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9 Attorneys for Plaintiff Perfect 10, Inc.

10 UNITED STATES DISTRICT COURT
 11 CENTRAL DISTRICT OF CALIFORNIA

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

14 Plaintiff,

15 v.

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

18 Defendant.

19 AND CONSOLIDATED CASE.

Case No. CV 04-9484 AHM (SHx)

Consolidated with Case No. CV 05-4753
 AHM (SHx)

**DECLARATION OF C. J. NEWTON
 SUBMITTED IN OPPOSITION TO
 GOOGLE’S THREE MOTIONS FOR
 SUMMARY JUDGMENT RE DMCA
 SAFE HARBOR FOR ITS WEB AND
 IMAGE SEARCH, BLOGGER
 SERVICE, AND CACHING FEATURE
 (DOCKET NOS. 428, 427, AND 426)**

BEFORE JUDGE A. HOWARD MATZ

Date: October 5, 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

1 I, C. J. Newton, declare as follows:

2 1. I was the Chief Executive Officer, and am currently the Chief
3 Strategy Officer, of Mir Internet Marketing, Inc. (“Mir”) and its division
4 SEO Logic Search Engine Optimization and Placement Services. Mir is
5 in the business of developing and rehabilitating websites so they perform
6 better in natural search results. I submit this declaration in connection
7 with Perfect 10’s lawsuit against Google. All of the matters stated herein
8 are of my own personal knowledge, except where otherwise stated, and if
9 called as a witness, I could and would testify competently thereto.

10 2. I write articles regarding search engine optimization and related
11 subjects, which are published on SEO Logic’s and Mir’s websites. These articles,
12 or portions of them, are copied by others. Google’s search engine provides links to
13 the copied articles.

14 3. Starting in October 2002, I began sending DMCA notices to Google,
15 to try to get Google to remove links to the infringing articles. At first, it appeared
16 that Google may have taken some action to remove infringing links, but it soon
17 became clear to me that Google was not taking any action in response to my
18 notices. I sent well over one hundred notices to Google between October 2002 and
19 November 2007. By the end of November 2007, I simply gave up trying to get
20 Google to remove or disable access to infringing material. After I sent notices to
21 Google, I would perform searches to see if Google had removed any of the links,
22 and I saw that Google was not doing so. Google only wrote back to me once,
23 when one of my faxes to them did not go through properly. A true and correct
24 copy of this email from Google is attached as Exhibit 1. Other than that, Google
25 never asked for any additional information, or told me what action was taken in
26 regard to my notices. I am completely dissatisfied with the way Google dealt with
27 the many notices that I sent to them.

28

Exhibit 1

From: help@google.com
Subject: [SPAM] SEO2 Web Contact I User Support I Google
Date: March 31, 2005 11:13:48 AM CST
To: staff@seologic.com
▶ 1 Attachment, 0.6 KB

SEO Web Contact

contact info

Business Name: Google
Contact Name: User Support
Title:
Address: 1600 Amphitheatre Parkway
City: Mountain View
State: CA
Zip: 94043
Country: USA
Phone: 650 623 4000
Fax: (650) 618-2649
Email: help@google.com
URL: www.google.com

Message: you have the incorrect address and fax number for Google DMCA notifications. Google, Inc. Attn: User Support, DMCA Complaints 1600 Amphitheatre Parkway Mountain View, CA 94043 OR fax to: (650) 618-2649 Attn: User Support, DMCA complaints

Keywords: , , , ,

USER AGENT: Mozilla/4.0 (compatible; MSIE 6.0; Windows NT 5.1; .NET CLR 1.1.4322)

SESSION ID: [4d22d849cc4af553ba2bca59a11cf84a](#)

REFERER:



[UserSupport.vcf \(0.6 KB\)](#)

Exhibit 2



A division of Mir Internet Marketing, Inc.

SEO Logic Search Engine Optimization
and Placement Services
818 Harrison Street, Suite 205
Oak Park, Illinois 60304
September 17, 2007

Google, Inc.
Attn: Google Legal Support, DMCA Complaints
2400 Bayshore Pkwy
Mountain View, CA 94043

Dear Google Customer Support Professionals,

The copyrighted work at issue is the text that appears on <http://www.seologic.com/faq/title-tags.php>.

Search Query: "Titles are used by website resource librarians"

[http://www.google.com/search?q=%22Titles+are+used+by+website+resource+librarians&hl=en&safe=off&rls=G
GGL,GGGL:2006-32,GGGL:en&filter=0](http://www.google.com/search?q=%22Titles+are+used+by+website+resource+librarians&hl=en&safe=off&rls=G
GGL,GGGL:2006-32,GGGL:en&filter=0)

"resource librarians, directory editors"

[http://www.google.com/search?q=%22resource+librarians,+directory+editors%22&hl=en&safe=off&rls=GGGL,G
GGL:2006-32,GGGL:en&filter=0](http://www.google.com/search?q=%22resource+librarians,+directory+editors%22&hl=en&safe=off&rls=GGGL,G
GGL:2006-32,GGGL:en&filter=0)

Infringing Web Pages: <http://www.conversionchronicles.com/print.php?PageID=104&tracking=print>
http://www.conversionchronicles.com/Using_Title_Tags_to_Improve_SEO_and_Website_Conversion.html

My Contact Information: cnewton@seologic.com

Infringer's Contact Information:

The Conversion Chronicles

Steve Jackson

Oldmill

Ruukinkatu 4

FIN-20540

Turku

Finland

tel: +358 207 581 581

fax: +358 207 581 893

email: info@conversionchronicles.com

I have a good faith belief that use of the copyrighted materials described above on the allegedly infringing web pages is not authorized by the copyright owner, its agent, or the law.

