

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

**MEMORANDUM IN SUPPORT OF GOOGLE’S MOTION TO SEAL PORTIONS OF
GOOGLE’S REPLY IN SUPPORT OF ITS MOTION TO COMPEL PLAINTIFF TO
PROVIDE CONCEPTION, REDUCTION-TO-PRACTICE, AND PRIORITY DATE
INFORMATION, AND EXHIBITS L, M, N AND P TO THE DECLARATION OF
MARGARET KAMMERUD IN SUPPORT THEREOF**

In support of its Motion to Seal pursuant to Local Rule 5, Plaintiff, Google, Inc. (“Google”) states the following:

1. Google moves the Court for leave to file under seal portions of Google’s Reply in Support of its Motion to Compel Plaintiff to Provide Conception, Reduction-to-Practice, and Priority Date Information for the Patents-in-Suit (“Portions of Google’s Reply”) and Exhibits L, M, N and P to the Declaration of Margaret Kammerud in Support of Google’s Reply in Support of its Motion to compel Plaintiff to Provide Conception, Reduction-to-Practice, and Priority Date Information for the Patents-in-Suit (“Certain Exhibits to Kammerud Declaration”). Portions of Google’s Reply and Certain Exhibits to Kammerud Declaration 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 findings: (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)). Google contends that Portions of Google's Reply and Certain Exhibits to Kammerud Declaration contain data that is and should be kept confidential. An *in camera* copy of Google's Reply and Certain Exhibits to Kammerud Declaration are being provided to the Court. In light of Google's concerns and the Protective Order, there appears to be no alternative that appropriately serves Google's expressed confidentiality concerns.

3. For the sake of consistency with practices governing the case as a whole, Google believes Portions of Google's Reply and Certain Exhibits to Kammerud Declaration should remain sealed and be treated in accordance with the terms and conditions of the Protective Order.

Accordingly, and in satisfaction of the requirements of Local Rule 5, Google respectfully asks the Court to enter the Proposed Agreed Order sealing Portions of Google's Reply and Certain Exhibits to Kammerud Declaration.

DATED: March 5, 2012

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CERTIFICATE OF SERVICE

I hereby certify that on March 5, 2012, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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