1   Jeffrey N. Mausner (State Bar No. 122385)
     Law Offices of Jeffrey N. Mausner
2   Warner Center Towers
     21800 Oxnard Street, Suite 910
3   Woodland Hills, California 91367-3640
     Email: Jeff@mausnerlaw.com
4   Telephone: (310) 617-8100, (818) 992-7500
5   Facsimile: (818) 716-2773

6   Attorneys for Plaintiff Perfect 10, Inc.

7

8   UNITED STATES DISTRICT COURT

9   CENTRAL DISTRICT OF CALIFORNIA

10

11   PERFECT 10, INC., a California   Case No. CV 04-9484 AHM (SHx)
     corporation,
12   Consolidated with Case No. CV 05-4753
                    Plaintiff,   AHM (SHx)
13
          v.   **DECLARATION OF DAVID
14   O'CONNOR SUBMITTED IN
     GOOGLE, INC., a corporation; and   OPPOSITION TO GOOGLE'S THREE
15   DOES 1 through 100, inclusive,   MOTIONS FOR SUMMARY
                                            JUDGMENT RE DMCA SAFE HARBOR
16   Defendant.   FOR ITS WEB AND IMAGE SEARCH,
17   BLOGGER SERVICE, AND CACHING
                                            FEATURE (DOCKET NOS. 428, 427,
18   AND CONSOLIDATED CASE.   AND 426)**
19
20   **BEFORE JUDGE A. HOWARD MATZ**
21
                                            Date: October 5, 2009
22   Time: 10:00 a.m.
                                            Place: Courtroom 14, Courtroom of the
23   Honorable A. Howard Matz
24   Discovery Cut-Off Date: None Set
                                            Pretrial Conference Date: None Set
25   Trial Date: None Set
26
27
28

                            Declaration of David O'Connor

I, David O'Connor, declare as follows:

1.   I am co-founder, President and CTO of Visual Analytics. I am primarily responsible for the creation of VisuaLinks®, which has become one of the standard data mining applications at a number of intelligence agencies, law enforcement organizations, and financial crime investigative units. I have worked closely with the Financial Crimes Enforcement Network (FinCEN), Internal Revenue Service (IRS, Criminal Investigations), Defense Intelligence Agency, and the Defense Information Systems Agency (DISA).

2.   I received my B.S. in Computer Science from the University of Maryland and have more than 15 years of experience developing large scale distributed systems, data mining, visualization, and artificial intelligence technologies. I served in the Marine Corps and worked on fighter aircraft electrical flight control systems.

3.   I submit this declaration in connection with Perfect 10's lawsuit against Google. I have examined Exhibit 1 which is attached to this declaration. In my opinion, I have sufficient expertise in computer science and the Internet to determine whether the various portions of notices attached as Exhibit 1 would provide a search engine such as Google with enough information to locate the infringing image(s) or link(s).

4.   I assume that page 1 of Exhibit 1 consists of thumbnail images from Google Image Search, along with the three links that Google provides for each such image. Assuming that is the case, page 1 of Exhibit 1 provides more than enough information for Google to locate and block all the URLs listed on page 1. Adobe Acrobat has a feature for the extraction of URLs. Google could copy any of the URLs contained in page 1 of Exhibit 1 into a text file, spreadsheet, or database. The first and third URLs listed on page 1 of Exhibit 1, namely, http://img133.imagevenue.com /loc173/th_64278_21.jpg, and http://tbn0.google.com/images?q=tbn: Vs0bIZd_jqxVPM: http://img133.

Declaration of David O'Connor

imagevenue.com/loc173/th_64278_21.jpg, both provides Google with sufficient information to locate the image, with or without the image itself. The middle Web Page URL (http://forum.phun.org/showthread.php?p=729907) with the model name is sufficient to locate the image as well, but having a copy of the image as shown also helps. In general, having copies of the images as provided in Exhibit 1 would help, rather than hinder, the search engine or ISP in locating the infringing material. Google should be able to readily find all copies of that image in any of its search results, and remove them from its index.

