



Judge Lee's Reasoning in Granting Summary Judgment in Google Adwords Lawsuit

05.18.2010

In late April, U.S. District Judge Gerald Bruce Lee of the Eastern District of Virginia, Alexandria Division, announced that he was granting Google's motion for summary judgment in the trademark infringement "Adwords" litigation brought by Rosetta Stone. [Our previous post about the case is here.] Judge Lee announced his decision in a short order, which stated that the Court would later issue a memorandum opinion and final judgment. While Judge Lee has not yet issued his opinion, this week the Court made available the transcript of the April 23 hearing on Google's motion. The transcript is not available on line, but we read the transcript in the courthouse clerk's office. While Judge Lee did not announce his decision during the hearing, he did make certain comments in his discussion of the case with counsel that likely anticipate the grounds for his holding. "What I'm focused on," Judge Lee stated, "is confusion as a source or origin of goods where the search engine itself does not sell products." At another point, he stated "[Google] is not selling [products] ? they're selling placement on a page."

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