

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 (“Defendants’ Motion to Seal”) filed by Defendants Google Inc., Target Corporation, IAC Search & Media, Inc., Gannett Co., Inc. and AOL Inc. (collectively “Defendants”).

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 Order on the Final Pretrial Conference (“Portions of the Final Pretrial Order”) 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 Final Pretrial Order 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: Portions of the Final Pretrial Order contain confidential Google technical information and confidential Google financial information that is not generally known, that has economic value, and would cause competitive harm if made public. In particular, proposed Exhibit E contains lengthy descriptions of the operations of the Google accused systems which Google contends are highly confidential for all the reasons set forth in their Motion to Close the Courtroom, and Declarations filed in Support thereof (Dkt. Nos. 346 and 348-351). In addition, the proposed Final Pretrial Order contains third-party information that is confidential. 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 Final Pretrial Order *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 Final Pretrial Order 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 Final Pretrial Order 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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