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10 UNITED STATES DISTRICT COURT

11 CENTRAL DISTRICT OF CALIFORNIA

12 PERFECT 10, INC., a California
corporation,

13 Plaintiff,

14 vs.

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

17 Defendants.

18 AND COUNTERCLAIM

19 PERFECT 10, INC., a California
corporation,

20 Plaintiff,

21 vs.

22 AMAZON.COM, INC., a corporation;
23 A9.COM, INC., a corporation; and
24 DOES 1 through 100, inclusive,

25 Defendants.

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

**DEFENDANT GOOGLE'S
CONSOLIDATED SEPARATE
STATEMENT OF UNDISPUTED
FACTS IN SUPPORT OF
GOOGLE'S MOTION FOR
SUMMARY JUDGMENT RE: SAFE
HARBOR UNDER 17 U.S.C. § 512(d)
FOR WEB AND IMAGE SEARCH**

[Rebuttal Declarations of Rachel
Herrick Kassabian, Bill Brouger and
Shantal Rands Poovala filed
concurrently herewith]

Hon. A. Howard Matz

Date: None Set (taken under
submission)

Time: None Set

Crtrm.: 14

Discovery Cut-off: None Set


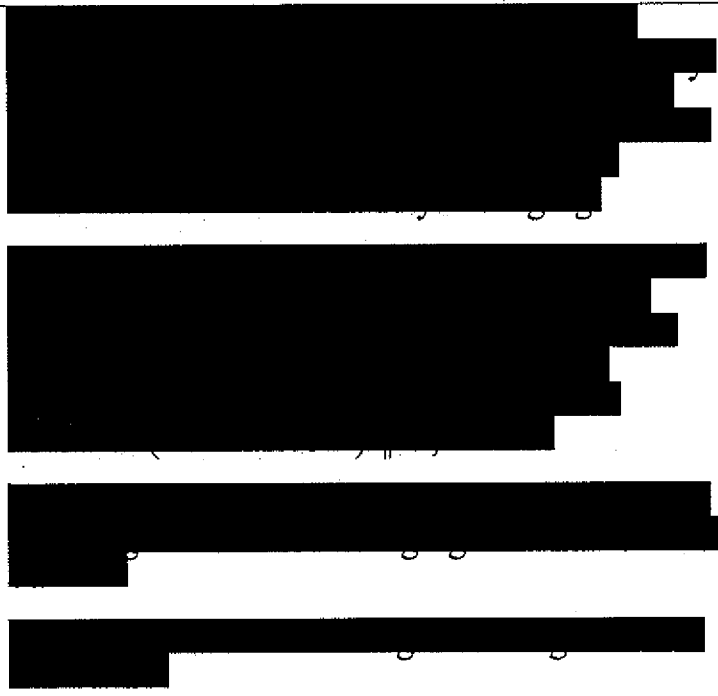
Pretrial Conference Date: None Set

Trial Date: None Set

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DEFENDANT GOOGLE'S CONSOLIDATED SEPARATE STATEMENT OF UNDISPUTED FACTS IN SUPPORT
OF GOOGLE'S MOTION FOR SUMMARY JUDGMENT RE: SAFE HARBOR UNDER 17 U.S.C. § 512(d) FOR
WEB AND IMAGE SEARCH

1 **DEFENDANT GOOGLE'S RESPONSE TO PERFECT 10'S STATEMENT**
2 **OF GENUINE ISSUES IN OPPOSITION TO GOOGLE'S MOTION FOR**
3 **SUMMARY JUDGMENT RE: SAFE HARBOR UNDER 17 U.S.C. § 512(d)**
4 **FOR WEB AND IMAGE SEARCH**

GOOGLE'S UNCONTROVERTED FACTS AND SUPPORTING EVIDENCE	P10'S RESPONSE AND EVIDENCE
6 1. Google maintains an 7 Internet search engine accessible 8 on the World Wide Web at 9 www.google.com. Declaration of 10 Bill Brougher in Support of 11 Google's Motion for Summary 12 Judgment Re: Google's 13 Entitlement to Safe Harbor Under 14 17 U.S.C. § 512 ("Brougher 15 Dec.") ¶ 2.	
16 2. Google uses an automated 17 software program, known as a web 18 crawler or the "Googlebot," to 19 obtain copies of publicly-available 20 web pages for use in its search 21 index. For Image Search, Google's 22 search engine compiles an index 23 of the text associated with each 24 image crawled, which is in turn 25 associated with a particular 26 "thumbnail" image. When a user 27 enters a query, the search engine 28 searches the relevant index and delivers the links (for Web Search) or thumbnails (for Image Search) that aid the user in identifying and locating the third- party content most relevant to the search. Brougher Dec. ¶¶ 4, 5.	

