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Vol. XI, Tab 48 - Declaration of Kris Brewer (Associate Discovery Counsel for Google)

Kris Brewer
Google

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

ROSETTA STONE LTD.

Plaintiff,

v.

GOOGLE INC.

Defendant.

CIVIL ACTION NO. 1:09cv736 (GBL /
TCB)

DECLARATION OF KRIS BREWER

I, Kris Brewer, certify and declare that:

1. I am currently employed as Associate Discovery Counsel by Google Inc. ("Google"). I make this declaration in support of Google's Opposition to Rosetta Stone Ltd.'s Motion for Summary Judgment in the matter captioned *Rosetta Stone Ltd. v. Google Inc.*, Civil Action No. 1:09-cv-736 (E.D. Va.). I am over the age of eighteen. I know the facts stated herein of my own personal knowledge. If called to testify as a witness, I can and would do so competently and under oath.

2. I hereby certify that the documents bates numbered GOOG-RS-0494057, GOOG-RS-0494062, and GOOG-RS-0494128 are part of a collection of documents related to advertisement studies conducted by Google in 2004, and (a) were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters; (b) were kept in the course of the regularly conducted activity of Google; and (c) were made by the regularly conducted activity of Google as a regular practice.

3. I have delivered the foregoing records to attorneys at Quinn Emanuel Urquhart & Sullivan, outside counsel of record for Google Inc.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 9 day of April, 2010 at Mountain View, California.



Kris Brewer

Instructions

Thank you for coming to Google to participate in this study. Today, we will be asking you to search and then express opinions about search results pages you get on Google. Each of you should have a test booklet in front of you, and the computer screen should have a browser open with Google home page displaying. Each of you will be doing slightly different searches and answering slightly different questions in a different order, so please look only at your own booklets, and not your neighbor's.

Before you start on your booklets, we will do an example search.

Let's say that your mother lives in Boston. Tomorrow is your mother's birthday, and you are looking for a place to order flowers on-line that would deliver within 24 hours. I would like you to search for flowers. Can you see search results on your screen? Now look at the questions. Please try and find the listing you see next to the first set of questions on the results page in front of you, and then select your answers. There are no right or wrong answers to these questions – we are interested in your personal opinions and impressions. I don't want you to think too much about the answers – just go with your first impression and make your best guess. You can select multiple options, or "none of the above" – whichever feels most appropriate to you. After you are done with the first set of 3 questions, move on to the second set of questions about the second listing you see on the page. Please find the second listing on the results page that your computer is displaying and answer the 3 questions about the second listing. Do you have any questions about what you are being asked to do?

Now you can start on your booklets. Look at the first page of your booklet. You should see a story describing what you need to search for and why. Please do the search as described in the story. After you are done with the search and can see search results on the screen, please answer all of the questions you see on that page. Once you are done with the first page, you should turn to the next page in both booklets, and work through them at your own pace. You should answer the questions in the order they are given – do not miss questions and come back to them later, or look back through the booklet and change your answers. If you cannot see the listing shown in your booklet on the search results page, you probably skipped a page. Please go back a page in your booklet, and read the task description and answer questions. It is important that you look at each listing in the context of the search you just performed and search results you see in front of you. If the listings you see in your booklet do not seem to match search results you get with Google search, please let us know ASAP.

Once you are done with the booklets, please leave them with me, sign the receipt, and one of us will escort you out.

I am looking to buy a mattress discounters mattress. Can you find a place that carries mattress discounters products on line?

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| <p><u>Matress Discounters</u> Find a Wide Selection of Furniture. Buy or Sell on eBay! www.ebay.com</p> | <p>Do you think this listing is relevant to your query? Why or why not?</p> <p>Who, if anybody, paid for this listing? [pick all that apply]</p> <p><input type="checkbox"/> The-Matress-Co.com <input type="checkbox"/> ebay.com <input type="checkbox"/> Matress Discounters <input type="checkbox"/> Another company <input type="checkbox"/> None of the above</p> <p>Who, if anybody, explicitly endorsed this listing? [pick all that apply]</p> <p><input type="checkbox"/> ebay.com <input type="checkbox"/> Matress Discounters <input type="checkbox"/> The-Matress-Co.com <input type="checkbox"/> Another company <input type="checkbox"/> None of the above</p> |
| <p><u>Matress Discounters</u> Save Over 60% on a Luxury Mattress Pocket Coil and Latex Mattresses www.The-Matress-Co.com</p> | <p>Do you think this listing is relevant to your query? Why or why not?</p> <p>Who, if anybody, paid for this listing? [pick all that apply]</p> <p><input type="checkbox"/> The-Matress-Co.com <input type="checkbox"/> ebay.com <input type="checkbox"/> Matress Discounters <input type="checkbox"/> Another company <input type="checkbox"/> None of the above</p> <p>Who, if anybody, explicitly endorsed this listing? [pick all that apply]</p> <p><input type="checkbox"/> ebay.com <input type="checkbox"/> Matress Discounters <input type="checkbox"/> The-Matress-Co.com <input type="checkbox"/> Another company <input type="checkbox"/> None of the above</p> |

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