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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

PERFECT 10, INC., a California corporation,  
Plaintiff,

vs.

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

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

ORDER ON GOOGLE INC.'S OBJECTIONS TO, AND PERFECT 10, INC.'S MOTION FOR REVIEW OF, PORTIONS OF THE MAGISTRATE JUDGE'S ORDER OF FEBRUARY 22, 2008 GRANTING IN PART AND DENYING IN PART PERFECT 10'S MOTION TO COMPEL

AND COUNTERCLAIM

Hon. A. Howard Matz

PERFECT 10, INC., a California corporation,  
Plaintiff,

vs.

AMAZON.COM, INC., a corporation; A9.COM, INC., a corporation; and DOES 1 through 100, inclusive,  
Defendants.

Courtroom: 14  
Hearing Date: April 14, 2008  
Hearing Time: 10:00 am

Discovery Cutoff: None Set  
Pretrial Conference Date: None Set  
Trial Date: None Set

Case No. CV 04-9484 AHM (SHx) [Consolidated with Case No. CV 05-4753 AHM (SHx)]

[PROPOSED] ORDER ON GOOGLE'S OBJECTIONS TO, AND PERFECT 10'S MOTION FOR REVIEW OF, THE MAGISTRATE JUDGE'S ORDER

1 **ORDER**

2 Google Inc.'s Objections To, and Perfect 10, Inc.'s Motion for Review  
3 of, the Magistrate Judge's Order of February 22, 2008, Granting in Part and Denying  
4 In Part Perfect 10, Inc.'s Motion to Compel, came on for hearing on April 14, 2008,  
5 the Honorable A. Howard Matz presiding. Jeffrey N. Mausner appeared on behalf  
6 of Plaintiff Perfect 10, Inc. ("Perfect 10"). Michael T. Zeller and Rachel M. Herrick  
7 appeared on behalf of Defendant and Counterclaimant Google Inc. ("Google").

8 Upon consideration of all papers and records on file and the parties'  
9 oral argument, the Court orders as follows:

10  
11 **ORDERS ON PERFECT 10'S OBJECTIONS**

12 **PERFECT 10'S OBJECTIONS REGARDING REQUEST NOS. 135, 136, AND**  
13 **137**

14 Perfect 10's objections to the Magistrate Judge's Order regarding  
15 Request Nos. 135, 136, and 137 are overruled, and the Magistrate Judge's Order  
16 regarding those Requests is affirmed.

17 **PERFECT 10'S OBJECTIONS REGARDING (PROPOSED) FURTHER**  
18 **ORDER NO. 2**

19 Perfect 10 objected to the Magistrate Judge's decision to not enter  
20 (Proposed) Further Order No. 2. Pursuant to the discussion at the hearing, the  
21 (Proposed) Further Order is imposed mutually on both parties as to all past, present  
22 and future requests for production. Accordingly, on or before June 16, 2008,  
23 Google shall provide Perfect 10 with a written response stating whether Google has  
24 produced documents in response to each of Perfect 10's requests for documents,  
25 listed by set number and request number. If no documents responsive to a request  
26 are located after a good-faith reasonable search and, therefore, none ultimately  
27 produced, Google shall so state with respect to each such request. On or before this  
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1 same date, Perfect 10 shall provide Google with a written response stating whether  
2 Perfect 10 has produced documents in response to each of Google's requests for  
3 documents, listed by set number and request number. If no documents responsive to  
4 a request are located after a good-faith reasonable search and, therefore, none  
5 ultimately produced, Perfect 10 shall so state with respect to each such request. The  
6 obligations of Google and Perfect 10 herein to state whether they have produced  
7 documents in response to each other party's requests for documents, listed by set  
8 number and request number, shall apply to all future requests for documents as well,  
9 and shall be subject to the parties' duties to seasonably supplement their discovery  
10 responses pursuant to Fed. R. Civ. P. 26(e).

11 **PERFECT 10'S OBJECTIONS REGARDING REQUEST NO. 197**

12 Perfect 10's objections to the Magistrate Judge's denial of this Request  
13 are sustained. Google shall produce transcripts in its possession, custody or control  
14 of depositions of any Google employees, officers and directors taken in connection  
15 with the lawsuit *Columbia Pictures Industries, et. al. v. Drury, et. al.*, filed in the  
16 United States District Court for the Southern District of New York.

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18 **ORDERS ON GOOGLE'S OBJECTIONS**

19 **GOOGLE'S OBJECTIONS REGARDING REQUEST NOS. 128-131 and 194-**  
20 **195**

21 Google's objections to Request Nos. 128-131 and 194-195 are  
22 overruled, but the Requests are limited to reports, studies, or internal memoranda.  
23 On or before June 16, 2008, Google shall produce the following:

24 All reports, studies, or internal memoranda ordered, requested, or  
25 circulated by Bill Brougher, Susan Wojcicki, Walt Drummond, and Eric Schmidt  
26 relating to the following topics: search query frequencies, search query frequencies  
27 for adult-related terms, number of clicks on adult images and images in general,  
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1 traffic to infringing websites, the draw of adult content, and percentage of searches  
2 conducted with the safe search filter off. (Request Nos. 128-131).

3 All reports, studies, or internal memoranda circulated by or to John  
4 Levine, Heraldo Botelho, Radhika Malpani, Jessie Jiang, Lawrence You, Diane  
5 Tang, and Alexander MacGillivray relating to the following topics: search query  
6 frequencies, search query frequencies for adult-related terms, number of clicks on  
7 adult images and images in general, traffic to infringing websites, the draw of adult  
8 content, and percentage of searches conducted with the safe search filter off.  
9 (Request Nos. 194-95).

10 **GOOGLE'S OBJECTIONS REGARDING REQUEST NO. 174**

11 Google's objections are sustained in part and overruled in part. On or  
12 before May 15, 2008, Google shall produce documents sufficient to describe  
13 Google's attempts to develop or use any image recognition software capable of  
14 matching a known still photographic image with another image in Google's search  
15 engine index or search engine database. Google is not ordered to produce  
16 documents regarding any other types of image recognition technology.

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1 **GOOGLE'S OBJECTIONS REGARDING REQUEST NO. 196**

2 Google's objections are overruled, subject to the following clarification  
3 regarding the scope of Request No. 196. Perfect 10 sought, and the Magistrate  
4 Judge ordered, production of "Google's DMCA log." As Perfect 10 clarified at the  
5 hearing, "DMCA log" as used in Request No. 196 refers to a spreadsheet-type  
6 document summarizing DMCA notices received, the identity of the notifying party  
7 and the accused infringer, and the actions (if any) taken in response. Google's  
8 obligation to produce documents in response to Request No. 196 shall be subject to  
9 the foregoing definition.

10 **IT IS SO ORDERED.**

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12 DATED: May 13, 2008

13  
14 By 

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16 A. Howard Matz  
17 United States District Judge  
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