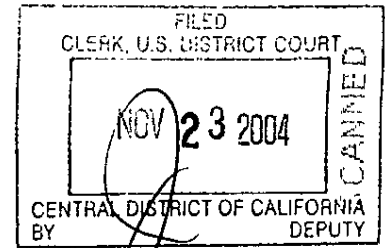


Perfect 10 Inc v. Google Inc et al

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- JS-2/JS-3



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Perfect 10, Inc.,

Case No. CV 04-09484-NM(CWx)

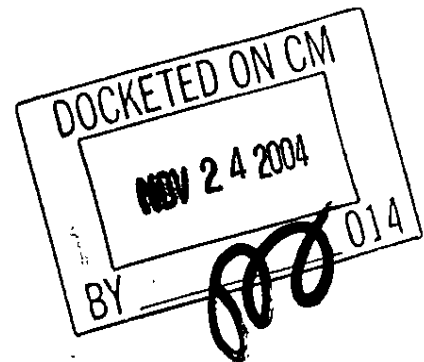
STANDING ORDER

Plaintiffs,

v.

Google, Inc.,

Defendants.



**READ THIS ORDER CAREFULLY. IT CONTROLS THIS CASE  
AND DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**

This action has been assigned to the calendar of Judge Nora M. Manella.  
Both the Court and the attorneys bear responsibility for the progress of  
litigation in the Federal Courts. This order applies to all parties including those

5

SECOND

1 appearing pro se. To secure the just, speedy, and inexpensive determination of  
2 every action, Fed. R. Civ. P. 1, all counsel are ordered to familiarize themselves with  
3 the Federal Rules of Civil Procedure and the Local Rules of the Central District of  
4 California.'

5 IT IS FURTHER ORDERED:

6 **1. Service of the Complaint:** The Plaintiff shall promptly serve the  
7 Complaint in accordance with Fed. R. Civ. P. 4 and file the proofs of service pursuant  
8 to Local Rule 5-3.1.

9 **2. Removed Actions:** Any answers filed in state court must be attached to  
10 the Notice of Removal. Any pending motions must be re-noticed as required by  
11 Local Rule 7.

12 **3. Presence of Lead Counsel:** Lead trial counsel shall attend any proceeding  
13 before this Court, including all status conferences, as well as settlement conferences  
14 with the Magistrate Judge, an attorney settlement officer or a private mediator.

15 **4. Rule 26(f) Meeting of Counsel:** Counsel for the parties shall meet  
16 personally pursuant to FRCP 26(f) and applicable Local Rules in anticipation of the  
17 court-ordered scheduling conference. FRCP 16(b).

18 **5. Joint Report of Rule 26(f) Meeting:** No later than fifteen (15) court  
19 days before the Scheduling Conference, counsel shall file a Joint Report of Rule 26(f)  
20 Meeting. A **conformed courtesy copy** of the Joint Report shall be delivered to the  
21 courtesy box on the wall outside the entrance to Judge Manella's chambers on the

22 \_\_\_\_\_  
23 1. Copies of the Local Rules are available on our website at  
"http://www.cacd.uscourts.gov" or they may be purchased from one of the following:

24 Los Angeles Daily Journal  
25 915 East 1<sup>st</sup> Street  
Los Angeles, California 90012

West Group  
610 Opperman Drive  
Post Office Box 64526  
St. Paul, Minnesota 55164-0526

26  
27 Metropolitan News  
210 South Spring Street  
28 Los Angeles, California 90012

1 Spring Street level of the U.S. Courthouse, 312 North Spring Street, by 4:00 p.m. on  
2 **the date due.** A Joint Report which is not timely filed or does not conform with this  
3 Order, FRCP 26(f), and applicable Local Rules will interfere with preparation by the  
4 Court and its staff, and may result in delays and/or the assessment of sanctions.

