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8 Attorneys for Plaintiff Perfect 10, Inc.

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA

11 PERFECT 10, INC., a California
 12 corporation,
 13 Plaintiff,
 14 v.
 15 GOOGLE INC., a corporation; and
 16 DOES 1 through 100, inclusive,
 17 Defendant.

Case No.: CV04-9484 AHM (SHx)

**JOINT PROPOSAL REGARDING
 DISCOVERY MASTER**

18 PERFECT 10, INC., a California
 19 corporation,
 20 Plaintiff,
 21 v.
 22 AMAZON, INC., a corporation;
 23 A9.COM, INC., a corporation;
 24 ALEXA INTERNET, INC, a
 25 corporation; and DOES 1 through 10,
 26 inclusive,
 27 Defendants.

CV05-4753 AHM (SHx)

1 PERFECT 10, INC., a California
corporation,

CV07-5156 AHM (SHx)

2 Plaintiff,

3 v.

4 MICROSOFT CORPORATION; and
5 DOES 1 through 100, inclusive,

6 Defendant.
7

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9 Pursuant to the Court's Order of August 20, 2008, the parties jointly
10 recommend the following judge to act as Discovery Master in these matters:

11 (1) Judge Dickran M. Tevrizian, retired United States District Judge,
12 Central District of California, currently at JAMS.

13 <http://www.jamsadr.com/ neutrals/Bio.asp?NeutralID=1920>

14 Judge Tevrizian (ret.) is available to take the appointment.

15 The parties have made considerable efforts to identify candidates for
16 appointment as Discovery Master who are qualified under the Court's stated
17 criteria, available to take the position, free of conflicts, and acceptable to all
18 parties. Many potential candidates were ultimately found unavailable, however,
19 because they are not accepting appointments in discovery matters, or because of
20 conflicts. As such, the parties have to date reached agreement only on Judge
21 Tevrizian (ret.) as a proposed candidate. The parties will continue to make further
22 inquiries to identify additional candidates for the appointment, and will continue to
23 attempt to reach agreement thereon.

24 Google Inc., Amazon.com, Inc., Alexa Internet, A9.com, Inc., and Microsoft
25 Corporation agree and believe that the fees of the appointed Discovery Master
26 should be split equally between the parties to the disputed matter or motion, except
27 that the Discovery Master may apportion fees differently if it is determined that
28 one party has taken an unreasonable position with respect to the particular issue.
For example, in a motion by Google against Perfect 10, each would pay half the

1 discovery master's fees, and the other defendants would not be responsible for any
2 discovery master fees. Perfect 10, Inc. objects to this proposed method of
3 apportioning fees, and to the defendants raising this issue at the last minute.
4 Perfect 10 believes this would constitute a change in the fee-splitting procedure
5 that it understood was contemplated by the Court – one-fourth for each of the
6 defendants (or one-third each if the Discovery Master was not going to be
7 appointed in the Microsoft case). Perfect 10 believes that requiring Perfect 10 to
8 pay one half of the fees of the Discovery Master, which is what the defendants now
9 seem to be proposing, would simply be overly burdensome and unfair to Perfect
10 10. If the Court is contemplating such a change in the way fees are allocated,
11 Perfect 10 requests to be heard on this subject.

12 Finally, Microsoft Corporation joins in the proposal of Judge Tevrizian (ret.)
13 without conceding the necessity for appointment of a Discovery Master in *its* case,
14 *Perfect 10, Inc. v. Microsoft Corporation*, Case No. 07-cv-5156 AHM (SHx).

15 Respectfully submitted,

16
17 Dated: September 4, 2008

LAW OFFICES OF JEFFREY N. MAUSNER

18 By: /s/ Jeffrey N. Mausner
19 Jeffrey N. Mausner
20 Attorneys for Plaintiff Perfect 10, Inc.

21 Dated: September 4, 2008

TOWNSEND & TOWNSEND & CREW

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23 By: /s/ Mark T. Jansen (with permission)
24 Mark T. Jansen
25 Attorneys for Defendants Amazon.com,
26 Inc., A9.com, Inc., and Alexa Internet
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Dated: September 4, 2008

WINSTON & STRAWN, LLP

By: /s/ Andrew P. Bridges (with permission)
Andrew P. Bridges
Attorneys for Defendant Microsoft
Corporation

Dated: September 4, 2008

QUINN EMANUEL

By: /s/ Michael T. Zeller (with permission)
Michael Zeller
Attorneys for Defendant Google, Inc.