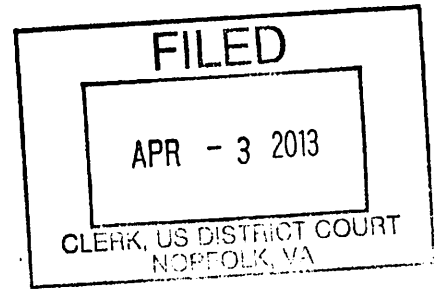


UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION



I/P ENGINE, INC.

Plaintiff,

v.

AOL, INC., *et al.*,

Defendants.

Civil Action No. 2:11-cv-512

**ORDER REGARDING PARTIES' JOINT RESPONSE TO THE COURT'S ORDER
REGARDING OUTSTANDING MOTIONS TO SEAL CASE DOCUMENTS**

On this day came the parties, I/P Engine, Inc. ("Plaintiff") and AOL Inc., Gannett Co., Inc., Google Inc., IAC Search & Media, Inc., and Target Corporation (collectively "Defendants"), by counsel, pursuant to this Court's Order Regarding Outstanding Motions to Seal Case Documents (ECF No. 886) ("Order Regarding Outstanding Motions to Seal"), and the Parties' Joint Response to the Court's Order Regarding Outstanding Motions to Seal (the "Response"), and after consideration of that Response and arguments in support of that Response, and for good cause shown, it is:

ORDERED THAT:

1. The following pending motions to seal are **DEEMED** moot and therefore withdrawn:

| Docket Number | Motion Name |
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| 355 | MOTION to Seal Exhibit 1 to its Memorandum in Support of Plaintiff I/P Engines Daubert Motion, and Fourth Motion in Limine, to Exclude Lyle Ungar's New Theory of Invalidity and Opinions Regarding Claim Construction |
| 346, 412 | MOTION to Seal Documents and Close the Courtroom During |

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| | Presentation of Confidential Material at Trial Joint MOTION to Amend/Correct 346 MOTION to Seal Documents and Close the Courtroom During Presentation of Confidential Material at Trial Joint Motion and Memorandum in Support of Joint Motion To Amend/Modify Scheduling Order to Provide Briefing Schedule for Motion to Seal and Close Courtroom |
| 436 | MOTION to Seal Plaintiff I/P Engine, Inc.'s Opposition to Defendants' Motion in Limine #1 along with Exhibits 5-6 and 11-12 |
| 514 | MOTION to Seal Exhibits 1 and 2 to its Response to Defendants Motion to Seal Documents and Close the Courtroom During Presentation of Confidential Materials at Trial |
| 687 | MOTION to Seal Portions of the Order on the Final Pretrial Conference |

The Clerk is instructed to return to the parties all previously filed materials relating to these withdrawn motions.

2. Based upon the parties' joint representations that there are no objections, the following motions to seal are **GRANTED**:

| Docket Number | Motion Name |
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| 280 | MOTION to Seal Plaintiff I/P Engine, Inc.'s Second Motion for Discovery Sanctions Regarding Untimely Discovery Responses along with Exhibits 2, 4, 5, 7, 8, 9, 13, and 14 in support |
| 289, 368 (Corrected D.N. 285) | MOTION to Seal [CORRECTED MOTION] Memorandum in Support of Plaintiff I/P Engine, Inc.'s Third Motion for Discovery Sanctions Regarding Untimely Discovery Responses along with Exhibits 1, 4, 5, 6, 7, in support Sealed Memorandum in Support of THIRD 285 MOTION to Seal Memorandum in Support of Plaintiff I/P Engine, Inc.'s Third Motion for Discovery Sanctions Regarding Untimely Discovery Responses along with Exhibits 1, 4, 5, 6, 7, in support |
| 296 | MOTION to Seal Portions of Defendants' Memorandum in Support of Motion in Limine No. 3 to Exclude Marketing and High-Level Non-Technical Matters Related to Historical Click-Through Rate, and Exhibits F, H, I and J to the Declaration of Joshua L. Sohn in Support of the Defendants' Various Motions in Limine |
| 312 | MOTION to Seal Exhibit 3 to the Memorandum in Support of Plaintiff I/P Engine's First Motion in Limine to Exclude Inadmissible Evidence |
| 316 | MOTION to Seal Portions of Memorandum in Support of Defendants' Motion to Exclude Testimony from Stephen L. Becker |