5 The Joint Rule 26(f) Report shall address the matters set forth in FRCP 26(f)  
6 (some of which are enumerated below), and shall also contain the following:

- 7 (a) A brief statement by each party, not to exceed one (1) page, setting forth  
8 that party's factual summary of the case, including the basis for any  
9 claims, counterclaims, or defenses.
- 10 (b) The basis for the Court's subject-matter jurisdiction.
- 11 (c) A brief description of the key legal issues.
- 12 (d) The realistic range of probable damages.
- 13 (e) The likelihood of appearance of additional parties.
- 14 (f) Whether all or part of the procedures of the Manual for Complex  
15 Litigation should be utilized.
- 16 (g) A proposed discovery cut-off date. Note: this means the final day for  
17 completion of discovery, including resolution of all discovery motions.
- 18 (h) What motions (other than discovery motions) are contemplated.
- 19 (i) Prospects of settlement based on counsel's discussion at the Rule 26(f)  
20 meeting and any other communications.
- 21 (j) Whether the trial will be a court or jury trial.
- 22 (k) The estimated length of trial.
- 23 (l) The name of the attorney(s) who will try the case.
- 24 (m) Prospects of counsel exercising their right, under 28 U.S.C. §636, to  
25 consent to the designation of a Magistrate Judge to conduct all  
26 proceedings (including trial) and final disposition, pursuant to General  
27 Order 194-G.<sup>2</sup>

28  

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2. Counsel should note that they may select from among the panel of available Magistrate  
Judges i.e., counsel are not limited to consenting to the Magistrate Judge assigned to this case,  
provided all parties concur. A list of the current available Magistrate Judges is included. Counsel  
should note that the Magistrate Judge will set his/her own discovery schedule and will be able to  
give counsel a "date certain" for trial.

CLERK

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**6. Mandatory Settlement Procedure:**

a. **ADR Pilot Program:** This Court is part of the Alternative Dispute Resolution (ADR) Pilot Program. For cases referred to ADR, counsel will be required to complete the ADR Questionnaire and file it at the time the Joint Report is filed. Counsel will thereafter have the option of completing a stipulation selecting the agreed upon Settlement Officer, or having the Program Coordinator randomly select a Settlement Officer for the case.

b. **Cases not in the ADR Pilot Program:** In conformity with the Local Rules, counsel shall file the settlement procedure selection by the date given by the Court at the time of the Scheduling Conference. Available alternatives for consideration include:

- (1) a settlement conference before the Magistrate Judge assigned to the case; Note: the Court does not participate in settlements of cases on its own docket.
- (2) a settlement conference or mediation before an attorney selected from the Attorney Settlement Panel (list available from the court's Website);
- (3) the employment by the parties of a private judge, mediator or arbitrator.

**7. Discovery:** All discovery matters have been referred to a United States Magistrate Judge, who will hear all discovery disputes. (The Magistrate Judge's initials follow the Judge's initials next to the case number.) All discovery documents must include the words "DISCOVERY MATTER" in the caption to ensure proper routing. Counsel are directed to contact the Magistrate Judge's Courtroom Deputy Clerk to schedule matters for hearing. Please do not deliver courtesy copies of these documents to this Court.

The decision of the Magistrate Judge shall be final, subject to modification by the District Court only where it has been shown that the Magistrate Judge's Order is clearly erroneous or contrary to law. Any party seeking review of a Magistrate Judge's order must file and serve a motion within ten (10) days of service of a written

1 ruling or within ten (10) days of an oral ruling that the Magistrate Judge states will  
2 not be followed by a written ruling. Local Rule 72-2.1. The motion must specify  
3 which portions of the ruling are clearly erroneous or contrary to law and support the  
4 contention with points and authorities. Counsel shall deliver a conformed copy of the  
5 moving papers and responses to the Magistrate Judge's clerk at the time of filing.

