

**Exhibit 1****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 (1) Portions of Defendants’ Memorandum in Support of Renewed Motion for Judgment as a Matter of Law on Non-Infringement or New Trial (“Memorandum in Support of Renewed JMOL on Non-Infringement”); (2) Portions of Defendants’ Memorandum in Support of Renewed Motion for Judgment as a Matter of Law on Damages or New Trial (“Memorandum in Support of Renewed JMOL on Damages”); and (3) Certain Exhibit to the Declaration of Joshua L. Sohn in Support of Defendants’ Renewed Motions for Judgment as a Matter of Law on Damages, Invalidity and Non-Infringement or New Trial (“Exhibit 1 to the Sohn 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 (4<sup>th</sup> Cir. 2000)).

3. This Court finds that Portions of the Memorandum in Support of Renewed JMOL on Non-Infringement, Memorandum in Support of Renewed JMOL on Damages, and Exhibit 1 to the Sohn Declaration 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 Memorandum in Support of Renewed JMOL on Non-Infringement, Memorandum in Support of Renewed JMOL on Damages, and Exhibit 1 to the Sohn Declaration contain confidential Google financial information that is not generally known, that has economic value, and would cause competitive harm if made public. Additionally, some of the material was subject to the Court closing the courtroom during trial and subject to a pending motion to redact certain transcripts (Dkt. No. 802). The Court also finds that by filing narrowly redacted public pleadings, 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 Memorandum in Support of Renewed JMOL

on Non-Infringement, Memorandum in Support of Renewed JMOL on Damages, and Exhibit 1 to the Sohn Declaration *have been reviewed by the Court*. In light of Defendants' concerns and the Protective Order, there appears to be no alternative other than the narrowly redacted public pleadings that appropriately serves Defendants' expressed confidentiality concerns.

6. For the sake of consistency with practices governing the case as a whole, Portions of the Memorandum in Support of Renewed JMOL on Non-Infringement, Memorandum in Support of Renewed JMOL on Damages, and Exhibit 1 to the Sohn 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 Memorandum in Support of Renewed JMOL on Non-Infringement, Memorandum in Support of Renewed JMOL on Damages, and Exhibit 1 to the Sohn 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.

Entered:        \_\_\_\_/\_\_\_\_/\_\_\_\_

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United States District Court  
Eastern District of Virginia

**WE ASK FOR THIS:**

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