

Filed: September 1, 2010

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

1100 East Main Street, Suite 501
Richmond, Virginia 23219-3517
www.ca4.uscourts.gov

DOCKETING NOTICE--APPEAL FROM DISTRICT COURT

No. 10-2007, Rosetta Stone LTD v. Google, Incorporated
1:09-cv-00736-GBL-TCB

This case has been placed on the Court's docket under the above-referenced number, which should be used on papers subsequently filed in this Court.

Counsel are responsible for ensuring that documents are timely filed by actual receipt as required in the appropriate clerk's office. Noncompliance with jurisdictional deadlines will prevent the Court from considering the case, and failure to meet other deadlines may result in dismissal for failure to prosecute or in imposition of sanctions. See Local Rules 45, 46(g).

In cases in which more than one attorney represents a party, future notices will be sent only to attorneys who have entered an appearance as counsel of record; other attorneys will be removed from the case.

Counsel are responsible for ensuring that social security numbers, juvenile names, dates of birth, and financial account numbers are redacted from any documents filed with the Court and that any sealed materials are filed in accordance with the enclosed [Memorandum on Sealed and Confidential Materials](#). Counsel must obtain an Appellate CM/ECF Filer Account as outlined in the [Notice Regarding Implementation of CM/ECF](#); electronic filing is mandatory for counsel in all Fourth Circuit cases effective June 1, 2008.

Counsel must file the initial forms required upon docketing, as set forth in the following table of forms, in the clerk's office within **14 days** of the date of this notice. The forms can be completed and printed or saved in electronic form.

Click on a link to display the required form; all forms are also available at www.ca4.uscourts.gov.

Form:	Required From:	Required Number:
<u>Appearance of Counsel</u>	Counsel of record for any party to the appeal (If not admitted to this Court, counsel must complete and submit an <u>application for admission</u> .)	Original only
<u>Disclosure Statement</u>	All parties to a civil or bankruptcy case and all corporate defendants in a criminal case (not required from the United States, from indigent parties, or from state or local governments in pro se cases)	Original only
<u>Docketing Statement</u>	Appellant's counsel (not required after Rule 5 grant of permission to appeal)	Original only
<u>Transcript Order</u>	Appellant, only if ordering transcript (not required from appellee)	Attach to docketing statement
<u>CJA 24</u>	Appellant, only if transcript is at court expense under Criminal Justice Act (not required from appellee)	Attach to docketing statement

I will be the case manager for this case. Please contact me at the number listed below if you have any questions regarding your case.

Lisa D. Jernigan
Deputy Clerk
804-916-2754

MEMORANDUM ON SEALED AND CONFIDENTIAL MATERIALS
UNDER FRAP 25(a)(5) & LOCAL RULE 25(c)

Internet Availability of Docket & Documents (except Appendices):

All Fourth Circuit case dockets are available on the Internet via the Judiciary's PACER system (Public Access to Court Electronic Records). The Fourth Circuit docket is available on the Internet even if the district court docket was sealed. If a party's name was sealed in the district court, it should be replaced by "Under Seal" or a pseudonym on appeal. Documents filed in 2008 and thereafter are available on the Internet via PACER, with the exception of appendices, which are available in paper form only. Due to the electronic availability of court documents, the federal rules prohibit including certain personal data identifiers in court filings. In addition, parties should not include any data in their filings that they would not want on the Internet. Counsel should advise their clients on this subject so that an informed decision can be made. Responsibility rests with counsel and the parties, not with the clerk.

Personal Data Identifiers Prohibited: The federal rules **prohibit** filers from including any of the following personal data identifiers (PDIs) in documents filed with the Court:

- **Social Security & TAX ID Numbers**....Use 4 digits only
- **Names of Minor Children**.....Use initials only
- **Dates of Birth**.....Use year only
- **Financial Account Numbers**.....Use last 4 digits only
- **Home Addresses in Criminal Cases**....Use city and state only

Personal Data Identifiers Permitted: The federal rules **permit** filers to include PDIs in the following situations:

- Account number or address for subject property is needed in forfeiture action
- State court records or agency records contain PDIs
- Other court records contain PDIs and redaction was not required when record was originally filed
- Documents are filed using a sealed docket entry
- Documents are filed in social security and immigration cases
- Pro se documents are filed in 28 U.S.C. §§ 2241, 2254, or 2255 cases
- Documents were filed before charging document in criminal case
- Charging document, arrest warrant, or search warrant in criminal case contain PDIs

Certificate of Confidentiality or Motion to Seal Required for Any Sealed Filing: A document may not be filed under seal in this Court unless it is accompanied by a [certificate of confidentiality](#) or motion to seal.