5. I have examined pages 2 through 8 of Exhibit 1. If Google received any of those pages in a notice, it would have enough information to locate the images on that page, and remove the images and the webpage from both its Image Search and Web Search results. To locate and remove the infringing material, Google should need only the Web Page URL, which is contained on each of those pages. Once Google has the URL of the Web Page containing an infringement, it can find that Web Page, and it can prevent any Google Search Results, whether Web Search or Image Search results, from directly linking to that web page. On pages 3-6, the Web Page URL is highlighted. On page 5, Google has suppressed the starting http:// from appearing on the user's screen but it can still locate the infringing webpage with that portion of the URL simply by searching its index. On page 7, the Web Page URL appears in the browser bar. On page 8, I am assuming that the highlighted URL identifies the web page directly above it. Google could certainly block the highlighted URL and could use the highlighted URL to determine if the corresponding web page is as shown on page 8. For page 2, Google has the search term, "Ingrid Ostvat", the base URL of the website where each image is located, darkshadow.3xforum.ro, and the "Thumbnail Source URL." This URL is displayed in the address bar of a web browser when a user clicks on the thumbnail. Page 9 of Exhibit 1 has an example of a Thumbnail Source URL. The Thumbnail Source URL contains both the "See full-size image" URL as well

Declaration of David O'Connor

as the Web Page URL embedded in it, along with information regarding the search, such as whether the user had their safe search on and what browser they were using. This URL may be easily extracted using Adobe's URL extraction feature, as demonstrated on page 10 of Exhibit 1. On page 10, the first highlighted term is the "See full-size image" URL. The second highlighted term is the Web Page URL.

6.   The URLs on the left side of page 11 of Exhibit 1 appear to be Web Page URLs with the starting http:// and/or www. removed. If that is the case, Google can use those URLs (by either putting them into Google's search box, or by searching its index for URLs that contain those URLs), to locate the associated web pages. It can then prevent either its Image Search or its Web Search results from directly linking to those web pages. Google can do this without any of the other information shown in the middle and right hand columns of page 11. I know this not only because of my knowledge regarding how search engines operate, but also because I am able to do that myself by removing the starting http:// and or www. from a URL I obtained from Google's Web Search results, and then putting it into Google's Web Search box.

I declare that the foregoing is true and correct to the best of my knowledge and based on all information as of the date provided below.

Executed on June 16, 2009,

David O'Connor

Declaration of David O'Connor

Exhibit 1

GOOGLE Images

51 results for "Xenia Szabo"

1

Search string: "Xenia Szabo"Image http://img133.imagevenue.com/loc173/th_64278_21.jpgSite http://forum.phun.org/showthread.php?p=729907Image Info: 106x160 Size: 7Kb

Thumbnail http://tbn0.google.com/images?q=tbn:Vs0bIZd_jqxVPM:http://img133.imagevenue.com/loc173/th_64278_21.jpg

2

Search string: "Xenia Szabo"Image http://www.imagerise.com/images.php/t4766_XeniaSzabo22.jpgSite http://titsandhentai.wordpress.com/2008/04/16/xenia-szabo/ Image Info: 99x150 Size: 6Kb

Thumbnail http://tbn0.google.com/images?q=tbn:MYCIndOeHiRYpM:http://www.imagerise.com/images.php/t4766_XeniaSzabo22.jpg

3

Search string: "Xenia Szabo"Image http://www.imagerise.com/images.php/t4755_XeniaSzabo01.jpgSite http://titsandhentai.wordpress.com/2008/04/16/xenia-szabo/ Image Info: 99x150 Size: 6Kb

Thumbnail http://tbn0.google.com/images?q=tbn:YSICEWI5K6tg6M:http://www.imagerise.com/images.php/t4755_XeniaSzabo01.jpg

