

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CNG FINANCIAL CORPORATION	:	
	:	Case No. 1:06-cv-040
Plaintiff/Counterclaim-	:	
Defendant,	:	Chief Judge Sandra S. Beckwith
	:	Magistrate Timothy S. Black
vs.	:	
	:	CNG’S RESPONSE TO
GOOGLE INC.	:	GOOGLE’S MOTION FOR
	:	LEAVE TO FILE ADDITIONAL
Defendant/Counterclaim-	:	AUTHORITY IN SUPPORT OF
Plaintiff.	:	ITS MOTION FOR JUDGMENT
	:	ON THE PLEADINGS

Plaintiff/CounterDefendant, CNG Financial Corporation, does not oppose Google’s citation of additional authority. CNG would merely point out, however, that: (1) it is unclear from Google’s filing whether the Complaint in *Rescuecom* alleged, as do the pleadings in this case, that Google’s use of CNG’s trademark constituted a trademark use indicating CNG as the source or origin of the sponsored links at issue; (2) if it did, the *Rescuecom* opinion runs contrary to the overwhelming weight of authority on this question; and (3) the *Rescuecom* opinion does not address the theories, including contributory infringement, pled by CNG.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was electronically filed with the Clerk of the Courts using the CM/ECF, system which will send notification of such filing to the following, this 5th day of October, 2006:

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