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PRESS RELEASE

Nov. 3, 2010, 8:30 a.m. EDT

Shulman Rogers Files 4th Circuit Amicus Brief on Behalf of Non-Profit in Rosetta Stone v. Google Trademark Infringement Case



POTOMAC, Md., Nov 03, 2010 (BUSINESS WIRE) -- The law firm of Shulman Rogers Gandal Pordy & Ecker, P.A., filed an amicus (friend-of-the-court) brief on behalf of non-profit Volunteers of America, Inc. (VoA) in the U.S. Court of Appeals for the Fourth Circuit in the Rosetta Stone v. Google lawsuit. VoA is a highly accredited national non-profit organization that helps more than 2 million people in over 400 communities in forty four states providing housing, healthcare and assistance to at-risk youth, the elderly, men and women returning from prison, homeless individuals and families, people with disabilities, and those recovering from addictions, as well as many other charitable endeavors.

Rosetta Stone, (**RST 23.04, -0.54, -2.29%**), a leading provider of technology-based language-learning solutions, sued Google, which dominates the internet search engine marketplace, for trademark infringement based on Google's practice of selling Rosetta Stone's trademarks as keyword triggers to counterfeiters, competitors and other third parties as part of Google's lucrative 'Adwords' program. In a precedent-setting decision, the U.S. District Court for the Eastern District of Virginia wrote a sweeping opinion granting summary judgment in Google's favor.

"This case has tremendous significance for trademark owners," said Tom Southard, counsel for Volunteers of America. "Like many non-profits, VoA must combat Internet infringement of its trademarks on a daily basis, and this is very burdensome and costly, particularly for a non-profit. We believe the district court erred in not considering certain factors in the likelihood of confusion test for trademark infringement, so we asked the Fourth Circuit to remand and require the district court to consider evidence of consumers' initial interest confusion. This type of evidence is admissible in trademark infringement matters," Southard stated.

Through its amicus brief, VoA points out that the district court engaged in various legal errors and misconstrued fundamental tenets of trademark law, including its failure to consider the initial interest confusion theory of trademark infringement, a tenet of trademark law that has been accepted and applied by federal courts throughout the country. Initial interest confusion has been defined as the "use of another's trademark in a manner calculated to 'capture initial consumer attention,' even though no actual sale is finally completed as a result of the confusion" Brookfield Communications Inc. v. West Coast Entertainment Corp., 174 F.3d 1036, 1062 (9th Cir. 1999). By omitting any consideration of initial interest confusion, the district court incorrectly narrowed the scope of online trademark infringement and ignored facts supporting Rosetta Stone's infringement claim. The effect of the district court's decision ultimately raises the bar for trademark owners seeking protection of their intellectual property rights. The brief urges the Court of Appeals to reverse the district court's opinion.

Shulman Rogers drafted and submitted the brief for Volunteers of America on a pro bono basis. Shulman Rogers attorney's providing counsel on the brief include Thomas G. Southard and Karl W. Means.

For more information and to arrange an interview with Rosetta Stone or Shulman Rogers, please contact Korenna Cline by email at media@shulmanrogers.com or by phone at (703) 299--3404.

About Rosetta Stone:

Rosetta Stone Inc. is changing the way the world learns languages. Rosetta Stone provides interactive solutions that are acclaimed for the power to unlock the natural language-learning ability in everyone. Available in more than 30 languages, Rosetta Stone language-learning solutions are used by schools, organizations and millions of individuals in over 150 countries throughout the world. The company was founded in 1992 on the core beliefs that learning a language should be natural and instinctive and that interactive technology can replicate and

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activate the immersion method powerfully for learners of any age. The company is based in Arlington, Va. For more information, visit RosettaStone.com.

About Shulman, Rogers, Gandal, Pordy & Ecker

Shulman, Rogers, Gandal, Pordy & Ecker, PA is the largest independent law firm in the Washington Metropolitan suburbs. Founded in 1972, the firm and its attorneys and staff are committed to client service, a relentless focus on problem solving and an underlying compassion for its clients and community. The firm has a general practice with experience ranging from corporate law, to real estate, to litigation to estate planning and family law. Additional information on Shulman, Rogers, Gandal, Pordy & Ecker and its practice areas is available at www.shulmanrogers.com.

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