6 **8. Motions:**

7 **a. Time for Filing and Hearing Motions:** Motions shall be filed in  
8 accordance with Local Rule 7; the next available motion date can be obtained from  
9 the Courtroom Deputy or the Filing Window. This Court customarily hears motions  
10 on **Mondays, commencing at 10:00 a.m.** Counsel will be sent a briefing schedule  
11 giving due dates for opposition and reply, including all declarations and supporting  
12 documentation. **No supplemental brief shall be filed without prior leave of Court.**  
13 **Local Rule 7-10.** Conformed courtesy copies of **reply papers only** shall be delivered  
14 to the courtesy box on the wall outside the entrance to Judge Manella's chambers on  
15 the Spring Street level of the U.S. Courthouse, 312 North Spring Street, **by 4:00 p.m.**  
16 **on the date due.**

17 Adherence to the timing requirements is essential for the Court's preparation of  
18 motion matters.

19 **b. Pre-filing Requirement:** Counsel should take note of the changes to  
20 the Local Rules affecting motion practice in the Central District. Among other  
21 things, Local Rule 7-3 requires counsel to engage in a pre-filing conference "to  
22 discuss thoroughly . . . the substance of the contemplated motion and any potential  
23 resolution," and to confirm in the notice of motion that such conference has taken  
24 place. Local Rule 7-3. Counsel should discuss the issues sufficiently that if a motion  
25 is still necessary, the briefing may be directed to those substantive issues requiring  
26 resolution by the Court. Counsel should resolve minor procedural or other non-  
27 substantive matters during the conference. **Failure to comply with Local Rule 7-3**

1 and to set forth such compliance in the notice of motion will result in the motion  
2 being vacated.

3 c. **Length and Format of Motion Papers: Memoranda of Points**  
4 **and Authorities in support of or in opposition to motions shall not exceed 25**  
5 **pages. Replies shall not exceed 12 pages.** Only in rare instances and for good cause  
6 shown will the Court grant an application to extend these page limitations.

7 **Typeface shall comply with Local Rule 11-3.1.1. NOTE: If Times Roman**  
8 **font is used, the size must be no less than 14; if Courier is used, the size must be**  
9 **no less than 12.** Footnotes shall be in typeface no less than one size smaller than text  
10 size and shall be used sparingly.

11 Filings that do not conform to the Local Rules and this Order will not be  
12 considered.

13 d. **Courtesy Copies:** Counsel shall deliver a conformed courtesy copy  
14 of all **reply** papers to the courtesy box on the wall outside the entrance to Judge  
15 Manella's chambers on the Spring Street level of the U.S. Courthouse, 312 North  
16 Spring Street, **by 4:00 p.m. on the date due.** Unless so ordered, please do not  
17 supply courtesy copies of moving or opposition papers.

18 e. **Motions for Summary Judgment:** Before filing a motion for  
19 summary judgment, counsel are strongly encouraged to review Chapter 14 of  
20 Schwarzer, Tashima & Wagstaffe, California Practice Guide: Federal Civil  
21 Procedure Before Trial (1998). To assist the Court, the moving party shall submit the  
22 required Statement of Uncontroverted Facts and Conclusions of Law as set forth in  
23 Form 14:C (**copy attached as Exhibit 1**). The opposing party shall submit the  
24 required Statement of Genuine Issues as set forth in Form 14:D (**copy attached as**  
25 **Exhibit 2**), responding first to each of the moving party's alleged uncontroverted  
26 facts, then listing any material facts in dispute, and citing to supporting evidence.  
27 **Note: Separate statements that fail to comply with the above format will not be**  
28 **considered.**

1           **9. Proposed Orders:** Each party filing or opposing a motion or seeking the  
2 determination of any matter shall serve and lodge a Proposed Order setting forth the  
3 relief or action sought and a brief statement of the rationale for the decision with  
4 appropriate citations. If the Proposed Order exceeds two pages, the proposing party  
5 shall also submit the document on a 3½-inch diskette compatible with WordPerfect  
6 11.

7           **10. Telephonic Hearings:** The Court will conduct status conferences by  
8 telephone if any party outside the district so requests and all involved parties consent.  
9 The attorney requesting the telephonic hearing shall contact the Courtroom Deputy  
10 Clerk, Judy Hurley, (213)894-0200, at least one week prior to the date scheduled for  
11 the motion or conference to make the necessary arrangements.