4

Search string: "Xenia Szabo"Image http://img11.imagevenue.com/loc229/th_16866_01.jpgSite http://www.sztar.com/showthread.php?p=1367574Image Info: 106x160 Size: 7Kb

Thumbnail http://tbn0.google.com/images?q=tbn:kSvskXqpK00tXM:http://img11.imagevenue.com/loc229/th_16866_01.jpg

5

Search string: "Xenia Szabo"Image http://blog7.fc2.com/a/aitaine/file/20060525.jpgSite http://aitaine.blog7.fc2.com/blog-date-200605.htmlImage Info: 300x451 Size: 49Kb

Thumbnail http://tbn0.google.com/images?q=tbn:zfMv2sApk-Kw4M:http://blog7.fc2.com/a/aitaine/file/20060525.jpg

Exh. 1, Pg. 1

file:///R|/0%20transferred%20from%20Q%20drive/image%20google%20aft%20production/70408/Xenia%20Szabo.html (1 of 10)7/8/2008 6:02:39 AM

Google

"Ingrid Ostvat"

Search Images   Search the Web

SafeSearch is off

Images Showing: All image sizes Any content ■ All colors ▼ Results **19 - 36** of about **130** (0.04 seconds)

PERFECT10 com - The World s Most ...
99 x 150 - 7k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 6k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 5k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 4k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 5k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 5k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 4k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 6k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 5k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 6k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 5k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 5k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 5k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 4k - jpg
darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...
99 x 150 - 6k - jpg
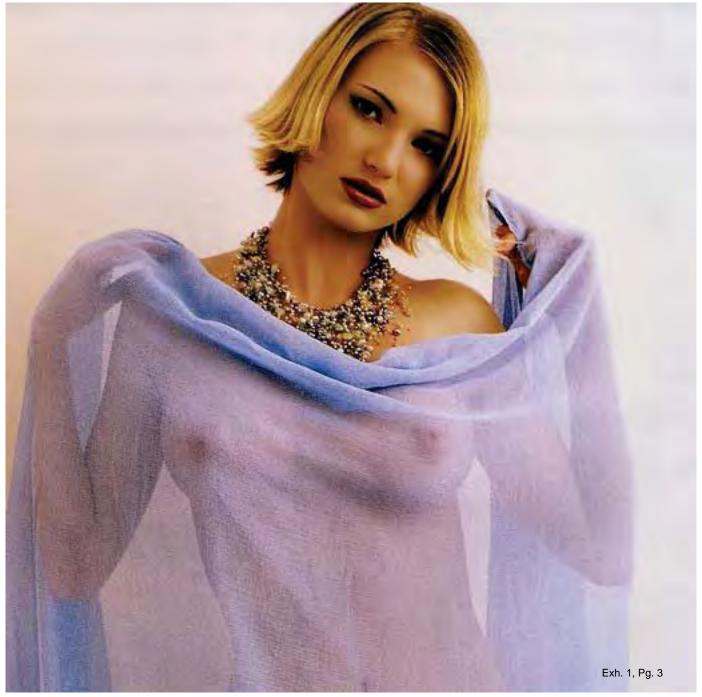darkshadow.3xforum.ro

Exh. 1, Pg. 2

Belle de Jour - 6.12.2001

Zoya Konyieva

Exh. 1, Pg. 3

Zoya Konyieva

Monitor home | Belle indeks | Prosinac 2001 | Prije | Poslije

Monitor home | Belle indeks | Prosinac 2001 | Prije | Poslije

Exh. 1, Pg. 4

File Edit View Go Bookmarks Tools Help

http://images.google.com/imgres?imgurl=http://wallpapers.wallpapercar.com/russian-girl/russian-girl/9997-inna-shevchenko.jpg&imgrefurl=http://wallpapers.wallpapercar.com/

Go

Getting Started   Latest Headlines

Google

See full-size image.
wallpapers.wallpapercar.com/russian-girl/russ...
140 x 111 - 6k
Image may be scaled down and subject to copyright.