- Use certificate of confidentiality form when the only information being sealed is information that was sealed in the district court or agency, or consists solely of PDIs.
- Use motion to seal to request sealing of information beyond that sealed by district court or agency. The motion must specifically identify the information to be sealed, state why sealing is necessary, explain why a less drastic alternative is not effective, and state the time period for which sealing is required.

Sealed Volume of Appendix: All appendices are filed and served in **paper form only**. Sealed documents must be placed in a **separate, sealed volume** of the appendix. In consolidated criminal cases in which presentence reports are being filed for multiple defendants, **each** presentence report must be placed in a separate, sealed volume to which only Government counsel and counsel for the defendant who is the subject of the report have access.

- File four paper copies of sealed appendix volumes, with the cover marked SEALED, in an envelope marked SEALED, with four copies of certificate of confidentiality.
- File six paper copies of public appendix volumes (five if counsel is court-appointed).
- Use electronic entry **Notice of paper filing** to reflect filing of sealed and unsealed volumes.
- Serve one paper copy of sealed and unsealed volumes on counsel (serve presentence reports only on Government counsel and counsel for defendant who is the subject of the report).

Sealed Version of Brief: All briefs are filed in **electronic and paper form**. Public briefs are served in electronic form; sealed briefs are served in paper form. There are two possible ways to file a sealed brief:

1. Option One – File Sealed Version, Public Version, and Certificate of Confidentiality if it is Possible to Create Public, Redacted Version of Brief.

- File four paper copies of sealed version of brief (with sealed material highlighted and covers marked SEALED), in an envelope marked SEALED, with four copies of certificate of confidentiality.

- File eight paper copies (six if counsel is court-appointed) of public version of brief (with sealed material redacted).
- Use electronic entry **SEALED BRIEF FILED** to file sealed version electronically.
- Use electronic entry **Certificate of confidentiality filed** to file certificate electronically.
- Use electronic entry **BRIEF FILED** to file public, redacted version electronically.
- Serve one paper copy of sealed version of brief on counsel since sealed version cannot be accessed through CM/ECF. Service of paper version of public brief is not required, but may be agreed to between parties.

2. Option Two – File Sealed Brief and Motion to Seal if it is Not Possible to Create Public, Redacted Version of Brief.

- File four paper copies of sealed brief, in an envelope marked SEALED, with four paper copies of motion to seal.
- Use electronic entry **SEALED BRIEF FILED** to file sealed brief electronically.
- Use electronic entry **Motion filed / to seal** to file motion electronically. Motion must be accessible on public docket for five days prior to ruling; therefore, motion to seal **cannot**, itself, be filed under seal. If necessary, a sealed version and a public version of the motion to seal can be filed, together with a certificate of confidentiality.
- Use electronic entry **BRIEF FILED** to file public, redacted version electronically.
- Court may require filing of a redacted, public version of brief when it rules on motion.

Sealed Version of Other Documents and Motions: Other documents and motions are filed in electronic form only. If sealed information must be included, there are two possible ways to file the document:

1. Option One – File Sealed Version, Public Version, and Certificate of Confidentiality if it is Possible to Create Public, Redacted Version of Document or Motion.

- Use electronic entry **SEALED DOCUMENT OR MOTION FILED** to file sealed version electronically.
- Use electronic entry **Certificate of confidentiality filed** to file certificate electronically.
- Use the appropriate electronic entry (e.g., **Motion filed, Letter filed**) to file public, redacted version electronically.

2. Option Two – File Sealed Document and Motion to Seal if it is

Not Possible to Create Public, Redacted Version of Document.

- Use electronic entry **SEALED DOCUMENT OR MOTION FILED** to file sealed document electronically.
- Use electronic entry **Motion filed / to seal** to file motion to seal electronically. Motion must be accessible on public docket for five days prior to ruling; therefore, motion to seal **cannot**, itself, be filed under seal. If necessary, a sealed version and a public version of the motion to seal can be filed, together with a certificate of confidentiality.