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Frms Gvn _____
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Ntc/Dkt Mld _____
Frms Gvn _____

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2006 JUN 15 PM 2:33

5 Attorneys for Defendant
6 GOOGLE INC.

7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

Winston & Strawn LLP
101 California Street
San Francisco, CA 94111-5894

11 PERFECT 10, INC., a California
12 corporation

13 Plaintiff,

14 vs.

15 GOOGLE INC., a corporation; and
DOES 1 through 100, inclusive

16 Defendant.

Case No. CV04-9484 AHM (SHx)
[Consolidated with Case No. CV 05
4753 AHM (SHx)]

**NOTICE OF APPEAL BY
DEFENDANT GOOGLE INC. OF
ORDER DENYING ITS *EX PARTE*
APPLICATION FOR AN ORDER
MODIFYING THE PRELIMINARY
INJUNCTION ORDER ENTERED
MAY 9, 2006**

17
18
19 **AND COUNTERCLAIM**

**PRELIMINARY INJUNCTION
APPEAL**

20 PERFECT 10, INC., a California
21 corporation

22 Plaintiff,

23 vs.

24 AMAZON.COM, INC., a corporation;
A9.COM, INC., a corporation; and
25 DOES 1 through 10, inclusive,

26 Defendants.

I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED BY
FIRST CLASS MAIL, POSTAGE PREPAID TO _____
(PARTIES) AT THEIR RESPECTIVE _____ ADDRESSES OF
RECORD, IN THIS ACTION, ON THIS DATE
DATED: 6-21-06
[Signature]
CLERK

27 **DOCKETED ON CM**

JUN 21 2006

28 BY [Signature] 184

Notice of Appeal - Case No. CV04-9484 AHM (SHx)

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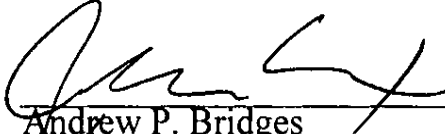
1 Defendant GOOGLE INC. HEREBY GIVES NOTICE THAT it
2 appeals to the United States Court of Appeals for the Ninth Circuit from the
3 District Court order denying its *Ex Parte Application for an Order*
4 *Modifying the Preliminary Injunction Order Entered May 9, 2006* entered
5 June 8, 2006 and attached to this notice as Exhibit 1.

6 Google Inc. and Plaintiff previously filed notices of appeal from the
7 District Court's earlier and related February 21, 2006 ORDER GRANTING
8 IN PART AND DENYING IN PART PERFECT 10'S MOTION FOR
9 PRELIMINARY INJUNCTION AGAINST GOOGLE and May 9, 2006
10 PRELIMINARY INJUNCTION ORDER. The Ninth Circuit, by order dated
11 May 2, 2006 and attached to this notice as Exhibit 2, consolidated the
12 parties' cross appeals from the February order and established a unified
13 briefing schedule. Google Inc. requests that the Ninth Circuit further
14 consolidated this appeal with the parties' appeals from the District Court's
15 February and May orders and follow the briefing schedule outlined in its
16 May 2, 2006 order.

17 Pursuant to Circuit Rule 3-2, a Representation Statement is attached to
18 this notice as Exhibit 3.

19 Pursuant to Circuit Rule 3-4, a Civil Appeals Docketing Statement
20 accompanies this notice.

21 Dated: June ⁴~~13~~, 2006

22 Respectfully submitted,
23 WINSTON & STRAWN LLP
24 By: 
25 Andrew P. Bridges
26 Jennifer A. Golinveaux
27 Attorneys for Defendant and
28 Counterclaimant Google Inc.

Winston & Strawn LLP
101 California Street
San Francisco, CA 94111-5894

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 Attorneys for Defendant
 GOOGLE INC.

- Priority
- Send 0
- Clsd
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- JS-5/JS-6
- JS-2/JS-3

FILED
 CLERK, U.S. DISTRICT COURT,
 JUN - 8 2006
 CENTRAL DISTRICT OF CALIFORNIA
 BY *[Signature]* DEPUTY

Winston & Strawn LLP
 101 California Street
 San Francisco, CA 94111-5894

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

11 PERFECT 10, INC., a California
 12 corporation

13 Plaintiff,

14 vs.

15 GOOGLE INC., a corporation; and
 DOES 1 through 100, inclusive

16 Defendant.

Case No. CV04-9484 AHM (SHx)
 [Consolidated with Case No. CV 05
 4753 AHM (SHx)]

[PROPOSED] ORDER GRANTING
 GOOGLE'S EX PARTE
 APPLICATION FOR AN ORDER
 MODIFYING THE PRELIMINARY
 INJUNCTION ORDER ENTERED
 MAY 9, 2006

17 AND COUNTERCLAIM

18 PERFECT 10, INC., a California
 19 corporation

20 Plaintiff,

21 vs.

22 AMAZON.COM, INC., a corporation;
 23 A9.COM, INC., a corporation; and
 DOES 1 through 10, inclusive,

24 Defendants.

DENIED
 BY ORDER OF *[Signature]*
 UNITED STATES DISTRICT JUDGE
 ON 6/8/06

DOCKETED ON CM
 JUN - 8 2006
 BY *[Signature]* 142

[Proposed] Order Granting Google's Ex Parte App. For An Order Modifying the Prel. Inj. Order
 Entered May 9, 2006

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Defendant Google Inc.'s *EX PARTE* APPLICATION FOR AN ORDER
MODIFYING THE PRELIMINARY INJUNCTION ORDER ENTERED MAY
9, 2006 is hereby GRANTED. Paragraph 5.a. of the preliminary injunction entered
May 9, 2006 is modified to delete the words "and permanently remove."