Remove Frame ⊠
Image Results »

Below is the image in its **original context** on the page: **wallpapers.wallpapercar.com/russian-girl/**

Beautiful Russian Girls
Find a soul mate, love and marriage
from our Ukraine and Russian women

Armenian Match – Barev
Smart, Sexy Armenians Meet Here. Find
your Armenian Match Here!

Meet Beautiful Singles
Browse photos of Millions of Users Find
True Love today

Totally Free Wallpapers
Get Bikini Com Girls Wallpaper Download
Now! Quick & Easy

Ads by Google

Ads by Google

▶ Save up to 78% on Airfare

Powered by BritePic

June 2007
S M Tu W Th F S
                    1   2
3   4   5   6   7   8   9
10 11 12 13 14 15 16
17 18 19 20 21 22 23
24 25 26 27 28 29 30

Exh. 1, Pg. 5

Transferring data from ads.adbrite.com...

start   9 Windows Explorer   21 Firefox   9:33 PM

marisa_miller_24.jpg (image)

Exh. 1, Pg. 6

Interesting to have panties which match your top...I have to say I love her shoes. Lovely long legs are set off so well with the right shoes...

corset girl

Hot Lingerie Links Tiny Panties! Cleavage! Boosting Bras Naughty Links

Lace Lingerie
Find great deals and save! Compare products, prices & stores

Panty of the Month
As Seen on CNN and in Playboy! New Sexy Lingerie Set Every Month

Ads by Google

POSTED BY JENNIFER AT 12:46 AM   0 COMMENTS

FRIDAY, DECEMBER 03, 2004

Black Lace Scarf

A black thong and a, well, scarf?? Once again the idea of lingerie is concealment as well as provocation and this long shot is a little of both...Why is Natalia Sirocka walking down a country road wearing very little? Another mystery for the ages...

Hot Lingerie Links Tiny Panties! Cleavage! Boosting Bras Naughty Links

POSTED BY JENNIFER AT 1:53 AM   1 COMMENTS

Raised slip

April 2008
M Tu W Th F S S
1 2 3 4 5 6
7 8 9 10 11 12 13
14 15 16 17 18 19 20
21 22 23 24 25 26 27
28 29 30

Exh. 1, Pg. 7

Done

start   083007   sc   Lingerie Dreams: Pret...   ads next to images b...   9:08 PM

http://www.celebritypictures.com/MayaRubin/maya1.htm

http://www.celebritypictures.com/Pictures/MayaRubin/maya2.jpg

http://granestacion.com/topless/topless13.htm

http://granestacion.com/topless/topless/t13/t131.htm

File Edit View Document Comments Forms Tools Advanced Window Help

Create ▾ | Combine ▾ | 🔒 ▾ | ✎ ▾ | 🖾 ▾ | Multimedia ▾ | 💬 Comment ▾ | 💬 Sticky Note | 🔠 Text Edits ▾ | 🖊 ▾ | 🔲 | 🔍 ≡ ○ ✎ ╱ ▢ ○ ╱ 💬 Show ▾

🖨 💾 🖼 🌐 | ⬆ ⬇ | 1 / 1 | I🖑 ✋ 🔍 | ⊖ ⊕ 127% ▾ | 🖶 🖽 | Find

"Ingrid Ostvat" - Google Image Search

Google

"Ingrid Ostvat" [Search Images] [Search the Web] Advanced Image Search
Preferences