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| | and Certain Materials Filed in Support Thereof |
| 324 | MOTION to Seal Portions of Memorandum in Support of Defendants' 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, and Certain Materials Filed in Support Thereof |
| 331 | MOTION to Seal the Memorandum in Support of Plaintiff I/P Engine, Inc.'s Second Motion in Limine to Preclude Non-Comparable License Agreements along with Exhibits 1 and 2 |
| 338 | MOTION to Seal the Memorandum in Support of Plaintiff I/P Engine, Inc.'s Motion to Exclude Opinions and Testimony of Keith R. Ugone along with Exhibits 1 and 2 |
| 343 | MOTION to Seal Portions of the Declaration of Michael Hochberg in Support of Plaintiff's and Defendants' Motions to Seal |
| 425 | MOTION to Seal its Opposition to Defendants Motion for Summary Judgment along with Exhibits 8, 11-19, 22-24, 27-32, 34-39, 45, 53-54, 56 |
| 429 | MOTION to Seal (1) Portions of Defendants' Opposition to Plaintiff I/P Engine's First Motion in Limine to Exclude Inadmissible Evidence; (2) Portions of Defendants' Opposition to Plaintiff I/P Engine's Second Motion in Limine to Preclude License Agreements, and (3) Exhibits E and K to the Declaration of Margaret P. Kammerud in Support of Defendants' Opposition to Plaintiff's Motions in Limine |
| 441 | MOTION to Seal Plaintiff I/P Engine, Inc.'s Opposition to Defendants' Motion in Limine #2 along with Exhibits 1 and 2 |
| 445 | MOTION to Seal Plaintiff I/P Engine, Inc.'s Opposition to Defendants' Motion in Limine #3 along with Exhibits 3-11 |
| 449 | MOTION to Seal Plaintiff I/P Engine, Inc.'s Opposition to Defendants' Motion in Limine #4 along with Exhibits 1 and 2 |
| 453 | MOTION to Seal Plaintiff I/P Engine, Inc.'s Opposition to Defendants' Motion in Limine #5 along with Exhibits 1 and 2 |
| 457 | MOTION to Seal Plaintiff I/P Engine, Inc.'s Opposition to Defendants' Motion to Exclude the Testimony of Stephen L. Becker along with Exhibits 1-5, 7-8, and 10-11 |
| 462 | MOTION to Seal Plaintiff I/P Engine, Inc.'s Opposition to Defendants Motion to Preclude Dr. Frieder from Testifying Regarding Untimely Opinions along with Exhibits 1-3 and 5 |
| 465 | MOTION to Seal Defendants' Memorandum in Support of Their Opposition to Plaintiff I/P Engine, Inc.'s Motion to Exclude Opinions and Testimony of Keith R. Ugone |
| 508 | MOTION to Seal (1) Portions of Defendants' Opposition to Plaintiff's Daubert Motion, and Fourth Motion in Limine, to Exclude Lyle Ungar's New Theory of Invalidity and Opinions Regarding Claim Construction and (2) Exhibits 10 and 12 to the Declaration of Howard Chen in Support of Defendants' |

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| | Memorandum in Opposition to Plaintiff's Daubert Motion, and Fourth Motion in Limine, to Exclude Lyle Ungar's New Theory of Invalidity and Opinions Regarding Claim Construction |
| 517 | MOTION to Seal (1) Portions of Defendants' Memorandum in Opposition to Plaintiff's Second Motion for Discovery Sanctions; (2) Portions of Defendants' Memorandum in Opposition to Plaintiff's Third Motion for Discovery Sanctions; (3) Portions of the Declaration of Margaret Kammerud in Support of Defendants' Opposition to Plaintiff's Third Motion for Discovery Sanctions; (4) Portions of Exhibits A-E, G, I-K to the Declaration of Jennifer Ghaussy in Support of Defendants' Opposition to Plaintiff's Second Motion for Discovery Sanctions; and (5) Exhibits L-Q to the Declaration of Margaret Kammerud in Support of Defendants' Opposition to Plaintiff's Third Motion for Discovery Sanctions |
| 524 | MOTION to Seal Portions of the Reply in Support of Defendants' Motion for Summary Judgment, and Exhibits 34 and 36 to the Declaration of Joshua L. Sohn in Support of Defendants' Reply in Support of Defendants' Motion for Summary Judgment |
| 561 | 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; (2) Portions of Defendants' Reply Brief in Support of their Motion to Exclude the Testimony of Stephen L. 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 |
| 567 | MOTION to Seal Plaintiff I/P Engine, Inc.'s Reply in Further Support of its Motion to Exclude Opinions and Testimony of Keith R. Ugone along with Exhibits 1-3 |
| 647 | MOTION to Seal Plaintiff I/P Engine, Inc.'s Reply in Further Support of its Third Motion for Discovery Sanctions along with Exhibits 1 and 2 |
| 684 | MOTION to Seal Exhibits 1 and 4 to its Opposition to Defendants Motion to Dismiss All Claims Against AOL, Inc., Gannett Co., Inc., IAC Search & Media, Inc., and Target Corporation |
| 706 | MOTION to Seal Portions Of Exhibit 1 To The O'Brien Declaration In Support Of Defendants Motion For Sanctions And To Strike Portions Of Dr. Frieder's Second Updated Expert Report |
| 802 | MOTION to Seal and Redact Portions of Trial Record |
| 828 | MOTION to Seal (1) Portions Of Defendants Memorandum In Support Of Renewed Motion For Judgment As A Matter Of Law On Non-Infringement Or New Trial; (2) Portions Of Defendants' Memorandum In Support Of Renewed Motion For Judgment As A Matter Of Law On Damages Or New Trial; And (3) Certain Exhibit To The Declaration Of Joshua L. Sohn In Support Of Defendants |

