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10
 11 UNITED STATES DISTRICT COURT
 12 CENTRAL DISTRICT OF CALIFORNIA

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

15 Plaintiff,

16 v.

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

19 Defendants.

20 AND CONSOLIDATED CASE.

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

**DECLARATION OF SHEENA
 CHOU IN SUPPORT OF PERFECT
 10'S MOTION FOR SUMMARY
 JUDGMENT AND SUMMARY
 ADJUDICATION AGAINST
 GOOGLE**

BEFORE JUDGE A. HOWARD MATZ

Date: August 17, 2009
 Time: 10:00 a.m.
 Place: Courtroom 14, Courtroom of the
 Honorable A. Howard Matz

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

DECLARATION OF SHEENA CHOU

I, Sheena Chou, declare as follows:

1. I make this declaration in support of Perfect 10’s Motion for Summary Judgment against Google and in support of Perfect 10’s opposition to Google’s motion for summary judgment. Except where otherwise stated, I have direct and personal knowledge of the facts set forth herein and, if called as a witness, could and would competently testify thereto. I am very familiar with the Adobe style DMCA notices that Perfect 10 has sent Google.

2. I currently work part time for Perfect 10, Inc. I have a degree in Economics from UCLA, took two computer courses in high school, and am quite familiar with computers.

3. One of my jobs at Perfect 10 has been to download infringing Perfect 10 images from various pay websites. I have personally downloaded more than 15,000 Perfect 10 images from each of at least twenty of the pay sites listed on pages 5 and 6 of Exhibit 22 to the Declaration of Dr. Norman Zada (“Zada Declaration”), filed concurrently herewith. I have also downloaded thousands of Perfect 10 images from other pay sites listed on those pages. I am very familiar with Perfect 10’s images. I have reviewed Perfect 10’s website to become familiar with those images. In addition, many of the images from the infringing pay websites contain Perfect 10’s copyright notice on the image, as they appear on Perfect 10’s website, or are organized in groups of images with titles that clearly indicate that they are from Perfect 10, such as “Your requested P10 Website,” “Some of your P10 Gallery,” “Your P10 2006 fills,” “requested P10 2007’s.” The pay websites from which I have downloaded thousands of infringing Perfect 10 images include, but are not limited to: 100proofnews.com, 1usenet.com, active-news.com, alibis.com, anonymousnewsfeed.com, astraweb.com, athenanews.com, binaries.net, bubbanews.com, cheapnewsgroups.com, eurofeeds.com, fastusenet.com, galacticgroups.com, giganews.com, infinityusenet.com, maximumusenet.com, newsdemon.com, newsgroup-binaries.com,

1 newsgroupdirect.com, newsgroups-download.com, newsreader.com,
2 planetnewsgroup.com, powerusenet.com, rhinonewsgroups.com, supernews.com,
3 thundernews.com, tigerusenet.com, usenet.com, usenet-access.com, usenet-
4 unlimited.com, usenetgiant.com, usenetmonster.com, and usenetrocket.com.

5 4. I have observed that those pay sites also offer thousands of full-length
6 movies and songs. I have observed that Dr. Zada has downloaded large numbers of
7 images from those sites as well. My experience with the pay sites listed on pages 5
8 and 6 of Exhibit 22 of the Zada Declaration is that they all offer the same images, but
9 that they rotate the images that they offer. In other words, a particular group of Perfect
10 10 images (“P10 Images”) may be available for download for several months, and then
11 not available for several months, and then once again available. While one group of
12 Perfect 10 images may not be available, other groups are. The period of time a group
13 of images is available is often called the “retention period.” The websites have
14 different retention periods. The longer the retention period, the greater the number of
15 images that are available for download at any one time. That is why I was able to
16 download more images from some sites than from others. But in the end, the P10
17 Images available from the aforementioned websites over time appear to be the same.

18 5. I have been able to readily find P10 Images on such websites by doing
19 searches on “P10”; P10 in combination with a date, such as “P10 2004”; the model
20 name; or the image URL of the image, such as Marisa_Miller_44.jpg.

21 6. One of my other assignments has been to determine whether Google has
22 removed from its search results, URLs identified by Perfect 10. I have been able to do
23 this simply by inputting the URL provided by Perfect 10, without the starting http:// or
24 www., into the Google search box.

25 7. The Adobe files provided by Perfect 10 in its notices have been sufficient
26 to allow Google to find the infringing material. I know this because I have extracted
27 hundreds of URLs from those same files using Adobe’s URL extraction feature, and
28 have placed those same URLs into Google’s search box or into my browser bar to

1 verify that those web pages were still either directly linked to by Google in its search
2 results, or were still on Google's blogger.com servers. I was able to locate the
3 infringing material in this manner using the URLs provided by Perfect 10 in its notices.

4 8. One of my other assignments has been to determine whether Google has
5 removed full-size Perfect 10 images from Google's blogger.com servers in response to
6 Perfect 10's notices. Between May 18, 2009 and July 3, 2009, I verified that at least
7 3737 blogger.com URLs which were extracted from Perfect 10's Adobe notices sent to
8 Google from July 2, 2007 through July 9, 2008, when inputted into my browser bar,
9 still resulted in P10 Images accessible to Internet users. I used our Adobe program to
10 resave those images in PDF format. The date shown on each Adobe file is the date
11 that I resaved the image. I have verified that at most 71 of the blogger URLs, out of
12 approximately 3808 URLs identified by Perfect 10 in its notices, have been disabled as
13 of May 18, 2009. Most of these 71 URLs were not disabled until months after Google
14 first received notice from Perfect 10. The vast majority of the blogger.com URLs in
15 Perfect 10's notices, at least 3737 out of 3808, had not been disabled at the time that I
16 performed this assignment, many months after Perfect 10 had sent the notices to
17 Google. My work is contained in Exhibit 9 (the disk), in a folder labeled "blogger up
18 51809." The adobe files in that folder show the dates for which full-size P10 Images
19 were still available on blogger.com servers. The excel spreadsheet that I made, which
20 summarizes the results of my work, is contained in the same folder in Exhibit 9
21 entitled "blogger up 51809." The excel spreadsheet gives the URL of the web page on
22 the left, with the starting http:// removed. I have been able to locate the infringing P10
23 Images by simply inputting that URL into my browser bar without the http://. The "B"
24 and "C" columns give dates when those images were identified in Perfect 10 DMCA
25 notices to Google. The date on the right gives the last date that Perfect 10 has an
26 Adobe file showing that the P10 Image was still available at that blogger.com URL.
27 (Those Adobe files are contained in Exhibit 9, in the folder entitled "blogger up
28 51809.") The only URLs that I was not able to retrieve the P10 Image for between

1 May 18, 2009 and July 3, 2009 are the ones that are shown in red at the bottom of the
2 spreadsheet.

3 9. I have read the statements made by Google on page 2 of its Memorandum
4 of Points and Authorities for its Motion for Summary Judgment for Its Blogger
5 Service. I have observed that in a number of cases, the full-size blogger image still
6 appears on Google's blogger.com servers, even when the original blogspot site that
7 displayed those images no longer exists. In those situations, there is no permalink or
8 top level domain of the blog and date of the blog entry that Perfect 10 could provide,
9 as requested by Google. Furthermore, Perfect 10 has provided the top level domain
10 with the date, as well as the permalink, in most notices, and has also provided the
11 complete URL of the full-size P10 image as stored on blogger.com.

12 I declare under penalty of perjury under the laws of the United States of
13 America that the foregoing is true and correct to the best of my knowledge. Executed
14 on July 3, 2009, in Los Angeles County, California.

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17 _____
18 Sheena Chou
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