SafeSearch is off

Images Showing: [All image sizes ▾] [Any content ▾] 🔲 All colors ▾   Results **19 - 36** of about **130** (0.04 seconds)

http://images.google.com/imgres?imgurl=http://www.imagerise.com/images.php/t133_AlexandraBerejnova42copy.jpg&imgrefurl=http://darkshadow.3xforum.ro/post/1532/1/PERFECT10_com_-_The_World_s_Most_Beautiful_Natural_women_/&usg=__RtMcrOXj2G7_XIiP-9Fv6Flbwxw=&h=150&w=99&sz=7&hl=en&start=19&um=1&tbnid=d7MunlVjsDS9eM:&tbnh=96&tbnw=63&prev=/images%3Fq%3D%2522Ingrid%2BOstvat%2522%26ndsp%3D18%26hl%3Den%26safe%3Doff%26client%3Dfirefox-a%26channel%3Ds%26rls%3Dorg.mozilla:en-US:official%26sa%3DN%26start%3D18%26um%3D1
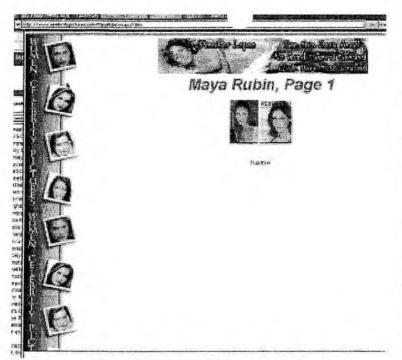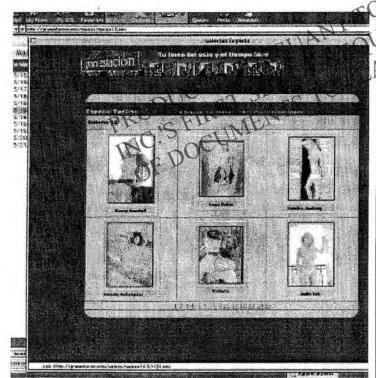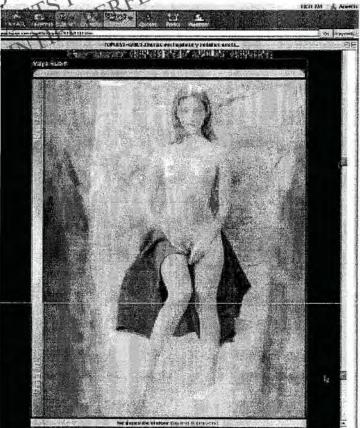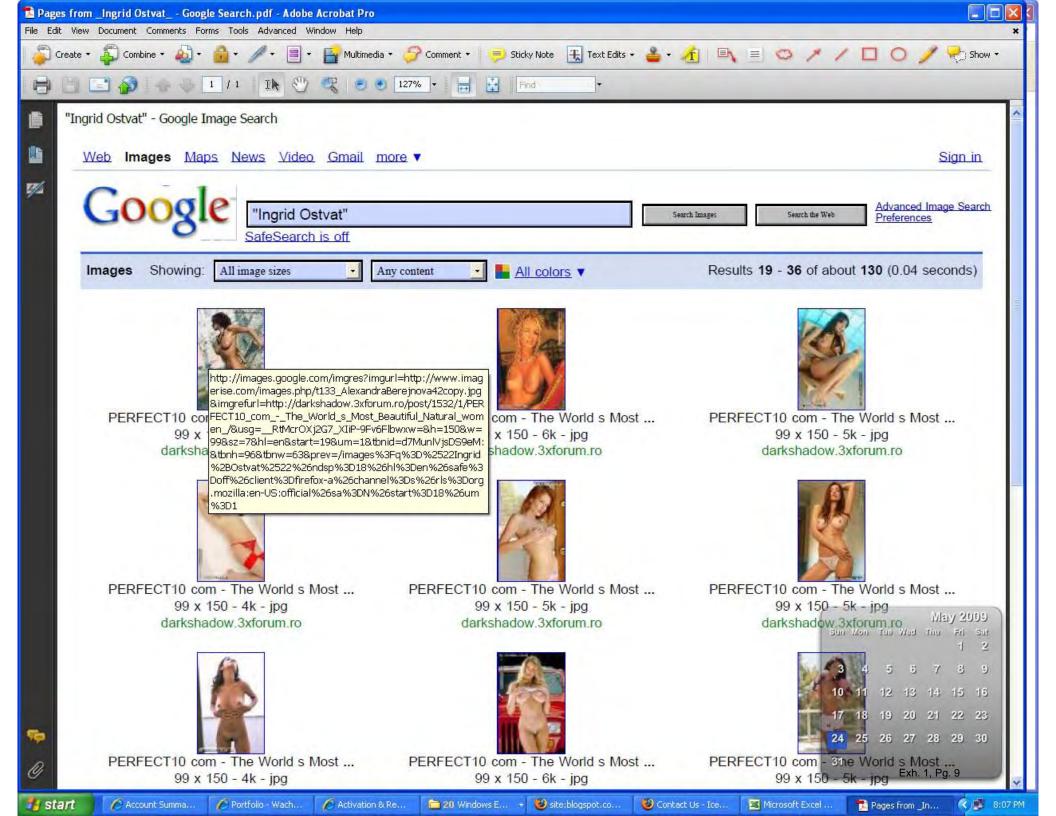
PERFECT10 com ...   PERFECT10 com - The World s Most ...   PERFECT10 com - The World s Most ...
99 x ...   x 150 - 6k - jpg   99 x 150 - 5k - jpg
darksha...   ...hadow.3xforum.ro   darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...   PERFECT10 com - The World s Most ...   PERFECT10 com - The World s Most ...
99 x 150 - 4k - jpg   99 x 150 - 5k - jpg   99 x 150 - 5k - jpg
darkshadow.3xforum.ro   darkshadow.3xforum.ro   darkshadow.3xforum.ro

