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 11 UNITED STATES DISTRICT COURT  
 12 CENTRAL DISTRICT OF CALIFORNIA

13 PERFECT 10, INC., a California  
 14 corporation,

Plaintiff,

15 vs.

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

18 Defendants.

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

GOOGLE INC.'S LIST OF PENDING  
 AND CONTEMPLATED  
 DISCOVERY MOTIONS

19 AND COUNTERCLAIM

21 PERFECT 10, INC., a California  
 22 corporation,

Plaintiff,

23 vs.

24 AMAZON.COM, INC., a corporation;  
 25 A9.COM, INC., a corporation; and  
 26 DOES 1 through 100, inclusive,

27 Defendants.

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

PENDING AND CONTEMPLATED DISCOVERY MOTIONS

1 Pursuant to the Court's Order dated August 20, 2008, Defendant and  
2 Counterclaimant Google Inc. hereby submits its lists of the following categories of  
3 discovery motions: (1) pending discovery motions, (2) discovery motions that  
4 currently are contemplated and (3) discovery disputes that are reasonably likely to  
5 arise within the next nine months.

6  
7 **A. PENDING DISCOVERY MOTIONS**

8 1. Google Inc.'s ("Google") Motion to Compel Further Responses  
9 to Google's Interrogatory Nos. 3 and 11 (filed August 15, 2008; by order of the  
10 Court, the hearing originally noticed for September 8, 2008 before Magistrate Judge  
11 Hillman has been vacated).

12 2. Google Inc.'s Motion for Partial Reconsideration of Protective  
13 Order to Designate One Category of Documents Outside Counsel's Eyes Only (filed  
14 August 4, 2008).

15 3. Google Inc.'s Motion For Issuance of a Request for Judicial  
16 Assistance (Letter of Request) Under the Hague Convention on the Taking of  
17 Evidence Abroad in Civil or Commercial Matters (originally filed August 5, 2008  
18 before Judge Matz and to be re-filed before Magistrate Judge Hillman following  
19 conference with counsel for Amazon.com and Microsoft Corporation).

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21 **B. CURRENTLY-CONTEMPLATED DISCOVERY MOTIONS**

22 1. Motion to compel compliance with the Protective Order by  
23 withdrawing blanket confidentiality designations in Perfect 10, Inc.'s ("Perfect 10")  
24 document productions and by affixing a confidentiality designation only on pages of  
25 documents in those productions actually containing confidential material(s).

26 2. Motion to compel regarding the format of document production,  
27 compelling production of documents in fully-searchable .tif format, with Online  
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1 Character Recognition (OCR) capability, and with control numbers affixed to each  
2 page therein.

3           3.       Motion to compel production of documents related to the  
4 financial condition of Perfect 10 and Perfect 10's alleged claim of actual damages,  
5 including removal of redactions on financial documents already produced.

6           4.       Motion to compel production of documents related to Perfect  
7 10's employment of PicScout Ltd. and any other providers of image recognition  
8 services.

9           5.       Motion to compel production of documents related to Perfect  
10 10's alleged copyright registrations, deposit materials, and/or correspondence with  
11 the Copyright Office.

12           6.       Motion to determine the sufficiency of Perfect 10's responses  
13 and/or to compel responses to Google's Requests for Admission.

14           7.       Motion for protective order regarding Perfect 10's Request for  
15 Production No. 291, to the extent that such Request seeks production of complete  
16 Internet Protocol ("IP") addresses of individual Google users.

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18           **C.       DISCOVERY DISPUTES REASONABLY LIKELY TO ARISE**  
19           **IN THE COMING NINE MONTHS**

20           1.       Google expects to bring all the above-mentioned disputes before  
21 the Court over the course of the coming nine months.

22           2.       Google expects that Perfect 10's method of production will result  
23 in disputes over authentication and/or identification of the native-file documents it  
24 has produced, and that these disputes may require Court intervention to resolve.

25           3.       Google anticipates that Court intervention may be necessary to  
26 enforce compliance with Google's contemplated subpoenas to multiple third-parties  
27 for documents and/or testimony. For example, although counsel for Perfect 10  
28 formerly agreed to accept service of subpoenas on behalf of all nine individuals for

1 whom Perfect 10 seeks to enforce alleged publicity rights, counsel for Perfect 10 has  
2 now agreed to accept service on behalf of only two of the nine individuals, and has  
3 provided a mailing address for only five such individuals. Additionally, at least two  
4 such individuals are located outside the United States. Accordingly, in order to  
5 properly serve subpoenas on these nine individuals, Google must locate and serve  
6 seven of the nine individuals, and for at least two, will need to move the Court for  
7 issuance of a Letter of Request under the Hague Convention of 18 March 1970 on  
8 the Taking of Evidence Abroad in Civil or Commercial Matters.

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10 DATED: August 29, 2008

QUINN EMANUEL URQUHART OLIVER &  
HEDGES, LLP

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By /s/ Michael T. Zeller  
Michael T. Zeller  
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