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16 Attorneys for Defendant GOOGLE INC.

17 UNITED STATES DISTRICT COURT

18 CENTRAL DISTRICT OF CALIFORNIA

19 PERFECT 10, INC., a California  
20 corporation,

21 Plaintiff,

22 vs.

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

25 Defendants.

26 AND COUNTERCLAIM

27 PERFECT 10, INC., a California  
28 corporation,

Plaintiff,

vs.

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

Defendants.

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

DECLARATION OF PAUL HAAHR IN  
SUPPORT OF DEFENDANT  
GOOGLE'S MOTIONS FOR  
SUMMARY JUDGMENT RE:  
GOOGLE'S ENTITLEMENT TO SAFE  
HARBOR UNDER 17 U.S.C. § 512

Hon. A. Howard Matz

Date: August 17, 2009

Time: 10:00 a.m.

Ctrm: 14

Discovery Cut-off: None Set  
Pretrial Conference Date: None Set  
Trial Date: None Set

**PUBLIC REDACTED**

1 I, Paul Haahr, declare as follows:

2 1. I am an engineer at Defendant Google Inc. ("Google"). I have been  
3 employed with Google since 2002. I manage various aspects of Google's Web  
4 Search service. I have personal knowledge of the matters set forth herein and if  
5 called and sworn as a witness, I could and would competently testify thereto.

6 Google's Procedure for Processing DMCA Notices Regarding Web Search

7 2. I handle the engineering (or "back-end") side of Google's Web Search  
8 DMCA removals process. The "front-end" [REDACTED] team is tasked with doing the  
9 initial review and processing of DMCA notices, and interfaces directly with DMCA  
10 complainants. It is my understanding that the [REDACTED] team confirms that the  
11 necessary information has been received from the complainant (as set forth in  
12 Google's published DMCA policy), and then attempts to match the copyrighted  
13 work claimed to be infringed with the allegedly infringing material identified by the  
14 complainant.

15 3. The engineering team that handles the "back end" of the Web Search  
16 DMCA removals process [REDACTED] I am a part of  
17 that team.

18 4. To process a removal, my team needs the complete URL at which the  
19 allegedly infringing material is located. A web page URL is a string of characters  
20 that identifies the location of that web page on the World Wide Web. It is what an  
21 Internet user sees in its browser bar. If a web page URL contains improper ellipses  
22 (that is, ellipses that replace other characters actually in the URL), unnecessary  
23 spaces, or misspellings, it cannot be used to block links to that web page from  
24 appearing in Google's search results. Stated another way, entering incomplete or  
25 incorrect URLs in the file my team uses for processing DMCA notices [REDACTED]  
26 [REDACTED] will not prevent links to those web pages from being returned by  
27 Google Web Search, and can also result in engineering problems for Google's  
28 search engine. Additionally, not all web pages that are indexed by Google will

1 appear in Google Web Search results. Google regularly blocks links to web pages  
2 from appearing in Web Search results for various policy reasons, including DMCA  
3 notices. Google cannot block URLs which are not live on the web, which are not  
4 indexed by Google, or are already blocked from appearing in Web Search results,  
5 because these URLs *already* do not appear in Web Search results. Stated another  
6 way, in those instances, there is nothing to block.

7 5. Our [REDACTED] team receives from the [REDACTED] team lists of URLs that  
8 have been identified by complainants as URLs at which allegedly infringing  
9 materials may be located. The [REDACTED] team also sends our team a link to a URL  
10 linking to a page on the website "chillingeffects.org" at which the original DMCA  
11 notice may be found and viewed.

12 6. Our team processes the removal by [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 [REDACTED] Attached as Exhibit 1 is a true and correct copy of excerpts of the  
17 [REDACTED] file. These excerpts include, among other things, URLs submitted by  
18 Perfect 10, Inc. ("P10") and processed by Google.

19 7. [REDACTED]  
20 [REDACTED]  
21 [REDACTED]

22 [REDACTED] Thus, when a web  
23 page is prevented from appearing in Google search results [REDACTED]  
24 [REDACTED] a link to the DMCA notice at that  
25 Chilling Effects URL is displayed at the bottom of the user's search results. This  
26 serves to explain to the user the reason for the suppression of a portion of the user's  
27 search results.

28 8. If the [REDACTED] team receives a counter-notification under the DMCA,  
they notify the [REDACTED] team that a suppressed URL should be reinstated. My team

1 processes that reinstatement by [REDACTED]  
2 [REDACTED] so the URL in question may again appear in Web Search  
3 results. The [REDACTED] team is notified when this process is complete.

4 Google's Procedure for Processing DMCA Notices Regarding Image Search

5 9. In connection with my responsibilities handling the engineering aspects  
6 of Web Search removals, I have become familiar with Image Search removals.  
7 From time to time, I have personally processed DMCA removal requests regarding  
8 Image Search. Google's procedure for processing notifications of copyright  
9 infringement related to Image Search is largely the same as the procedure for  
10 processing notifications relating to Web Search. Specifically, when a complainant  
11 sends a DMCA-compliant notice to Google, Google's [REDACTED] team attempts to  
12 verify the complaint. Once verified, Google engineers [REDACTED]

13 [REDACTED]  
14 [REDACTED] prevent those image URLs from appearing in any  
15 Image Search results generated in response to user queries. Attached as Exhibit 2 is  
16 a true and correct copy of excerpts of the Image Search-specific [REDACTED] file. These  
17 excerpts include, among other things, URLs identified in communications received  
18 from P10.