PERFECT10 com - The World s Most ...   PERFECT10 com - The World s Most ...   PERFECT10 com - The World s Most ...
99 x 150 - 4k - jpg   99 x 150 - 6k - jpg   99 x 150 - 5k - jpg

May 2009
Sun Mon Tue Wed Thu Fri Sat
                          1   2
3   4   5   6   7   8   9
10 11 12 13 14 15 16
17 18 19 20 21 22 23
24 25 26 27 28 29 30

Exh. 1, Pg. 9

🏁 start | 🌐 Account Summa... | 🌐 Portfolio - Wach... | 🌐 Activation & Re... | 📁 20 Windows E... ▾ | 🦊 site:blogspot.co... | 🦊 Contact Us - Ice... | 📊 Microsoft Excel... | 📕 Pages from _In... | 8:07 PM

http://images.google.com/imgres?imgurl=http://www.imagerise.com/images.php/t133_Al
exandraBerejnova42copy.jpg&imgrefurl=http://darkshadow.3xforum.ro/post/1532/1/PER
FECT10_com_-_The_World_s_Most_Beautiful_Natural_women_/&usg=___
RtMcrOXj2G7_XIiP-9Fv6Flbwxw=&h=150&w=99&sz=7&hl=en&start=11&
um=1&tbnid=d7MunlVjsDS9eM:&tbnh=96&tbnw=63&prev=/images%3Fq%3Dsite:ww
w.imagerise.com%2B%2522Ingrid%2BOstvat%2522%2Bdarkshadow.3xforum.ro%26hl
%3Den%26safe%3Doff%26client%3Dfirefox-a%26channel%3Ds%26rls%3Dorg.
mozilla:en-US:official%26um%3D1

