

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 Defendants’ Memorandum in Opposition to Plaintiff’s Rule 59 Motion for a New Trial on the Dollar Amount of Damages (“Memorandum in Opposition to Rule 59 Motion”) and Exhibit 2 to the Declaration of Margaret P. Kammerud filed in support of that Opposition (“Exhibit 2 to the Kammerud Declaration”) as they contain data that is confidential under the Protective Order entered in this matter on January 23, 2012 (Doc. 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 Memorandum in Opposition to Rule 59 Motion and Exhibit 2 to the Kammerud 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 Opposition to Rule 59 Motion and Exhibit 2 to the Kammerud 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 is subject to a pending motion to redact certain transcripts (Doc. 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 Opposition to Rule 59 Motion and Exhibit 2 to the Kammerud 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 Opposition to Rule 59 Motion and Exhibit 2 to the 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 Memorandum in Opposition to Rule 59 Motion and Exhibit 2 to the 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.

Entered: ____/____/____

United States District Court
Eastern District of Virginia

WE ASK FOR THIS:

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