

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

ROSETTA STONE LTD.,)
)
Plaintiff,)
)
vs.)
)
GOOGLE INC.,)
)
Defendant.)
)

Civ. Action No. 1:09-cv-00736(GBL/TCB)

**ROSETTA STONE LTD.’S MOTION FOR PARTIAL
SUMMARY JUDGMENT AS TO LIABILITY**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56, Plaintiff Rosetta Stone Ltd. moves this Court for partial summary judgment as to liability on all its claims against Google Inc. (“Google”). Specifically:

- Google is directly liable for trademark infringement because Google uses Rosetta Stone’s trademarks in commerce, in connection with the sale, offering for sale, and advertising of goods and services, and in a manner that is likely to confuse – and that in fact has confused – consumers.
- Google is liable for the trademark infringement of its advertisers because it (i) intentionally induces its advertisers to infringe Rosetta Stone’s marks; (ii) continues to sell advertising space to entities that it knows or has reason to know are engaging in trademark infringement; and (iii) has the legal right to stop or limit the infringing conduct, and the practical ability to do so, yet fails to prevent the ongoing infringement of Rosetta Stone’s marks that occurs on Google’s search-results pages.
- Google is liable for trademark dilution under the Lanham Act because Google’s conduct has resulted in the blurring and tarnishment of Rosetta Stone’s famous marks.
- Google has been unjustly enriched under Virginia law because it knowingly uses and sells Rosetta Stone’s trademarks for its own profit without compensating Rosetta Stone.

The grounds and authorities in support of this motion are set forth in Rosetta Stone Ltd.’s Memorandum of Law in Support of Its Motion for Partial Summary Judgment As To Liability along with the supporting Declarations and Exhibits.

Respectfully submitted,

March 26, 2010
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CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2010 I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system which will then send a notification of such filing (NEF) to the following:

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True and correct copies of documents filed under seal will be sent via electronic mail to:

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March 26, 2010

Date

/s/

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