



1-13-2010

## Vol. IX, Tab 42 - Ex. 2 - Van Liere Deposition

Kent Van Liere

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

ORIGINAL

ROSETTA STONE LTD.,

Plaintiff,

Civil Action No.

vs.

1:09cv736

GOOGLE, INC.,

Defendant.

VIDEOTAPED DEPOSITION OF KENT. D. VAN LIERE, Ph.D.

Wednesday, January 13, 2010

Job No. 233898

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1 of people that said a link was either a Rosetta 10:56:31  
2 Stone company site or endorsed by Rosetta, then were  
3 asked the why and did not give an answer. I  
4 don't -- I don't believe there is very much of that  
5 in the data, if it's in there at all. But, 10:56:44  
6 secondly, for purposes of calculating confusion, we  
7 did not use the verbatims.

8 Q. Going back to the test stimulus, Exhibit D.  
9 You were talking earlier about the idea that in your  
10 opinion it's all of the sponsored links together 10:57:09  
11 that cause confusion, not -- you didn't look at it  
12 on an ad-by-ad basis; is that correct?

13 MR. ROSS: Just going to object that  
14 misstates his prior testimony.

15 BY MS. CARUSO: 10:57:23

16 Q. Dr. Van Liere, did you look at confusion on  
17 an ad-by-ad basis?

18 A. No, I did not calculate confusion on an  
19 ad-by-ad basis.

20 Q. If any one of these ads showed a very low 10:57:46  
21 confusion rate when looked at individually, for  
22 example, zero or one percent, would that affect your  
23 conclusion in any way?

24 A. I believe I've stated, and I want to be  
25 clear about the nature of the experiment here. The 10:58:07