generally known, that has economic value and would cause competitive harm if made public;

(c) The Kammerud Declaration contains confidential Google technical information about the operation of Google technology that is not generally known, that has economic value, and would cause competitive harm if made public;

(d) Exhibit A to the Ghaussy Declaration contains confidential Google financial information that is not generally known, that has economic value, and would cause competitive harm if made public; and

(e) Exhibit B to the Ghaussy Declaration contains confidential Google financial information that is not generally known, that has economic value, and would cause competitive harm if made public;

(f) Exhibit C to the Ghaussy Declaration contains confidential Google financial information that is not generally known, that has economic value, and would cause competitive harm if made public;

(g) Exhibit D to the Ghaussy Declaration contains confidential Google financial information that is not generally known, that has economic value, and would cause competitive harm if made public;

(h) Exhibit E to the Ghaussy Declaration contains confidential Google financial information that is not generally known, that has economic value, and would cause competitive harm if made public;

(i) Exhibit G to the Ghaussy Declaration contains confidential Google technical information about the operation of Google technology that is not generally known, that has economic value, and would cause competitive harm if made public;

(j) Exhibit I to the Ghaussy Declaration contains confidential Google financial information and technical information about the operation of Google technology that is not generally known, that has economic value, and would cause competitive harm if made public;

(k) Exhibit J to the Ghaussy Declaration contains confidential Google technical information about the operation of Google technology that is not generally known, that has economic value, and would cause competitive harm if made public;

(l) Exhibit K to the Ghaussy Declaration contains confidential Google financial

information and technical information about the operation of Google technology that is not generally known, that has economic value, and would cause competitive harm if made public;

(m) Exhibit L to the Kammerud Declaration contains confidential Google technical information about the operation of Google technology that is not generally known, that has economic value, and would cause competitive harm if made public;

(n) Exhibit M to the Kammerud Declaration contains confidential Google technical information about the operation of Google technology that is not generally known, that has economic value, and would cause competitive harm if made public;

(o) Exhibit N to the Kammerud Declaration contains confidential Google technical information about the operation of Google technology that is not generally known, that has economic value, and would cause competitive harm if made public;

(p) Exhibit O to the Kammerud Declaration contains confidential Google technical information about the operation of Google technology that is not generally known, that has economic value, and would cause competitive harm if made public;

(q) Exhibit P to the Kammerud Declaration contains confidential Google technical information about the operation of Google technology that is not generally known, that has economic value, and would cause competitive harm if made public; and

(r) Exhibit Q to the Kammerud Declaration contains confidential Google technical information about the operation of Google technology 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 the Opposition to Second Motion for Sanctions, the Opposition to Third Motion for Sanctions, the Kammerud Declaration, Exhibits A-E, G, I-K to Ghaussy Declaration and Exhibits L-Q to Kammerud 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 the Opposition to Second Motion for Sanctions, the Opposition to Third Motion for Sanctions, the Kammerud Declaration, Exhibits A-E, G, I-K to Ghaussy Declaration, and Exhibits L-Q to Kammerud Declaration shall remain sealed and be treated in accordance with the terms and conditions of the Protective Order.

Accordingly, it is ORDERED that portions of the Opposition to Second Motion for Sanctions, the Opposition to Third Motion for Sanctions, the Kammerud Declaration, Exhibits A-E, G, I-K to Ghaussy Declaration, and Exhibits L-Q to Kammerud 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:

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