

Google and Rosetta Stone Settle AdWords Trademark Infringement Suit

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Six months after the U.S. Court of Appeals for the Fourth Circuit reversed the district court's dismissal of Rosetta Stone's trademark infringement lawsuit against Google, the parties issued a [joint statement](#) today announcing that they have settled their legal dispute. The parties stated: "Rosetta Stone Inc. and Google have agreed to dismiss the three-year-old trademark infringement lawsuit between them and to meaningfully collaborate to combat online ads for counterfeit goods and prevent the misuse and abuse of trademarks on the Internet."

Rosetta Stone's lawsuit, filed in 2009, accused Google of trademark infringement and dilution based on Google's sale of Rosetta Stone's trademarks to third-party advertisers for use as search keywords. Google's AdWord's program allows advertisers to buy keywords that trigger sponsored link advertisements that appear on the top of Google's search result pages. In 2010, the district court granted Google a total victory. It dismissed Rosetta Stone's claims, concluding (among other things) that "no reasonable trier of fact could find that Google's practice of auctioning Rosetta Stone's trademarks as keyword triggers to third party advertisers creates a likelihood of confusion as to the source and origin of Rosetta Stone's products[.]" In April 2012, the Fourth Circuit reversed (in part) and remanded the issues of direct infringement, contributory infringement, and trademark dilution to the district court. In so doing, the Fourth Circuit set forth the details of some interesting bits of evidence for the district court to consider on remand, including evidence that reflected some degree of awareness by Google of source confusion among Internet searchers when trademarks were included in sponsored advertisements.

Since the case was remanded back to the district court in May 2012, Google filed an answer in which it denied Rosetta Stone's allegations and asserted twenty-six affirmative defenses, including fair use, innocent infringement, functionality and applicability of the first sale doctrine. Over the past few months, the parties have been updating discovery and preparing to file summary judgment motions at the end of October 2012. But today, instead of filing dispositive motions, the parties filed a stipulation of voluntary dismissal with prejudice, putting an end to another [legal challenge](#) involving Google's AdWords program.

For additional background on the Rosetta Stone v. Google litigation, please click [here](#).

National Law Review, Volume II, Number 307

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