

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
NORFOLK DIVISION

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I/P ENGINE, INC.,		)	
		)	
	Plaintiff,	)	
	v.	)	Civ. Action No. 2:11-cv-512
		)	
AOL, INC. et al.,		)	
		)	
	Defendants.	)	
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**MEMORANDUM IN SUPPORT OF MOTION TO SEAL I/P ENGINE’S  
SUPPLEMENTAL MEMORANDUM SETTING FORTH ADDITIONAL NEW FACTS  
JUSTIFYING ITS REQUEST FOR DEFAULT JUDGMENT IN I/P ENGINE’S MOTION  
FOR DEFENDANTS TO SHOW CAUSE UNDER RULE 37 FOR NONCOMPLIANCE  
WITH THE AUGUST 13, 2013 ORDER ALONG WITH EXHIBITS A AND C AND THE  
DECLARATION OF CHARLES J. MONTERIO, JR. IN SUPPORT OF I/P ENGINE’S  
SUPPLEMENTAL MEMORANDUM OF ADDITIONAL FACTS**

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

1. I/P Engine moves the Court for leave to file under seal its Supplemental Memorandum Setting Forth Additional New Facts Justifying Its Request For Default Judgment In I/P Engine’s Motion For Defendants To Show Cause Under Rule 37 For Noncompliance with the August 13, 2013 Order Along with Exhibits A and C and the Declaration of Charles J. Monterio, Jr. in Support of I/P Engine’s Supplemental Memorandum of Additional Facts. The afore-mentioned contains information that is marked as confidential by Defendants under the Protective Order entered in this matter on January 23, 2012 (D.I. 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 *Ashcroft v. Conoco, Inc.*, 218 F.3d 282, 288 (4th Cir. 2000)). I/P Engine's Supplemental Memorandum Setting Forth Additional New Facts Justifying Its Request For Default Judgment In I/P Engine's Motion For Defendants To Show Cause Under Rule 37 For Noncompliance with the August 13, 2013 Order Along with Exhibits A and C and the Declaration of Charles J. Monterio, Jr. in Support of I/P Engine's Supplemental Memorandum of Additional Facts contains information that is marked by Defendants as confidential. An in camera copy of the afore-mentioned is being provided to the Court. In light of Defendant's representation that this is confidential material under the Protective Order, there appears to be no alternative that appropriately serves Defendants' confidentiality concerns.

3. The information contained in the Memorandum and specified Exhibits contains Google's proprietary and confidential information.

4. For the sake of consistency with practices governing the case as a whole, I/P Engine believes its Memorandum and specified Exhibits should remain sealed and be treated in accordance with the terms and conditions of the Protective Order.

5. Accordingly, and in satisfaction of the requirements of Local Rule 5, I/P Engine respectfully asks the Court to enter the Proposed Agreed Order sealing its Supplemental Memorandum Setting Forth Additional New Facts Justifying Its Request For Default Judgment In I/P Engine's Motion For Defendants To Show Cause Under Rule 37 For Noncompliance with the August 13, 2013 Order Along with Exhibits A and C and the Declaration of Charles J. Monterio, Jr. in Support of I/P Engine's Supplemental Memorandum of Additional Facts.

Dated: October 7, 2013

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 7th day of October, 2013, the foregoing was served via the

Court's CM/ECF system, on the following:

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/s/ Jeffrey K. Sherwood \_\_\_\_\_