24 **GOOGLE'S REPLY**

25 P10 has cited no contrary evidence disputing these facts. P10's response is
26 primarily legal argument, which is prohibited by the Court's Scheduling Order. See
27 Scheduling and Case Management Order ("Scheduling Order") at 6:5-6 ("No legal
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1 argument should be set forth in this document."). The Court should strike P10's
2 response to this Undisputed Fact. Additionally, P10's submission of one set of Web
3 Search results is irrelevant to the facts asserted.

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5 3. Google does not interfere with any known "standard
6 technical measures."
7 Declaration of Paul Haahr in
8 Support of Google's Motion for
9 Summary Judgment Re:
10 Google's Entitlement to Safe
11 Harbor Under 17 U.S.C. § 512
12 ("Haahr Dec.") ¶ 18.

[REDACTED]

11 **Google's DMCA Policy and Procedure for Web Search and Image Search**

12 4. Google has developed
13 and maintains a DMCA policy
14 and procedure for processing
15 complaints received under the
16 DMCA regarding Web Search.
17 Declaration of Shantal Rands
18 Poovala in Support of Google's
19 Motion for Summary Judgment
20 Re: Google's Entitlement to
21 Safe Harbor Under 17 U.S.C. §
22 512 ("Poovala Dec.") ¶ 5, Ex.
23 B.

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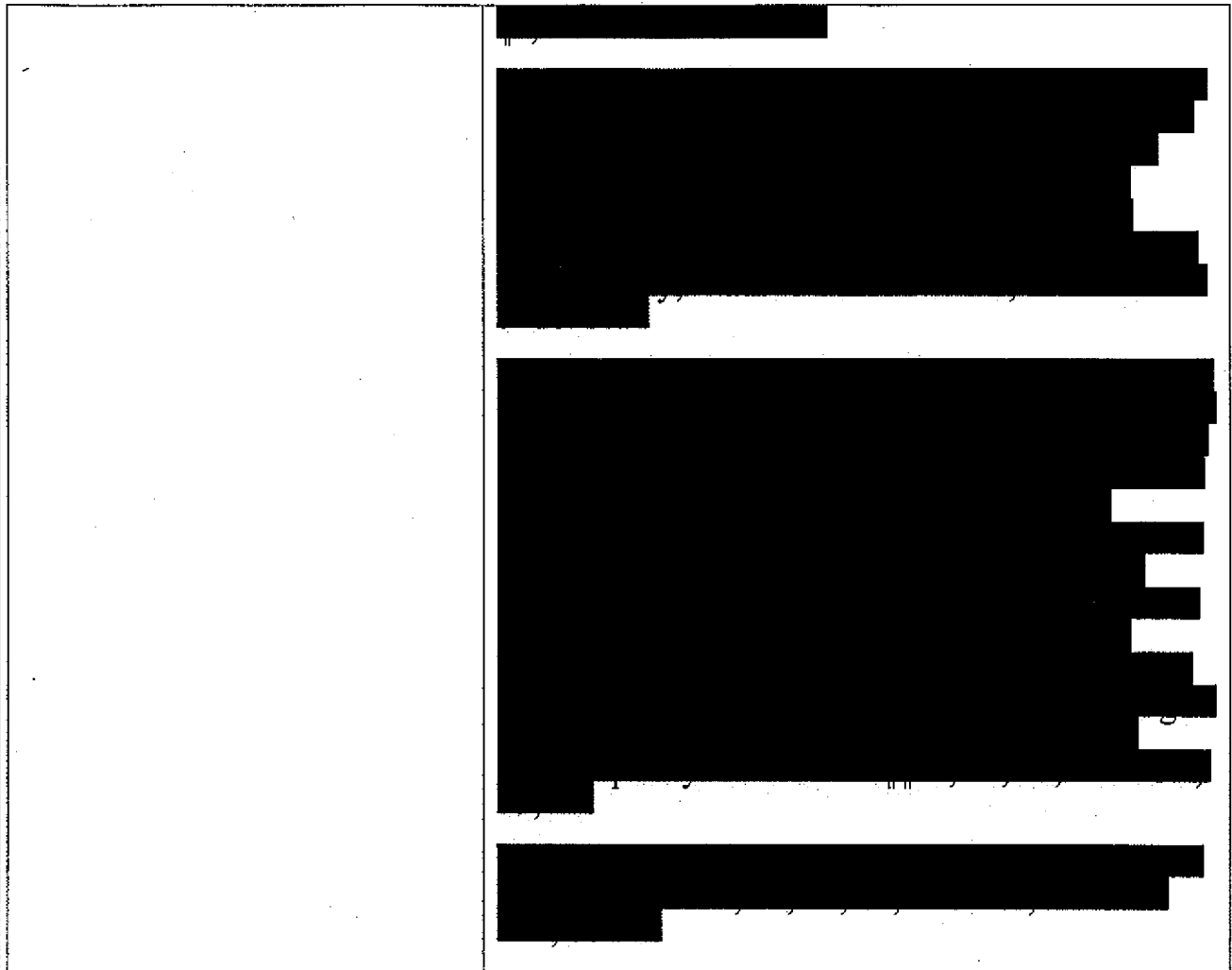
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GOOGLE'S REPLY