Dated: _____, 2006

A. HOWARD MATZ
United States District Judge

Winston & Strawn LLP
101 California Street
San Francisco, CA 94111-5894

SP:132781.1

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[Proposed] Order Granting Google's *Ex Parte* App. For An Order Modifying the Prel. Inj. Order
Entered May 9, 2006

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAY 02 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

SCANNED

PERFECT 10, INC., a California corporation,

Plaintiff - Appellant,

v.

AMAZON.COM, INC., a corporation;
et al.,

Defendants - Appellees.

No. 06-55405

D.C. No. CV-05-4753-AHM
Central District of California,
Los Angeles

PERFECT 10, INC., a California corporation,

Plaintiff - Appellant/Cross - Appellee,

v.

GOOGLE INC., a corporation,

Defendant - Appellee/Cross - Appellant.

No. 06-55406

D.C. No. CV-04-09484-AHM
Central District of California,
Los Angeles

PERFECT 10, INC., a California corporation,

Plaintiff - Appellee/Cross -

No. 06-55425

D.C. No. CV-04-09484-AHM
Central District of California,

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06-55405, 06-55406, 06-55425

<p>Appellant,</p> <p>v.</p> <p>GOOGLE INC., a corporation,</p> <p>Defendant - Appellant/Cross - Appellee.</p>

Los Angeles

ORDER

These consolidated cases are preliminary injunction appeals.

The parties' stipulated motions to amend the briefing schedules are granted.

The following briefing schedule shall govern appeal no. 06-55405: Perfect 10's opening brief is due not later than June 7, 2006; Amazon.com's answering brief is due August 11, 2006; and the optional reply brief is due September 19, 2006.

The following briefing schedule shall govern cross-appeal nos. 06-55406 and 06-55425: Perfect 10's opening brief is due not later than May 30, 2006. Google's answering/opening brief is due July 11, 2006. Perfect 10's reply/answering brief is due is August 8, 2006. Google's optional reply brief is due August 22, 2006.

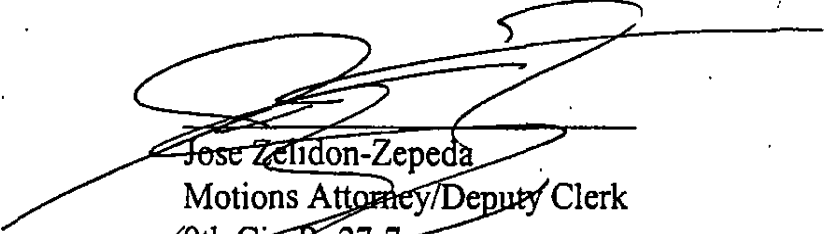
All parties on a side are encouraged to join in a single brief to the greatest extent practicable. See 9th Cir. R. 28-4. If appellant fails to file timely the

06-55405, 06-55406, 06-55425

opening briefs, these appeals will be dismissed automatically by the Clerk for failure to prosecute. *See* 9th Cir. R. 42-1.

These appeals and any motions pending when briefing is completed shall be referred to the next available motions panel for disposition. *See* 9th Cir. R. 3-3(d).

For the Court



Jose Zelidon-Zepeda
Motions Attorney/Deputy Clerk
9th Cir. R. 27.7
General Orders/Appendix A

03/15/06
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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SCANNED

PERFECT 10, INC.,

Plaintiff, Counter-defendant, and Appellee,

v.

GOOGLE INC.,

Defendant, Counterclaimant, and Appellant.

No. _____

D.C. Case No. CV 04-9484 AHM (SHx) (C.D. Cal. Los Angeles)

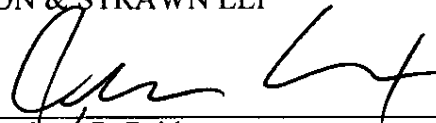
REPRESENTATION STATEMENT BY GOOGLE INC.

The undersigned represents GOOGLE INC., Defendant and Counterclaimant in the court below and Appellant in this appeal, and no other party. Attached is a Service List that shows all of the parties to the action below, and identifies their counsel by name, firm, address, telephone number, facsimile number, and email address. This statement is made pursuant to Fed. R. App. P. 12(b) and Circuit Rule 3-2(b).

Dated: June 1⁴, 2006

Respectfully submitted,

WINSTON & STRAWN LLP

By: 

Andrew P. Bridges
Jennifer A. Golinveaux
Attorneys for Appellee and Cross-Appellant Google Inc.

SERVICE LIST

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PROOF OF SERVICE

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STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES } ss

ANNEXED

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Winston & Strawn LLP, 333 South Grand Avenue, 38th Floor, Los Angeles, California 90071-1543. On June 15, 2006, I served the within document(s):

NOTICE OF APPEAL BY DEFENDANT GOOGLE INC. OF ORDER DENYING ITS *EX PARTE* APPLICATION FOR AN ORDER MODIFYING THE PRELIMINARY INJUNCTION ORDER ENTERED MAY 9, 2006

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set on the attached service list.

SEE ATTACHED SERVICE LIST

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than on day after the date of deposit for mailing an affidavit.

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.

Executed on June 15, 2006, at Los Angeles, California.


Rebecca L. Willis

Service List

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