EXHIBIT 46 Page 406

INFRINGING URL	GOOGLE SEARCH	PERFECT 10 MAGAZINE ISSUE OR WEBSITE
minovia.com/modules/uskolaxgallery/index.php?carpeta=natalia_sirocka	natalia sirocka	vol 3, no 3, p 14-21
ottoperuna.altervista.org/pagine/Wallpapers/SirockaNatalia/Sirocka_sfondi.htm	natalia sirocka	vol 3, no 3, p 15
panienki.com/Panienki/Natalia_Sirocka/natalia_sirocka.html	natalia sirocka	vol 3, no 3, p 14-21
pix.alronix.net/Photo_Scans/Tits/Natalia_Sirocka	natalia sirocka	vol 3, no 3, p 15
playboy.fason.ru/Natalia_Sirocka.php	natalia sirocka	vol 3, no 3, p 17
antoninoc.net/Top_model/top_model14.htm	natalia sirocka	vol 3, no 3, p 14 - 21
freebabes.nl/thumbnails.asp?categorie=141&categorietxt=Natalia+Sirocka	natalia sirocka	
freeones.com/html/n_links/Natalia_Sirocka.shtml	"natalia sirocka"	vol 3, no 3, p 14 - 21
paparazziporn.com/natalias/natalia.htm	"natalia sirocka"	vol 1, no 6 p 50 - 55
russiancelebrities.org/ rclSet.asp?GID=4&PID=494&SID=1	"natalia sirocka"	vol 3, no 3, p 14 - 21
minovia.com/modules/uskolaxgallery/ famosas.php?carpeta=natalia_sirocka	"natalia sirocka"	vol 1, no 6 p 50 - 55
1024x768wallpapers.com/categories.php?cat_id=665	"natalia sirocka"	
ragazzesexy.tv/images.cgi?direct=Varie_ Straniere_2/Natalia_Sirocka	"natalia sirocka"	vol 3, no 3, p 14 - 21
angelfire.com/celeb2/superaeon/Pictures/Zz/ZZ-NataliaSirocka.htm	"natalia sirocka"	
abc-celebs.com/mod_celeb_N.htm	"natalia sirocka"	
celebs.jerkengine.com/FD/ Browse/Main?letter=N&type=image	"natalia sirocka"	vol 3, no 3, p 14 - 21
miss.mgn.ru/gallery/cat.asp?iCat=25	"natalia sirocka"	vol 3, no 3, p 14 - 21
playboy.fason.ru/model.php	"natalia sirocka"	vol 3, no 3, p 14 - 21
sultan14416.supereva.it/ nataliasirocka/nataliasirocka.htm	"natalia sirocka"	
pix.alronix.net/Photo_Scans/ Tits/Natalia_Sirocka/pic00097.htm	"natalia Sirocka"	vol 3, no 3, p 14 - 21
greh.ru/foto/bysi/	"natalia Sirocka"	vol 3, no 3, p 14 - 21
minovia.com/modules/ uskolaxgallery/famosas.php?muestrame=n	"natalia Sirocka"	vol 3, no 3, p 14 - 21
russiancelebrities.org/ rclSet.asp?GID=4&PID=493&SID=1	"natalia Sirocka"	vol 3, no 3, p 14 - 21
pix.alronix.net/Photo_Scans/Fashion/Nataskia_Maren	nataskia maren	vol1, no 4, p 14
minovia.com/modules/uskolaxgallery/famosas.php?carpeta=nataskia_maren	nataskia maren	vol 1, no 4, p 15
celebsxposed.net/preview/preview2.html	nataskia maren	vol 1, no 4, p 12 - 19
all-nude-celebrities-free.com/celebrities/n.html	nataskia maren	vol 2, no 6, p 6
models.ksenia.com/	nataskia maren	vol 1, no 5 p 34
celebs.jerkengine.com/FD/ Browse/Main?letter=N&type=image	"nataskia maren"	vol 1, no 4, p 12 - 19
minovia.com/modules/uskolaxgallery/ index.php?carpeta=nataskia_maren	"nataskia maren"	vol 1, no 4, p 12 - 19
playboy.fason.ru/Nataskia_Maren.php	"nataskia maren"	vol 2, no 6, p 6