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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	CV 04-9484 AHM (SHx)✓ CV 05-4753 AHM (SHx) CV 07-5156 AHM (SHx)	Date	August 20, 2008
Title	PERFECT 10, INC. v. GOOGLE, INC., <i>et al.</i> PERFECT 10, INC. v. AMAZON.COM, INC., <i>et al.</i> PERFECT 10, INC. v. MICROSOFT CORPORATION		

Present: The Honorable	A. HOWARD MATZ, U.S. DISTRICT JUDGE		
Stephen Montes	Not Reported		
Deputy Clerk	Court Reporter / Recorder	Tape No.	
Attorneys NOT Present for Plaintiffs:		Attorneys NOT Present for Defendants:	

Proceedings: IN CHAMBERS (No Proceedings Held)

On Monday, the Court held a scheduling conference in *Perfect 10, Inc. v. Google, Inc.* and *Perfect 10, Inc. v. Amazon.com, Inc.* The Court elicited information on the status of Plaintiff's case against Microsoft Corporation, whose counsel was not present, and issued tentative rulings affecting that case, in an effort to coordinate discovery in all three related cases. The Court directed the parties to obtain a transcript and make it available to Microsoft's counsel as soon as possible.

Discovery Master

As indicated at the conference, the Court may appoint a Discovery Master pursuant to Federal Rule of Civil Procedure 53. The Discovery Master would be appointed in at least the *Google* and *Amazon* cases, but probably in all three cases. The Discovery Master would manage and supervise the formulation of a discovery plan, monitor ongoing discovery, issue orders resolving discovery disputes (which would be subject to review by this Court), and make recommendations to the Court. If the Court chooses to appoint a Discovery Master, the parties will be required to lodge a proposed order containing the findings and terms required by Rule 53. At this point, suffice it to say that in the *Google* case alone the Magistrate Judge and this Court have already been required to rule upon fiercely disputed discovery motions involving complex, technology-driven disputes. Now additional discovery motions have been filed that present daunting technical issues that will consume a great deal of judicial time and resources.

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Accordingly, the Court ORDERS the parties to meet and confer and to jointly recommend three (3) individuals who are qualified to serve as a Discovery Master. At a minimum, the candidates must have no conflicts of interest, have demonstrated experience in both federal discovery requirements and in technology and Internet issues, and must be available to accept appointment and commence his or her duties by September 15, 2008. The joint proposal shall be filed by not later than August 29, 2008.

The Court further ORDERS the parties in all three cases to compile lists of (1) pending discovery motions, (2) discovery motions that currently are contemplated and (3) discovery disputes that are reasonably likely to arise within the next nine months. A separate list shall be filed in and for each case. The parties should pay particular attention to disputes that may arise from alleged “mega-requests.” These lists are not binding, in the sense that after the lists are filed the parties will be permitted to withdraw pending motions, refrain from making contemplated motions, and pursue additional motions. Each list shall be filed by not later than August 29, 2008.

Technical Advisor

As a possible alternative to the appointment of a Discovery Master, the Court may appoint a Special Advisor to advise the Magistrate Judge and the Court on an array of technical issues involving software and Internet technology. This alternative also requires adherence to procedural safeguards. For a summary of what it would entail, the parties shall obtain this Court’s “Order re Possible Appointment of a Special Advisor” in *Funai Electric Co. Ltd. v. Proview International Holdings, Ltd.*, CV 06-5355 AHM (RCx), filed August 29, 2007. The parties should begin to exchange proposals about a possible Special Advisor appointee.

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