

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

**BRIEF IN SUPPORT OF DEFENDANTS' MOTION FOR LEAVE TO FILE RESPONSE  
TO PLAINTIFF I/P ENGINE, INC.'S SUPPLEMENTAL MEMORANDUM IN  
SUPPORT OF 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**

On October 7, 2013, Plaintiff filed its Motion for Leave to File Supplemental Memorandum of New Additional Facts Justifying Its Motion for Defendants to Show Cause Under Rule 37 for Noncompliance with August 13, 2013 Order. (Dkt. 993.) On the same day, Plaintiff filed its supplemental memorandum that was the subject of the motion for leave. (Dkt. 998.) On October 21, 2013, Defendants filed their opposition responding to Plaintiff's motion for leave. (Dkt. 1003.) Because Plaintiff had separately filed the Supplemental Memorandum at the same time as its Motion for Leave (Dkt. 998), Defendants responded to Plaintiff's motion for leave and additionally responded to the Supplemental Memorandum.

On October 30, 2013, the Court Granted Plaintiff's Motion and gave Plaintiff leave to file a supplemental memorandum that "shall not exceed ten (10) pages including any attachments." (Dkt. 1016.) Plaintiff filed its Supplemental Memorandum on October 31, 2013. (Dkt. 1032.)

While Defendants have previously explained why the arguments in Plaintiff's Supplemental Memorandum (filed along with the original Motion for Leave at Dkt. 998) are flawed (Dkt. 1003), Defendants seek leave to file their response to Plaintiff's new Supplemental Memorandum in the event that (1) the Court would prefer in the record a separate brief in response to the Supplemental Memorandum, or (2) if the Court had not considered Defendants' response to Plaintiff's Supplemental Memorandum in ruling on Plaintiff's Motion for Leave to File the Supplemental Memorandum. Accordingly, Defendants respectfully request that this Court grant Defendants leave to file a ten-page memorandum (including any attachments) responding to Plaintiff's October 31, 2013 memorandum. Defendants' proposed memorandum is attached hereto as Exhibit A.

DATED: November 5, 2013

/s/ Stephen E. Noona

Stephen E. Noona  
Virginia State Bar No. 25367  
KAUFMAN & CANOLES, P.C.  
150 West Main Street, Suite 2100  
Norfolk, VA 23510  
Telephone: (757) 624-3000  
Facsimile: (757) 624-3169  
senoona@kaufcan.com

David Bilsker  
David A. Perlson  
QUINN EMANUEL URQUHART &  
SULLIVAN, LLP  
50 California Street, 22nd Floor  
San Francisco, California 94111  
Telephone: (415) 875-6600  
Facsimile: (415) 875-6700  
davidbilsker@quinnemanuel.com  
davidperlson@quinnemanuel.com

*Counsel for Google Inc., Target Corporation,  
IAC Search & Media, Inc., and Gannett Co., Inc.*

/s/ Stephen E. Noona

Stephen E. Noona  
Virginia State Bar No. 25367  
KAUFMAN & CANOLES, P.C.  
150 W. Main Street, Suite 2100  
Norfolk, VA 23510  
Telephone: (757) 624-3000  
Facsimile: (757) 624-3169  
senoona@kaufcan.com

Robert L. Burns  
FINNEGAN, HENDERSON, FARABOW, GARRETT &  
DUNNER, LLP  
Two Freedom Square  
11955 Freedom Drive  
Reston, VA 20190  
Telephone: (571) 203-2700  
Facsimile: (202) 408-4400

Cortney S. Alexander  
FINNEGAN, HENDERSON, FARABOW, GARRETT &  
DUNNER, LLP

3500 SunTrust Plaza  
303 Peachtree Street, NE  
Atlanta, GA 94111  
Telephone: (404) 653-6400  
Facsimile: (415) 653-6444  
*Counsel for Defendant AOL Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that, on November 5, 2013, 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:

Jeffrey K. Sherwood  
Kenneth W. Brothers  
DICKSTEIN SHAPIRO LLP  
1825 Eye Street NW  
Washington, DC 20006  
Telephone: (202) 420-2200  
Facsimile: (202) 420-2201  
sherwoodj@dicksteinshapiro.com  
brothersk@dicksteinshapiro.com

Donald C. Schultz  
W. Ryan Snow  
Steven Stancliff  
CRENSHAW, WARE & MARTIN, P.L.C.  
150 West Main Street, Suite 1500  
Norfolk, VA 23510  
Telephone: (757) 623-3000  
Facsimile: (757) 623-5735  
dschultz@cwm-law.com  
wrsnow@cwm-law.com  
sstancliff@cwm-law.com

*Counsel for Plaintiff, I/P Engine, Inc.*

/s/ Stephen E. Noona  
Stephen E. Noona  
Virginia State Bar No. 25367  
KAUFMAN & CANOLES, P.C.  
150 West Main Street, Suite 2100  
Norfolk, VA 23510  
Telephone: (757) 624-3000  
Facsimile: (757) 624-3169  
senoona@kaufcan.com