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| | Renewed Motions For Judgment As A Matter Of Law On Damages, Invalidity And Non-Infringement Or New Trial |
| 866 | MOTION to Seal Portions of Defendants' Memorandum in Opposition to Plaintiff's Rule 59 Motion for a New Trial on the Dollar Amount of Damages and Exhibit 2 to the Declaration of Margaret P. Kammerud Filed in Support Thereof |
| 873 | MOTION to Seal Plaintiff I/P Engine, Inc.'s Opposition to Defendants Renewed Motion for Judgment as a Matter of Law on Non-Infringement or New Trial |

3. Based upon the parties' joint representations, the following individual materials subject to the motions to seal can be filed publicly and thus the motions are **DENIED**:

| Docket Number of Motion to Be Ruled Upon | Docket Number of Document at Issue | Document Description |
|---|---|--|
| 280 | 278, 342 | Plaintiff's Memorandum in Support of Second motion for Sanctions |
| 280 | 278-14, 366 | Exhibit 14 to Plaintiff's Memorandum in Support of Second motion for Sanctions |
| 289, 368 (Corrected D.N. 285) | 283 | Plaintiff's Memorandum in Support of Third Motion for Sanctions |
| 289, 368 (Corrected D.N. 285) | 283-4, 370 | Exhibit 4 to Plaintiff's Memorandum in Support of Third Motion for Sanctions |
| 289, 368 (Corrected D.N. 285) | 283-5, 371 | Exhibit 5 to Plaintiff's Memorandum in Support of Third Motion for Sanctions |
| 296 | 304, 380 | Defendants' Memorandum in Support of Motion in Limine 3 |
| 296 | 310-6, 381 | Exhibit F to Defendants' Memorandum in Support of Motion in Limine 3 |
| 296 | 310-8, 382 | Exhibit H to Defendants' Memorandum in Support of Motion in Limine 3 |
| 296 | 310-9, 383 | Exhibit I to Defendants' Memorandum in Exhibit I to Support of Motion in Limine 3 |
| 316 | 323-2, 387 | Exhibit 2 to O'Brien Declaration in Support of Defendants' Motion to Exclude Becker |
| 316 | 323-13, 398 | Exhibit 13 to O'Brien Declaration in Support of Defendants' Motion to Exclude Becker |
| 316 | 321, 402 | Fox Declaration in Support of Defendants' Motion to Exclude Becker |
| 324 | 329-8, 379 | Exhibit H to Defendant's Motion to Exclude Frieder |