19 10. To process a removal for Image Search, Google needs the complete  
20 URL at which the allegedly infringing material is located—i.e., the “image URL.”  
21 An image URL identifies the location where a specific image is hosted on the Web.  
22 Images may be displayed on one or more web pages using a hyperlink to the image  
23 URL. If an image URL is linked to and displayed at multiple web page URLs, but  
24 the complainant provides Google with only one of those web page URLs in its  
25 DMCA notice, Google can only prevent that single display (web page URL) of the  
26 image from being linked to in Image Search results. In this example, the other web  
27 page URLs at which that image is displayed will continue to be linked to in Image  
28 Search results. This means that complainants must provide the image URL at which

1 the infringing image is hosted in order for Google to ensure that all displays of a  
2 specific image located at a particular image URL are prevented from being linked to  
3 in Image Search results generated in response to user queries. An image URL will  
4 typically end with the suffix ".jpg" or ".gif." However, URLs ending with those  
5 suffixes are not always image URLs.

6 11. As with the Web Search removals process, Google cannot use partial or  
7 incomplete image URLs (such as those improperly containing ellipses, unnecessary  
8 spaces, or misspellings) to block links to content from appearing in Google Image  
9 Search results. Additionally, not all content that is indexed by Google will appear in  
10 Image Search results. Google regularly blocks links to content from appearing in  
11 Image Search results for various policy reasons, including DMCA notices. Google  
12 cannot block URLs which are not live on the web or are already blocked from  
13 appearing in Image Search results, because these URLs *already* do not appear in  
14 Image Search results. Stated another way, in those instances, there is nothing to  
15 block.

16 12. If the [REDACTED] team receives a counter-notification regarding an Image  
17 Search removal, they again notify the [REDACTED] team that a suppressed image URL  
18 should be reinstated. [REDACTED]  
19 [REDACTED] so it can again appear in Image Search  
20 results. The [REDACTED] team is notified when this process is complete.

21 13. [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

#### 26 Google Does Not Crawl All Content for Search

27 14. Although Google crawls billions of web pages for its Web and Image  
28 Search products, it does not crawl all content. Google does not crawl sites that are

1 marked by the site owner with code indicating that the site should be excluded from  
2 search engine crawl. Site owners can use robot exclusion .txt files, which are  
3 instructions that tell Google's web robots not to crawl those pages or sites. Google  
4 also generally does not crawl or index websites, or those portions of websites, that  
5 are only accessible by entering a password. Nor does it crawl or index Usenet's  
6 servers. "Usenet" is a completely separate system of servers and communication  
7 protocol than the World Wide Web, which is what Google crawls and indexes for its  
8 Web and Image Search products. It is my understanding that what P10 calls  
9 "Usenet sites" in its communications refers to both Usenet groups and password-  
10 protected sites.

11 15. Google may crawl and index Usenet "gateway" or "mirror" web pages  
12 located on standard web servers accessible to Google's web robots, but it does not  
13 crawl, index, or link to the content within Usenet groups for its Web and Image  
14 Search products. Accordingly, there are no links in Google's Web or Image Search  
15 results to allegedly infringing content in Usenet groups unless it happens to be on  
16 gateway pages of Usenet or password protected sites. To the extent web pages  
17 on these sites are crawled by Google, to remove links to those web pages from Web  
18 Search results, Google needs the complainant to provide the web page URL for the  
19 content in question, just as it does for any other web page removal. Likewise, to  
20 remove allegedly infringing images displayed on those web pages from Image  
21 Search results, Google needs the complainant to provide the image URL, just as it  
22 does for any other image removal.

23 Google's Relationship With Third-Party Websites

24 16. Google does not charge websites a fee for appearing in its user-  
25 generated Web or Image Search results. Nor does it charge a fee for the use of Web  
26 or Image Search. Google crawls and indexes third-party websites made available on  
27 the Internet by third parties and accessible to users regardless of whether they  
28 appear in Google's Web or Image Search results, unless those sites have robot

1 exclusion files. Google lacks the ability to remove those websites from the Internet,  
2 or to control what they choose to display.

3 17. Google's Web and Image Search services do not have account holders  
4 or subscribers. Webmasters do not "sign up" to have their web sites listed in  
5 Google's organic search results. Websites appear in search results if they are  
6 crawled by Google's web robots and are relevant to users' queries, as determined by  
7 Google's automated search algorithm.

8 18. I am not aware of Google interfering with any standard technical  
9 measures employed for the protection of copyrighted content. For example, Google  
10 does not interfere with any watermarking or digital rights management typically  
11 employed by copyright owners.

12 19. Google does not interfere with any technology used by a website to  
13 collect information directly from users visiting that website.

14 20. The cache Google makes available to users does not alter the  
15 mechanisms for access to copyrighted material established by webmasters, such as  
16 charging a payment or password protection.

17 I declare under penalty of perjury under the laws of the United States of  
18 America that the foregoing is true and correct. Executed June 30, 2009 at  
19 Mountain View, California.

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21 Paul Haahr  
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