I swear, under penalty of perjury, that the information in the notification is accurate and that I am the copyright owner or am authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Sincerely,

A handwritten signature in black ink, appearing to be 'C. J. Newton'.

C. J. Newton, CEO
SEO Logic Search Engine Optimization and Placement Services



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Send A Fax

CONFIRMATION

Fax Sent To: 16509633255

Recipient's Name: Google Legal Support

Recipient's Company: Google, Inc.

Client Code:

Reference ID:

Fax Quality: Fine

Subject: Attn: Google Legal Support, DMCA Complaints

Cover Page: Following are two DMCA complaints.

2007-09-17-Conversion-Chronicles.pdf	20045 bytes	<input checked="" type="checkbox"/> Sent
2007-09-17-isedb.pdf	19919 bytes	<input checked="" type="checkbox"/> Sent

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0 0 0

Exhibit 3

Web Images Video Maps News Shopping Gmail more ▼

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"Titles are used by website resource librarians"

Search

[Advanced Search](#)
[Preferences](#)

Web [Show options...](#)

Results 1 - 10 of about 154 for "[Titles](#) are [used](#) by [website resource librarians](#)". (0.60 seconds)

[Using Title Tags to Improve SEO & Website Conversion - Conversion ...](#)

1) **Titles are used by website resource librarians**, directory editors (such as DMOZ), and other webmasters (such as strategic link partners) when they link ...

www.conversionchronicles.com/Using_Title_Tags_to_Improve_SEO_and_Website_Conversion.html - 22k - [Cached](#) - [Similar pages](#)

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www.conversionchronicles.com/print.php?PageID=104&tracking=print - 13k - [Cached](#) - [Similar pages](#)

[Guide to make money online!: Using Title Tags to Improve SEO ...](#)

1) **Titles are used by website resource librarians**, directory editors (such as DMOZ), and other webmasters (such as strategic link partners) when they link ...

accounts4free.blogspot.com/2009/04/using-title-tags-to-improve-seo-website.html - 233k - [Cached](#) - [Similar pages](#)

[Using Title Tags to Improve SEO & Website Conversion by Steve Jackson](#)

1) **Titles are used by website resource librarians**, directory editors (such as DMOZ), and other webmasters (such as strategic link partners) when they link ...

www.marketingsource.com/articles/view/2181 - 16k - [Cached](#) - [Similar pages](#)

[Search Engine Optimization Articles - Website Promotion - SEO News ...](#)

1) **Titles are used by website resource librarians**, directory editors (such as DMOZ), and other webmasters (such as strategic link partners) when they link ...

www.webproguide.com/articles/Using-Title-Tags-to-Improve-SEO-Website-Conversion/ - 16k - [Cached](#) - [Similar pages](#)

[Using Title Tags to Improve SEO & Website Conversion ...](#)

1) **Titles are used by website resource librarians**, directory editors (such as DMOZ), and other webmasters (such as strategic link partners) when they link ...

www.searchenginechannel.com/2005/10/using-title-tags-to-improve-seo-and-website-

[conversion - 22k - Cached - Similar pages](#)

[Using Title Tags to Improve SEO & Website Conversion](#)

1) **Titles are used by website resource librarians**, directory editors (such as DMOZ), and other webmasters (such as strategic link partners) when they link ...

[www.onlineearning.org/seo/using_title_tags_to_improve_seo_website_conversion.php - 17k - Cached - Similar pages](#)

[Using Title Tags to Improve SEO & Website Conversion](#)

1) **Titles are used by website resource librarians**, directory editors (such as DMOZ), and other webmasters (such as strategic link partners) when they link ...

[www.enginesdesktop.com/artcbase/Using-Title-Tags-to-Improve-SEO-Website-Conversion-1778.aspx - 20k - Cached - Similar pages](#)

[Using Title Tags to Improve SEO & Website Conversion | SEO Cabinet](#)

1) **Titles are used by website resource librarians**, directory editors (such as DMOZ), and other webmasters (such as strategic link partners) when they link ...

[www.linkchili.com/SEO-Cabinet/using-title-tags-to-improve-seo-a-website-conversion.html - 93k - Cached - Similar pages](#)

[Using Title Tags to Improve SEO & Website Conversion](#)

1) **Titles are used by website resource librarians**, directory editors (such as DMOZ), and other webmasters (such as strategic link partners) when they link ...

[test.wwbcity.net/using_title_tags_to_improve_seo_website_conversion.php - 14k - Cached - Similar pages](#)

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