

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’ Reply Brief in Support of Their Motion to Preclude 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 (“Reply Brief to Preclude Dr. Frieder”); (2) Portions of Defendants’ Reply Brief in Support of Their Motion to Exclude the Testimony of Stephen L. Becker (“Reply Brief to Preclude Dr. Becker”); and (3) Portions of Exhibit I to the Declaration of Howard Chen in Support of Defendants’ Reply Brief in Support of Their Motion to Preclude Dr. Ophir Frieder (“Exhibit I to the 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 the Reply Brief to Preclude Dr. Frieder, Portions of the Reply Brief to Preclude Dr. Becker, and Portions of Exhibit I to the 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 Portions of the Reply Brief to Preclude Dr. Frieder, Portions of the Reply Brief to Preclude Dr. Becker, and Portions of Exhibit I to the 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) The Reply Brief in Support of Their Motion to Preclude 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 contains confidential Google technical information that is not generally known, that has economic value, and would cause competitive harm if made public;

(b) The Reply Brief in Support of Their Motion to Exclude the Testimony of Stephen L. Becker contains confidential Google technical information, confidential Google financial information and confidential third-party licensing information that is not generally known, that has economic value and would cause competitive harm if made public; and

(c) Exhibit I to the Declaration of Howard Chen in Support of Defendants' Reply Brief in Support of Their Motion to Preclude Dr. Ophir Frieder 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 the Reply Brief to Preclude Dr. Frieder, Portions of the Reply Brief to Preclude Dr. Becker, and Portions of Exhibit I to the 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 the Reply Brief to Preclude Dr. Frieder, Portions of the Reply Brief to Preclude Dr. Becker, and Portions of Exhibit I to the Chen 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 Reply Brief to Preclude Dr. Frieder, Portions of the Reply Brief to Preclude Dr. Becker, and Portions of Exhibit I to the 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:

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