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Vol. VI, Tab 38 - Ex. 38 - Email from Michael Wu

Michael Wu
Rosetta Stone

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From: Wu, Michael [mwu@rosettastone.com]
Sent: Friday, June 20, 2008 02:11:50 PM
To: MaV, Jeanne
Subject: FW: Coalition Proposal

From: Elgort, Vladimir [mailto:Vladimir.Elgor@am.sony.com]
Sent: Friday, June 20, 2008 1:54 PM
To: Wu, Michael
Subject: RE: Coalition Proposal

Michael,

Thank you for your further explanation but we are not interested in participating at this time.

Best regards.
Vlad

From: Wu, Michael [mailto:mwu@rosettastone.com]
Sent: Wednesday, June 18, 2008 11:32 PM
To: Elgort, Vladimir
Subject: RE: Coalition Proposal

Vlad,

AABC (alliance against bait and switch) is purely a PR/consumer education initiative funded by the 4 hotels. All other members join on a complimentary basis. My legislative coalition is a complementary effort to lobby Congress for the enactment of laws that would stop this type of activity.

Please give me a call when you return to the office.

Thanks,
Michael

Michael C. Wu
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Hi Michael,

Perhaps we should have a brief conversation about the differences between this and the other project you mentioned but I suspect that Sony would not be interested. I am traveling until the first week in July. Please let me know your availability. Thank you.

Best regards,
Vlad

Dear Vlad,

Would your company be interested in joining a consumer education effort spearheaded by a hotel coalition (Marriott, Intercontinental, Starwood, and Hyatt)? There is no financial commitment to join.

I have attached some draft materials for your review.

Thanks,

Michael

Dear Michael,

Thank you for your email but we are not interested in participating at this time.

Best regards,
Vlad
Vladimir,

I would like to follow up on the proposed coalition to stop keyword advertisement trademark infringement. Verizon, GEICO, Sporty’s, J2 Communications and Rosetta Stone have committed to the coalition. Ogilvy Government Relations is now following up with their existing clients including AT&T, Hilton, Intuit, Time Warner, etc. I will be pitching the coalition proposal to the hotel coalition (Marriott, Starwood, Hyatt and Intercontinental), which formed around the same issue in December 2007, tomorrow morning. I have attached a recent Wall Street Journal article on this issue for your reference.

We are looking to start lobbying the US Congress this summer. Our goal is to stop the sale of trademarks as keyword advertisements by third parties. The coalition members would make a monthly contribution which would be based on the total number of members who join.

I would appreciate it if you would let me know whether Sony would be interested in joining our coalition.

Best regards,

Michael

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trademarked terms to the competitors of trademark owners resulting in competitor advertisements appearing as sponsored links above and on the right hand column next to natural search results that are generated when consumers search for the products and services of trademark owners. We believe that keyword advertising by search engines is costing brand owners hundreds of millions of dollars every year as a result of diverted sales, the increase in costs for trademark owners to purchase their own trademarks as keyword advertisements, the loss of hard-earned trust and goodwill, and the increasing enforcement expenses of protecting consumers from Internet-based fraud.

Rosetta Stone has been in discussions with Ogilvy Government Relations, a premier government affairs firm, on establishing a coalition to stop Internet search engine trademark infringement. In addition, Ogilvy has facilitated discussions with Congressional staff members on the keyword advertising issue. Based on these discussions we believe that there is an opportunity in 2008 to engage Congress and commence legislative activity on redressing this problem.

I have attached for your review (i) a proposal from Ogilvy to establish and manage a coalition, (ii) a brochure introducing Ogilvy, and (iii) an article providing an overview on the legality of keyword advertising using trademarks of competitors. I recently learned that Intercontinental Hotels formed a coalition with Marriott, Starwood Hotels and Hyatt around the same issue in December. They hired SS&K (PR agency) to conduct a consumer education campaign. This is complimentary to Rosetta Stone’s lobbying effort, and the hotel coalition is interested in joining with likeminded companies in other industries. I have a call set up a call with them tomorrow to discuss next steps. I also have commitments from GEICO, Sporty’s and Office Depot, and I am working with Ogilvy Government Relations to enlist their existing clients including Verizon and AT&T. I would appreciate it if you would let me know whether Sony would be interested in joining the legislative coalition.

Best regards,

Michael

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