

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CNG FINANCIAL CORPORATION,

Plaintiff/Counterclaim-Defendant,

v.

GOOGLE INC.,

Defendant/Counterclaim-Plaintiff.

Case No. 1:06cv040

Chief Judge Sandra S. Beckwith
Magistrate Timothy S. Black

**GOOGLE INC.'S STATEMENT OF NON
OPPOSITION TO CNG'S MOTION FOR
LEAVE TO FILE ADDITIONAL
AUTHORITY IN SUPPORT OF ITS
RESPONSE TO GOOGLE'S MOTION
FOR JUDGMENT ON THE PLEADINGS**

Google Inc. does not oppose CNG Financial Corp.'s motion for leave to file additional authority. CNG's motion relates to *800-JR Cigar, Inc. v. GoTo.com, Inc.*, 2006 U.S. Dist. LEXIS 48279 (D.N.J. July 17, 2006), which issued the day CNG filed its Response to Google's Rule 12(c) Motion for Judgment On Its Counterclaim. Google, however, disagrees that the search engine in *800-JR Cigar* "is materially indistinguishable from that at issue in this case[.]" In *800-JR Cigar*, the search engine was "pay-for-priority"; ads were listed "in the search results" before "unpaid or 'natural' search listings." *800-JR Cigar*, at *3. Google, on other hand, places ads in a separate location from natural search results. Complaint ¶ 23.

Dated: August 11, 2006

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CERTIFICATE OF SERVICE

I hereby certify that on August 11, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Barry D. Hunter, Medrith Lee Norman, and Ann Gallagher Robinson, Attorneys for Plaintiff/Counterclaim-Defendant.

/s/ Kenneth F. Seibel
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