

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

I/P ENGINE, INC.,)	
)	
Plaintiff,)	
v.)	Civ. Action No. 2:11-cv-512
)	
AOL, INC. et al.,)	
)	
Defendants.)	
)	

**MEMORANDUM IN SUPPORT I/P ENGINE’S MOTION TO SEAL EXHIBIT 1 TO
PLAINTIFF I/P ENGINE, INC.’S MEMORANDUM IN SUPPORT OF ITS DAUBERT
MOTION, AND FOURTH MOTION IN LIMINE, TO EXCLUDE LYLE UNGAR’S NEW
THEORY OF INVALIDITY AND OPINIONS REGARDING CLAIM CONSTRUCTION**

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 Exhibit 1 to its Memorandum in Support of Plaintiff I/P Engine’s Daubert Motion, and Fourth Motion in Limine, to Exclude Lyle Ungar’s New Theory of Invalidity and Opinions Regarding Claim Construction. The afore-mentioned contain 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 Exhibit 1 to its Memorandum in Support of Plaintiff I/P Engine's Daubert Motion, and Fourth Motion in Limine, to Exclude Lyle Ungar's New Theory of Invalidity and Opinions Regarding Claim Construction 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 exhibit 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 Exhibit 1 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 Exhibit 1 to its Memorandum in Support of Plaintiff I/P Engine's Daubert Motion, and Fourth Motion in Limine, to Exclude Lyle Ungar's New Theory of Invalidity and Opinions Regarding Claim Construction.

Dated: September 24, 2012

By: /s/ Jeffrey K. Sherwood
Donald C. Schultz (Virginia Bar No. 30531)
W. Ryan Snow (Virginia Bar No. 47423)
CRENSHAW, WARE & MARTIN PLC
150 West Main Street
Norfolk, VA 23510
Telephone: (757) 623-3000

Facsimile: (757) 623-5735

Jeffrey K. Sherwood (Virginia Bar No. 19222)

Frank C. Cimino, Jr.

Kenneth W. Brothers

DeAnna Allen

Charles J. Monterio, Jr.

DICKSTEIN SHAPIRO LLP

1825 Eye Street, NW

Washington, DC 20006

Telephone: (202) 420-2200

Facsimile: (202) 420-2201

Counsel for Plaintiff I/P Engine, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of September, 2012, the foregoing **MOTION TO SEAL EXHIBIT 1 TO PLAINTIFF I/P ENGINE, INC.'S MEMORANDUM IN SUPPORT OF ITS DAUBERT MOTION, AND FOURTH MOTION IN LIMINE, TO EXCLUDE LYLE UNGAR'S NEW THEORY OF INVALIDITY AND OPINIONS REGARDING CLAIM CONSTRUCTION**, was served via the Court's CM/ECF system, on the following:

Stephen Edward Noona
Kaufman & Canoles, P.C.
150 W Main St
Suite 2100
Norfolk, VA 23510
senoona@kaufcan.com

David Bilsker
David Perlson
Quinn Emanuel Urquhart & Sullivan LLP
50 California Street, 22nd Floor
San Francisco, CA 94111
davidbilsker@quinnemanuel.com
davidperlson@quinnemanuel.com

Robert L. Burns
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
Two Freedom Square
11955 Freedom Drive
Reston, VA 20190
robert.burns@finnegan.com

Cortney S. Alexander
Finnegan, Henderson, Farabow, Garrett & Dunner, LLP
3500 SunTrust Plaza
303 Peachtree Street, NE
Atlanta, GA 94111
cortney.alexander@finnegan.com

/s/ Jeffrey K. Sherwood