

Perfect 10 Inc v. Google Inc et al

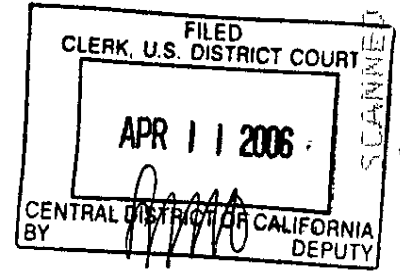
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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES
BY: _____

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

16 PERFECT 10, INC., a California
17 corporation,

18 Plaintiff,

19 v.

20 GOOGLE, INC., a corporation; and
21 DOES 1 through 100, inclusive,
22 Defendants.

Case No: CV04-9484-AHM (SHx) ✓
CV05-4753-AHM (SHx)

**JOINT STIPULATION FOR STAY
OF PROCEEDINGS REGARDING
AMAZON.COM AND A9.COM
ONLY, PENDING RULING BY
COURT OF APPEALS, AND
[PROPOSED] ORDER**

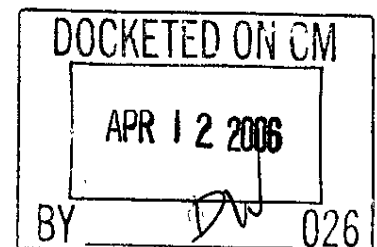
23 PERFECT 10, INC., a California
24 corporation,

25 Plaintiff,

26 v.

27 AMAZON.COM, INC., a corporation;
28 A9.COM, INC., a corporation; and
DOES 1 through 10, inclusive,

Defendants.



152

SCANNED

1 WHEREAS:

2 1. This Court, by its rulings dated February 21 and 22, 2006, denied
3 plaintiff's motion against defendants Amazon.com, Inc. and A9.com, Inc. (collectively,
4 Amazon.com), for preliminary injunction;

5 2. On March 20, 2006, plaintiff Perfect 10, Inc. ("Plaintiff" or "Perfect 10")
6 filed its notice of appeal from the Court's denial of its preliminary injunction motion
7 against Amazon.com;

8 3. Plaintiff seeks to postpone the filing of its opening brief on appeal in the
9 Ninth Circuit Court of Appeals from April 19, 2006 to June 7, 2006, after it files its
10 First Brief on Cross-Appeal regarding the Google Preliminary Injunction;

11 4. It is in the best interest of the parties to stay discovery and motion practice in
12 the action until the Ninth Circuit rules on the pending appeal, or ten (10) months from
13 the date plaintiff files its opening brief on appeal, whichever occurs earlier.

14 5. This stay does not apply to discovery or any other proceedings between
15 Perfect 10 and defendant Google, Inc. in this lawsuit.

16 NOW THEREFORE, the parties, by and through their respective counsel of
17 record, stipulate to entry of, and jointly request that this Court enter an order staying
18 discovery and all other proceedings in the above-entitled consolidated action between
19 Perfect 10 and Amazon.com only (Case No. CV 05-4753) until either (i) the Ninth
20 Circuit issues a decision on plaintiff's pending appeal, or (ii) a period of ten (10)
21 months from the date that Plaintiff files its opening brief on appeal, whichever comes

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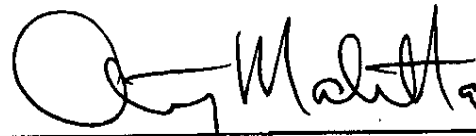
1 first. If the stay expires without a decision from the Ninth Circuit, nothing in this
2 stipulation and order shall prejudice any party's right to seek or oppose a further stay or
3 the parties' right to individually file a motion requesting a further stay.

SCANNED

4
5 IT IS SO STIPULATED.

6 Dated: April 6, 2006

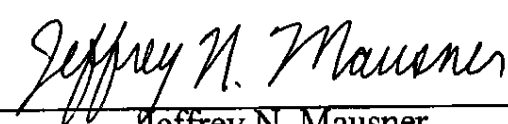
TOWNSEND and TOWNSEND and CREW LLP

7
8 By: 
9 Mark J. Jansen
Anthony J. Malutta

10 Attorneys for Defendants
11 AMAZON.COM, INC. and A9.COM, INC.

12 Dated: April 7, 2006

BERMAN, MAUSNER & RESSER

13
14 By: 
15 Jeffrey N. Mausner

16 Attorneys for Plaintiff
17 PERFECT 10, INC.

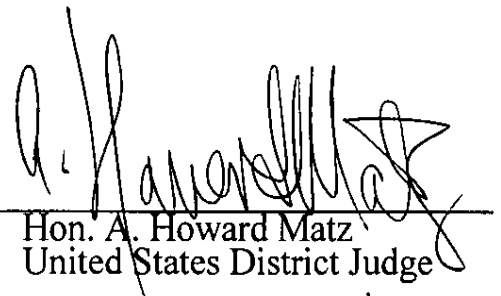
ORDER

Pursuant to stipulation of the parties and finding good cause therefore, the Court hereby ORDERS:

Discovery, motions, and all other proceedings in the above-entitled consolidated action against Amazon.com and A9.com only (Case No. CV 05-4753) shall be stayed until either (i) the Ninth Circuit issues a decision on Plaintiff's pending appeal from the Court's February 22, 2006 order denying Plaintiff's preliminary injunction motion against defendants Amazon.com; or (ii) a period of ten (10) months from the date that Plaintiff files its opening brief on appeal, whichever comes first. If the stay expires without a decision from the Ninth Circuit, nothing in this stipulation and order shall prejudice any party's right to seek or oppose a further stay or the parties' right to individually file a motion requesting a further stay. This stay does not apply to discovery or any other proceedings between Perfect 10 and defendant Google, Inc.

IT IS SO ORDERED

Date: April 11, 2006


Hon. A. Howard Matz
United States District Judge

60739439 v1

SCANNED

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California.

I am over the age of 18 and am not a party to the within action; my business address is: 11601 Wilshire Blvd., Suite 600, Los Angeles, CA 90025-1742.

On April 7, 2006, I served the foregoing document(s) described as follows:

JOINT STIPULATION FOR STAY OF PROCEEDINGS REGARDING AMAZON.COM AND A9.COM ONLY, PENDING RULING BY COURT OF APPEALS AND [PROPOSED] ORDER

on the interested party(ies) in this action by placing a true copy thereof enclosed in a sealed envelope addressed to the address(es) as follows:

**Andrew P. Bridges
Jennifer A. Golinveaux
Winston & Strawn LLP
101 California Street, Suite 3900
San Francisco, CA. 94111-5894**

**Mark T. Jansen
Anthony J. Malutta
Townsend and Townsend and Crew LLP
Two Embarcadero Center, Eight Floor
San Francisco, CA 94111-3834**

**Michael S. Brophy, Esq.
Winston & Strawn LLP
333 South Grand Ave., 38th Floor
Los Angeles, CA 90071-1543**

MAIL: I placed such envelope with fully prepaid postage thereon in the United States mail at Los Angeles, California.

FEDERAL: I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on **April 7, 2006**, at Los Angeles, California

BY: 
Victoria Rapoport

SCANNED