



3-3-2010

# Vol. IX, Tab 46 - Ex. 49 - Deposition of Simon Berriochoa (Rosetta Stone Customer Care Group)

Simon Berriochoa  
*Rosetta Stone*

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF VIRGINIA  
3 (Alexandria Division)

-----x

4 ROSETTA STONE LTD., :  
5 :  
6 Plaintiff, : Civil Action No.  
7 : 1:09cv736  
8 vs. : (GBL/TCB)  
9 :  
10 GOOGLE INC., :  
11 :  
12 Defendant. :  
13 -----x

14 Washington, D.C.

15 Wednesday, March 3, 2010

16 Videotape Deposition of:

17 SIMON BERRIOCHOA,

18 the witness, was called for examination by counsel  
19 for the Defendant, pursuant to notice, commencing  
20 at 9:05 a.m., at the law offices of Skadden, Arps,  
21 Slate, Meagher & Flom LLP, 1440 New York Avenue,  
22 Northwest, Conference Room 311, Washington, D.C.,  
23 before Dawn A. Jaques, CSR, CLR, and Notary Public  
24 in and for the District of Columbia, when were  
25 present on behalf of the respective parties:

1 Q And what kind of input have you provided  
2 in that capacity?

3 A We provided information from the  
4 Customer Care Group that indicates the amount of  
5 customer confusion that comes from sponsored links  
6 as being used by our resellers.

7 Q And how does that -- how did that affect  
8 the Customer Care Group?

9 A Direct contacts from customers regarding  
10 issues they were attempting to resolve with their  
11 purchase, confusion that they believe they had  
12 purchased from Rosetta Stone directly, therefore,  
13 they were entitled to an unconditional six-month  
14 guarantee; therefore, they were entitled to levels  
15 of service around additional seats and repairs to  
16 their product or issues with their -- I'm sorry,  
17 with their software product or their computer.  
18 Those manner of either presale and/or existing  
19 operating concerns that we receive in the call  
20 centers.

21 Q Are those customer support issues  
22 documented, to your knowledge, in any written  
23 material?

24 A Yes, they are.

25 Q In what form is that? Is it a report

1 that you're aware of? Is it a customer tracking  
2 database? What is it?

3 A I'm aware that instances regarding  
4 customer confusion have been communicated to our  
5 internal legal department who then in turn --

6 THE COURT REPORTER: I'm sorry, have  
7 been communicated to our legal department?

8 THE WITNESS: Forgive me. Have been  
9 communicated to our legal department and other  
10 aspects of our company for their further  
11 follow-up. The Customer Care Group is not in the  
12 process of resolving those issues, simply in  
13 handling the customer and trying to improve the  
14 relationship that the customer had and the  
15 experience they had with our product.

16 BY MR. POWELL:

17 Q The instances that you're referring to,  
18 do you have knowledge of them because of your role  
19 between May of 2008 and May of 2009 in the  
20 Customer Care Group, or is it something outside of  
21 that role?

22 A It is also -- so it is from May, and  
23 then on, because we have these same conversations  
24 in the newly developed consumer security  
25 department.