

**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
Plaintiff.	:	

In response to Google's Motion Plaintiff, CNG Financial Corporation, states that there is no need for this Court to consider the unpublished case of *FragranceNet.com, Inc. v. FragranceX.com, Inc.* as additional authority in support of Google's Motion for Summary Judgment. *FragranceNet.com* is an opinion from a New York district court. Google has already cited two decisions from New York in support of its position in this case. Moreover, as the *FragranceNet.com* court itself acknowledged (at p.11), the question of whether triggering a sponsored link with a trademarked keyword or a trademarked metatag constitutes a trademark use has been resolved differently by the New York courts than by every other court to address the issue throughout the country, including by the Court from the Eastern Division of this District in *TData Inc. v. Aircraft Technical Publishers*, 411 F.Supp.2d 901, 911 (S.D.Ohio 2006). Accordingly, the case supplies no new analysis which would be helpful to the Court.

Respectfully submitted,

/s/ Barry D. Hunter

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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 3rd day of July, 2007:

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