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 9 Attorneys for Defendant Google Inc.

11 UNITED STATES DISTRICT COURT  
 12 CENTRAL DISTRICT OF CALIFORNIA

13 PERFECT 10, INC., a California  
 corporation,  
 14  
 Plaintiff,  
 15  
 vs.  
 16 GOOGLE INC., a corporation; and  
 17 DOES 1 through 100, inclusive,  
 18  
 Defendants.

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

**REBUTTAL DECLARATION OF  
 RACHEL HERRICK KASSABIAN  
 IN SUPPORT OF DEFENDANT  
 GOOGLE'S MOTIONS FOR  
 SUMMARY JUDGMENT RE:  
 GOOGLE'S ENTITLEMENT TO  
 SAFE HARBOR UNDER 17 U.S.C.  
 § 512**

19 AND COUNTERCLAIM

Hon. A. Howard Matz

20 PERFECT 10, INC., a California  
 corporation,  
 21  
 Plaintiff,  
 22  
 vs.  
 23 AMAZON.COM, INC., a corporation;  
 A9.COM, INC., a corporation; and  
 24 DOES 1 through 100, inclusive,  
 25  
 Defendants.  
 26

Date: None (taken under submission)  
 Time: None  
 Ctrm: 14

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

1 I, Rachel Herrick Kassabian, declare as follows:

2 1. I am a member of the bar of the State of California and a partner with  
3 Quinn Emanuel Urquhart Oliver & Hedges, LLP, counsel for Defendant Google Inc.  
4 ("Google") in this action. I make this declaration of my personal and firsthand  
5 knowledge and, if called and sworn as a witness, could and would competently  
6 testify thereto.

7 2. During the course of discovery, Google has produced thousands of  
8 pages of documents detailing Google's processing of Perfect 10 and third party  
9 DMCA notices. These documents were produced in "TIFF" format and are text  
10 searchable. In June 2008, Perfect 10 asked Google to identify the specific control  
11 numbers at which these documents could be found within Google's production.  
12 Google complied with Perfect 10's request, providing a list of specific control  
13 numbers for all such documents.

14 3. During this litigation, Perfect 10 has produced many documents to  
15 Google in various non-text-searchable formats.

16 4. Attached hereto as Exhibit A is a true and correct copy of excerpts of  
17 the Declaration of Dr. Norman Zada in Support of Motion of Plaintiff Perfect 10,  
18 Inc. for Order Granting Leave to File Second Amended Complaint, filed in this  
19 action and dated June 12, 2008.

20 5. During discovery, Google produced a complete copy of its current  
21 DMCA tracking spreadsheet for Google's Blogger service, as well as complete  
22 copies of Google's earlier Blogger DMCA tracking spreadsheets.

23 6. Perfect 10 did not identify Margaret Jane Eden, Les Schwartz, C.J.  
24 Newton, or Dean Hoffman in any of its Rule 26(a) disclosures in this action, nor in  
25 any interrogatory responses calling for the identification of witnesses with  
26 knowledge relevant to Perfect 10's claims.

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01980.51320/3071681.4

1 7. On May 29, 2008, Google propounded Requests for Admission  
2 directed to the DMCA notices Perfect 10 allegedly sent Google in 2001 (the "Group  
3 A Notices"). As of the date of this Declaration, Perfect 10 has not provided  
4 substantive responses to those Requests for Admission. Instead, Perfect 10 objected  
5 and refused to respond to those Requests. Google's motion to compel Perfect 10 to  
6 respond to those Requests is currently pending before Magistrate Judge Hillman.

7 8. Attached as Exhibit B is a true and correct copy of a document  
8 produced by Google at control number GGL 033527, titled "Interim Designation of  
9 Agent to Receive Notification of Claimed Infringement" and dated September 23,  
10 1999.

11 I declare under penalty of perjury under the laws of the United States of  
12 America that the foregoing is true and correct. Executed on September 8, 2009 at  
13 Redwood Shores, California.

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16 Rachel Herrick Kassabian  
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