12           A member of the Court's staff will place the conference call.

13           **11. Ex Parte Applications:** Counsel are reminded that ex parte applications  
14 are solely for extraordinary relief. See Mission Power Engineering Co. v. Continental  
15 Casualty Co., 883 F. Supp. 488 (C.D. Cal. 1995). Applications that fail to conform  
16 with Local Rules 7-19 and 7-19.1, **including a statement of opposing counsel's**  
17 **position**, will not be considered. The Court considers ex parte applications on the  
18 papers and usually does not set these matters for hearing. In addition to the  
19 requirements of Local Rules 7-19 and 7-19.1, counsel for the moving party shall  
20 serve opposing counsel by facsimile transmission and shall notify opposing counsel  
21 that opposition papers must be filed no later than 24 hours following such facsimile  
22 service. Counsel shall deliver a conformed courtesy copy of moving, opposition, or  
23 notice of non-opposition papers to the courtesy box outside the entrance to Judge  
24 Manella's chambers on the Spring Street level of the U.S. Courthouse, 312 North  
25 Spring Street. The Courtroom Deputy Clerk will notify counsel of the Court's ruling  
26 or a hearing date and time, if the Court determines a hearing is necessary.

27           **12. Continuances:** Counsel requesting a continuance must lodge -- prior to  
28 the date to be continued -- a Proposed Stipulation and Order including a detailed

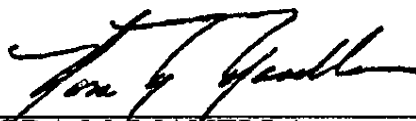
1 declaration of the grounds for the requested continuance or extension of time. Local  
2 Rule 7-11. The Court grants continuances only upon a showing of good cause,  
3 focusing on the diligence of the party seeking the continuance and any prejudice that  
4 may result if the continuance is denied. Failure to comply with the Local Rules and  
5 this Order will result in rejection of the request without further notice to the parties.

6 **Proposed stipulations to continue scheduling dates shall address the effect of**  
7 **such continuance on any other dates previously set by the Court. Such**  
8 **stipulations do not become effective unless and until signed by the Court.**  
9 **Parties requesting conformed copies shall comply with Local Rule 11-4.5.**

10 **13. Communications with Chambers:** Counsel shall not attempt to contact  
11 the Court or its chambers staff by telephone, letter, facsimile, e-mail or by any other  
12 ex parte means. Local Rule 83-2.11. Counsel may contact the **Courtroom Deputy,**  
13 **Judy Hurley, at (213)894-0200,** with appropriate inquiries. To facilitate  
14 communication with the Courtroom Deputy, counsel should list their facsimile  
15 transmission numbers along with their telephone numbers on all papers.

16 **14. Notice of this Order:** Counsel for plaintiff shall immediately serve this  
17 Order on all parties, including any new parties to the action. If this case came to the  
18 Court by noticed removal, defendant shall serve this Order on all other parties.  
19 Enclosed is a Document Imaging Enrollment Form for counsel to complete and return  
20 to the address indicated on the form.

21  
22 Dated: November 23, 2004

23   
24 NORA M. MANELLA  
25 United States District Judge  
26  
27  
28



**United States Magistrate Judges Currently Available for  
Civil Consent Cases(alphabetical)**

The following Magistrate Judges are currently available for consent cases, pursuant to 28 U.S.C. 636(c) and Local Rule 6.6 of the Local Rules Governing Duties of Magistrate Judges. To confirm a particular Magistrate Judge's ability to schedule the trial in the time frame desired by the parties and/or willingness to accommodate any other special requests of the parties, please contact that Magistrate Judge's courtroom deputy prior to filing/lodging the consent form.

