

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 MOTION FOR LEAVE  
TO FILE ADDITIONAL AUTHORITY IN  
SUPPORT OF ITS MOTION FOR  
JUDGMENT ON THE PLEADINGS**

Defendant and Counterclaim-Plaintiff Google Inc. moves the Court for leave to file additional authority in support of its Motion for Judgment on the Pleadings. The case in question, *Rescuecom Corp. v. Google Inc.*, Case No. 5:04-CV-1055 (N.D.N.Y. Sept. 28, 2006), is attached. In granting a motion to dismiss a complaint against Google, the opinion holds that the triggering of a Sponsored Link on Google with a trademark does not constitute trademark use under the Lanham Act, even if the activity is unauthorized by the trademark owner. Because this opinion issued today, it was not previously available.

Dated: September 28, 2006.

*Of Counsel:*

Michael H. Page (*pro hac vice*)  
Klaus H. Hamm (*pro hac vice*)  
Keker & Van Nest LLP  
710 Sansome Street  
San Francisco, CA 94107  
(415) 391-5400

/s/ Kenneth F. Seibel

Kenneth F. Seibel (0025168)  
Jacobs, Kleinman, Seibel and McNally  
1014 Vine Street, Suite 2300  
Cincinnati, OH 45202  
(513) 281-6600

Attorneys for Defendant and Counterclaim-Plaintiff Google Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on September 28, 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  
Kenneth F. Seibel (0025168)