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| 338 | 341, 420 | Plaintiff's Memorandum in Support of Motion to Exclude Ugone |
| 425 | 427-19 | Exhibit 45 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-29 | Exhibit 56 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 429 | 439 | Defendants' Opposition to Plaintiff's Motion in Limine 1 |
| 445 | 447 | Plaintiff's Opposition to Defendants' Motion in Limine 3 |
| 445 | 447-3 | Exhibit 3 to Plaintiff's Opposition to Defendants' Motion in Limine 3 |
| 445 | 447-4 | Exhibit 4 to Plaintiff's Opposition to Defendants' Motion in Limine 3 |
| 445 | 447-7 | Exhibit 7 to Plaintiff's Opposition to Defendants' Motion in Limine 3 |
| 445 | 447-8 | Exhibit 8 to Plaintiff's Opposition to Defendants' Motion in Limine 3 |
| 445 | 447-9 | Exhibit 9 to Plaintiff's Opposition to Defendants' Motion in Limine 3 |
| 445 | 447-10 | Exhibit 10 to Plaintiff's Opposition to Defendants' Motion in Limine 3 |
| 445 | 447-11 | Exhibit 11 to Plaintiff's Opposition to Defendants' Motion in Limine 3 |
| 449 | 451 | Plaintiff's Opposition to Defendants' Motion in Limine 4 |
| 449 | 451-2 | Exhibit 2 to Plaintiff's Opposition to Defendants' Motion in Limine 4 |
| 453 | 455 | Plaintiff's Opposition to Defendants' Motion in Limine 5 |
| 453 | 455-2 | Exhibit 2 to Plaintiff's Opposition to Defendants' Motion in Limine 5 |
| 457 | 460 | Plaintiff's Opposition to Defendants' Motion to Exclude Becker |
| 457 | 460-1 | Exhibit 1 to Plaintiff's Opposition to Defendants' Motion to Exclude Becker |
| 457 | 460-4 | Exhibit 4 to Plaintiff's Opposition to Defendants' Motion to Exclude Becker |
| 457 | 460-11 | Exhibit 11 to Plaintiff's Opposition to Defendants' Motion to Exclude Becker |
| 462 | 464 | Plaintiff's Opposition to Defendants' Motion to Exclude Frieder |
| 462 | 464-1 | Ex. 1 to Plaintiff's Opposition to Defendants' Motion to Exclude Frieder |
| 462 | 464-5 | Ex. 5 to Plaintiff's Opposition to Defendants' Motion to Exclude Frieder |

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| 508 | 511 | Defendants' Opposition to Plaintiff's Motion to Exclude Ungar |
| 508 | 512-10 | Exhibit 10 to Defendants' Opposition to Plaintiff's Motion to Exclude Ungar |
| 517 | 522-9 | Exhibit I to Ghaussy Declaration in Support of Defendants' Opposition to Plaintiff's Second Motion for Sanctions |
| 517 | 522-10 | Exhibit J to Ghaussy Declaration in Support of Defendants' Opposition to Plaintiff's Second Motion for Sanctions |
| 517 | 523 | Kammerud Declaration in Support of Defendants' Opposition to Plaintiff's Third Motion for Sanctions |
| 517 | 523-1 | Exhibit L to Kammerud Declaration in Support of Defendants' Opposition to Plaintiff's Third Motion for Sanctions |
| 517 | 523-3 | Exhibit N to Kammerud Declaration in Support of Defendants' Opposition to Plaintiff's Third Motion for Sanctions |
| 524 | 528-1 | Exhibit 34 to Defendants' Reply in Support of Motion for Summary Judgment |
| 567 | 568 | Plaintiff's Reply in Support of Motion to Exclude Ugone |

4. The parties have submitted electronic (on a CD-ROM) and hard copies of lesser redacted materials currently subject to motions to seal, as outlined below. Having reviewed these materials, the relevant motions to seal are **GRANTED** as to the lesser redacted materials. The Court **DIRECTS** the Clerk and the parties to coordinate the substitution of the appropriate documents.

| Docket Number of Motion to Be Ruled Upon | Docket Number of Document at Issue | Document Description |
|---|---|---|
| 280 | 278-7, 362 | Exhibit 7 to Plaintiff's Memorandum in Support of Second motion for Sanctions |
| 289, 368 (Corrected D.N. 285) | 283-1, 369 | Exhibit 1 to Plaintiff's Memorandum in Support of Third Motion for Sanctions |
| 289, 368 (Corrected D.N. 285) | 283-6, 372 | Exhibit 6 to Plaintiff's Memorandum in Support of Third Motion for Sanctions |
| 289, 368 (Corrected | 283-7, 373 | Exhibit 7 to Plaintiff's Memorandum in Support |