SCANNED

Magistrate Judge

Courtroom Deputy/Telephone Number

Paul L. Abrams  
 Marc L. Goldman  
 Jeffrey W. Johnson  
 Stephen G. Larson  
 Jennifer T. Lum  
 Arthur Nakazato  
 Fernando M. Olguin  
 Suzanne H. Segal  
 Patrick J. Walsh  
 Ralph Zarefsky

Christiana Howard/213-894-7103  
 Theresa Steele/714-338-4755  
 Amalia Carrillo/213-894-5369  
 James Munoz/909-328-4464  
 Debra Plato/213-894-0216  
 Melissa Cash/714-338-4756  
 Pat Clark/213-894-0215  
 Kimberly Carter/213-894-0958  
 Isabel Martinez/213-894-8958  
 Ilene Bernal/213-894-8256

5/15/03

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

OPTICAL SCANNING ENROLLMENT/UPDATE FORM

PLEASE PRINT OR TYPE ALL INFORMATION WHEN COMPLETING THIS FORM

Name \_\_\_\_\_ Telephone Number \_\_\_\_\_

Firm Name \_\_\_\_\_

Address \_\_\_\_\_  Out-of State Attorney \_\_\_\_\_

California State Bar Number \_\_\_\_\_ Case Number (Required for out-of-state attorneys) \_\_\_\_\_

Area of Practice:  Civil  Criminal

**FIRST TIME ENROLLMENT**

I consent and agree to receive copies of judgments, orders and other documents by electronic transmission at the following e-mail address: \_\_\_\_\_ and that I understand that service by electronic transmission constitutes notice of entry as required by F.R.Civ.P. 77(d) and F.R.Crim.P. 49 in lieu of service by mail. I further understand that I must notify the Court within twenty-four (24) hours when I have a change of name, firm association, address, or e-mail address to ensure proper service.

**UPDATE TO ENROLLMENT** (Complete this section if you previously enrolled in the Optical Scanning Program and wish to update that information ONLY.)

- Update my email-address to: \_\_\_\_\_
- Change my enrollment from service of documents by FAX to service by e-mail at the following e-mail address\*: \_\_\_\_\_

One of the following boxes must be checked if you are enrolling or updating your enrollment for CIVIL cases:

- I am enrolling or updating my enrollment for all my cases\*\*.
- I am updating my enrollment for the following case number(s) (case numbers must include SA for Southern Division cases, ED for Eastern Division cases). (Attach separate sheet if necessary.) \_\_\_\_\_

A list of your civil cases may be obtained by querying your name in the CM PACER system.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Mail or fax this completed form to: **United States District Court**  
Central District of California  
312 North Spring Street, Room G-8  
Los Angeles, California 90012  
Attention: Attorney Admission Clerk  
Facsimile: 213-894-2342

\*Electronic transmission (e-mail) of documents is recommended due to its efficiency, which results in quicker receipt of judgments, orders and other documents. However, the e-mail address should be to a computer that is accessed on a daily basis due to the importance and timeliness of documents that are being transmitted from the Court. Prior to signing up to receive documents by Internet e-mail, contact your Internet Service Provider and office automation staff to determine whether there are limitations to the size of attachments that may be received. Documents are currently in TIFF format. Effective March 1, 2004, documents will be delivered in PDF format instead of in TIFF format.

\*\*If you checked the box to enroll or update enrollment for all your cases, documents for cases you had when you were with a different firm or agency will be sent to your current e-mail address if you did not file a substitution of attorney or notice to be terminated from the case.

CIVIL JUDGMENTS, ORDERS & DOCUMENTS WILL BE SENT TO YOU ELECTRONICALLY FOR CASES INDICATED ON THIS FORM, AND IN SUBSEQUENT CASES FOR WHICH YOU APPEAR IN AFTER YOUR ENROLLMENT. CRIMINAL JUDGMENTS, ORDERS & DOCUMENTS ARE SENT IN ALL CASES FOR WHICH YOU ARE ATTORNEY OF RECORD.

[FORM 14:C]

SCANNED

STATEMENT OF UNCONTROVERTED FACTS AND CONCLUSIONS OF LAW (Required in California Central District)

1 .....
2 .....
3 .....
4 Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
..... DISTRICT OF CALIFORNIA

11 ..... )
12 Plaintiff, ) No. CV ..-.....
13 v. ) STATEMENT OF UNCONTROVERTED
14 ..... ) FACTS AND CONCLUSIONS OF LAW
15 Defendant. ) [Central District Local Rule
) 7.14.1]
) Hearing Date: .....
) Time: .....