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| D.N. 285) | | of Third Motion for Sanctions |
| 296 | 310-10, 384 | Exhibit J to Defendants' Memorandum in Support of Motion in Limine 3 |
| 312 | 315-3, 416 | Exhibit 3 to Plaintiff's Memorandum in Support of Motion in Limine 3 |
| 316 | 320, 385 | Defendants' Memorandum in Support of Motion to Exclude Becker |
| 316 | 323-1, 386 | Exhibit 1 to O'Brien Declaration in Support of Defendants' Motion to Exclude Becker |
| 324 | 328, 375 | Defendants' Memorandum in Support of Motion to Exclude Frieder |
| 324 | 329-2, 377 | Exhibit B to Defendants' Memorandum in Support of Motion to Exclude Frieder |
| 331 | 334, 417 | Plaintiff's Motion in Limine 2 |
| 331 | 334-1, 418 | Exhibit 1 to Plaintiff's Motion in Limine 2 |
| 331 | 334-2, 419 | Exhibit 2 to Plaintiff's Motion in Limine 2 |
| 338 | 341-1, 421 | Exhibit 1 to Plaintiff's Motion to Exclude Ugone |
| 338 | 341-2, 422 | Exhibit 2 to Plaintiff's Motion to Exclude Ugone |
| 425 | 427 | Memorandum in Support of Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-2 | Exhibit 3 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-2 | Exhibit 4 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-2 | Exhibit 5 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-2 | Exhibit 8 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-5 | Exhibit 19 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-5 | Exhibit 11 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-5 | Exhibit 14 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-5 | Exhibit 17 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-5 | Exhibit 18 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-8 | Exhibit 22 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-8 | Exhibit 23 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-8 | Exhibit 24 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |


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| 425 | 427-11 | Exhibit 27 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-11 | Exhibit 29 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 425 | 427-27 | Exhibit 54 to Plaintiff's Opposition to Defendant's Motion for Summary Judgment |
| 441 | 443 | Plaintiff's Opposition to Defendants' Motion in Limine 2 |
| 441 | 443-1 | Exhibit 1 to Plaintiff's Opposition to Defendants' Motion in Limine 2 |
| 441 | 443-2 | Exhibit 2 to Plaintiff's Opposition to Defendants' Motion in Limine 2 |
| 449 | 451-1 | Exhibit 1 to Plaintiff's Opposition to Defendants' Motion in Limine 4 |
| 457 | 460-5 | Exhibit 5 to Plaintiff's Opposition to Defendants' Motion to Exclude Becker |
| 457 | 460-7 | Exhibit 7 to Plaintiff's Opposition to Defendants' Motion to Exclude Becker |
| 462 | 464-2 | Exhibit 2 to Plaintiff's Opposition to Defendants' Motion to Exclude Frieder |
| 465 | 466 | Defendants' Opposition to Plaintiff's Motion to Exclude Ugone |
| 465 | 468-4 | Exhibit D to Defendants' Opposition to Plaintiff's Motion to Exclude Ugone |
| 465 | 468-5 | Exhibit E to Defendants' Opposition to Plaintiff's Motion to Exclude Ugone |
| 508 | 512-12 | Exhibit 12 to Declaration of Howard Chen in Support of Defendants' Opposition to Plaintiff's Motion to Exclude Ungar |
| 517 | 522-7 | Exhibit G to Ghaussy Declaration in Support of Defendants' Opposition to Plaintiff's Second Motion for Sanctions |
| 517 | 521 | Defendants' Opposition to Plaintiff's Third Motion for Sanctions |
| 517 | 523-2 | Exhibit M to Kammerud Declaration in Support of Defendants' Opposition to Plaintiff's Third Motion for Sanctions |
| 517 | 523-4 | Exhibit O to Kammerud Declaration in Support of Defendants' Opposition to Plaintiff's Third Motion for Sanctions |
| 517 | 523-5 | Exhibit P to Kammerud Declaration in Support of Defendants' Opposition to Plaintiff's Third Motion for Sanctions |
| 517 | 523-6 | Exhibit Q to Kammerud Declaration in Support of Defendants' Opposition to Plaintiff's Third Motion for Sanctions |

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| 524 | 527 | Defendants' Reply in Support of Motion for Summary Judgment |
| 561 | 571-1 | Exhibit I to Defendants' Reply in Support of Motion to Exclude Frieder |
| 567 | 569-1 | Exhibit 1 to Plaintiff's Reply in Support of Motion to Exclude Ugone |
| 567 | 569-2 | Exhibit 2 to Plaintiff's Reply in Support of Motion to Exclude Ugone |
| 647 | 651-2 | Exhibit 2 to Plaintiff's Reply in Support of Third Motion for Sanctions |
| 684 | 686-1 | Exhibit 1 to Plaintiff's Opposition to Defendants' Motion to Dismiss Claims against AOL, Gannett, IAC, and Target |
| 684 | 686-4 | Exhibit 4 to Plaintiff's Opposition to Defendants' Motion to Dismiss Claims against AOL, Gannett, IAC, and Target |

The Clerk is **DIRECTED** to send a copy of this Order to counsel and parties of record.

IT IS SO ORDERED.

Norfolk, Virginia
 April 3, 2013



 Raymond A. Jackson
 United States District Judge