17 After consideration of the papers in support of and in
18 opposition to plaintiff's motion for summary judgment and the oral
19 argument of counsel, the Court determines that the following facts
20 have been established as,

UNCONTROVERTED FACTS

22 1. Plaintiff is a citizen of California and defendant
23 is a citizen of New York.

[Declaration of Plaintiff, page 1, lines 18-21;
Deposition of Defendant, page 5, lines 8-22.]

26 2. Plaintiff and Defendant entered into a written
27 contract for the construction of a house in .....
28 County, California.

Exhibit 1

SCANNED

1 [Complaint, page 3, lines 9-11; admitted in  
2 Defendant's answer, page 1, lines 3-4.]  
3 3. Plaintiff is a licensed general contractor.  
4 [Complaint, page 2, lines 5-6; admitted by  
5 Defendant's failure to deny.]  
6 4. Plaintiff has performed all conditions of the  
7 contract, except installation of a security system.  
8 [Copy of contract attached as Exhibit "A" to  
9 complaint; admitted in Defendant's answer, page  
10 page 2, lines 3-4. Declaration of Plaintiff,  
11 page 3, lines 10-22.]  
12 5. Installation of the security system was excused by  
13 Defendant's refusal to allow Plaintiff access to the portion of  
14 the building site required for such installation.  
15 [Declaration of Plaintiff, page 5, lines 11-28;  
16 Defendant's answer to Interrogatory No. 3.]  
17 6. Defendant agreed to pay Plaintiff \$180,000 and only  
18 \$100,000 has been paid.  
19 [Paragraph 2 of contract (see ¶4, above);  
20 declaration of Plaintiff, page 7, lines 6-8;  
21 Defendant's response to Request for Admission No. 6.]  
22 Based on the foregoing Uncontroverted Facts, the Court  
23 now makes its,  
24  
25 CONCLUSIONS OF LAW  
26 1. The Court has jurisdiction of this action, pursuant  
27 to 28 U.S.C. § 1332.  
28 2. Defendant has breached the contract with Plaintiff  
by failure to pay according to its terms.

Exhibit 1

SCANNED

1 3. Plaintiff is owed the sum of \$80,000 by Defendant under the  
2 contract and Plaintiff has been damaged in said amount by Defendant's breach.

3 4. Plaintiff is entitled to prejudgment interest on this liquidated  
4 sum at the statutory rate of seven percent (7%) per annum.

5 5. Judgment shall be entered in Plaintiff's favor consistent  
6 herewith (\*).

7  
8 Dated: . . . . .

9  
10 United States District Judge

11  
12  
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14  
15 (\*) A separate "Proposed Judgment" must be served and lodged with the court.

16 [See CD CA Rule 7.14.1]  
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Exhibit 1

[FORM 14:D]

STATEMENT OF GENUINE ISSUES  
IN OPPOSITION TO MOTION FOR SUMMARY JUDGMENT  
(Required in California Central District)

SCANNED

1 .....  
2 .....  
3 .....  
4 .....  
5 Attorneys for .....  
6 .....  
7 .....  
8 UNITED STATES DISTRICT COURT  
9 ..... DISTRICT OF CALIFORNIA  
10 .....  
11 ..... ) No.: .....  
12 Plaintiff, )  
13 vs. ) STATEMENT OF GENUINE ISSUES IN  
14 ) OPPOSITION TO MOTION FOR SUMMARY  
15 Defendant. ) JUDGMENT (Central District)  
16 )  
17 (Plaintiff/defendant) ..... submits this statement  
18 of genuine issues pursuant to Central District of California Local Rule 7.14.2 in  
19 opposition to the motion for summary judgment herein filed by .....  
20 Facts 1 through ..... below correspond to the facts and supporting  
21 evidence presented in the Statement of Uncontroverted Facts filed by the moving  
22 party. These facts are followed by additional material facts and supporting  
23 evidence showing a genuine issue.  
24 MOVING PARTY'S ALLEGED RESPONSE TO OPPOSITION  
25 UNCCNTROVERTED FACTS  
26 1. (Copy from moving party's 1. Plaintiff agrees this is  
27 statement/ undisputed.  
28 ////

Exhibit 2