Most of P10's response is improper legal argument and should be stricken. See Scheduling Order at 6:5-6 ("No legal argument should be set forth in this document."). P10's cited evidence (including the opinions of Norman Zada, Dean Hoffman, C.J. Newton, Les Schwartz and Margaret Jane Eden, and what Google allegedly has done in response to specific P10 notices) is irrelevant to the identified fact because it is directed to how Google has *implemented* its DMCA policy – not whether Google *has* such a policy. Additionally, Google's DMCA tracking spreadsheets speak for themselves. Poovala Dec. Ex. II; Rebuttal Declaration of Rachel Herrick Kassabian at ¶ 2. The fact that Google received a few poor-quality

1 faxes (including several from P10) is irrelevant to its qualification for DMCA safe
2 harbor. Perfect 10's statements regarding chillingeffects.org also are irrelevant.

3 5. Google has developed
4 and maintains a DMCA policy
5 and procedure for processing
6 complaints received under the
7 DMCA regarding Image
8 Search. Poovala Dec. ¶ 21, Ex.
9 D.

[REDACTED]

14 **GOOGLE'S REPLY**

15 P10's cited evidence is irrelevant to the identified fact because it is directed to
16 how Google has *implemented* its DMCA policy – not whether Google *has* such a
17 policy.
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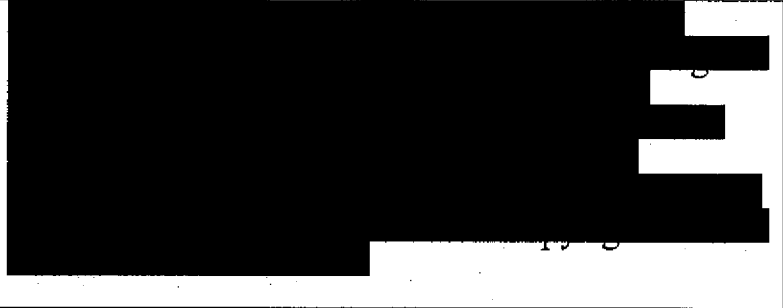
19 6. Google has a designated
20 agent for receiving
21 notifications of claimed
22 infringement. Declaration of
23 Rachel Herrick Kassabian in
24 Support of Google's Motion for
25 Summary Judgment Re:
26 Google's Entitlement to Safe
27 Harbor Under 17 U.S.C. § 512
28 ("Kassabian Dec."), Ex. G
(Perfect 10's Responses to
Requests for Admission);
Poovala Dec. ¶ 3, Ex. A.

[REDACTED]

7. Google publishes the
information required for

[REDACTED]

1 DMCA complaints relating to
2 Web Search at
3 [http://www.google.com/dmca.h](http://www.google.com/dmca.html)
4 tml. Poovala Dec. ¶ 5, Ex. B.
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7 **GOOGLE'S REPLY**

8 P10's cited evidence does not actually dispute the identified fact. That
9 Google has an additional fax number on file with the Copyright Office is irrelevant
10 to whether Google publishes the information required to submit a DMCA notice on
11 Google's website.

12 8. Google publishes the
13 information required for
14 DMCA complaints relating to
15 Image Search at
16 [http://www.google.com/images](http://www.google.com/images_dmca.html)
17 dmca .html. Poovala Dec. ¶
18 21, Ex. D.
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GOOGLE'S REPLY

Most of P10's response is improper legal argument and should be stricken.
See Scheduling Order at 6:5-6.

P10's cited evidence (including P10's opinions regarding Google's Image Search DMCA instructions, Google's alleged implementation of its Image Search DMCA policy, and that Google has an additional fax number on file with the Copyright Office) is irrelevant because it (1) does not actually dispute the identified

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GOOGLE'S REPLY

Most of P10's response is improper legal argument and should be stricken.
See Scheduling Order at 6:5-6.

P10's cited evidence (including the opinions of Norman Zada, Dean Hoffman, C.J. Newton, Les Schwartz and Margaret Jane Eden, and what Google allegedly has done in response to specific P10 notices) is irrelevant to the identified fact because it is directed to how Google has *implemented* its DMCA policy – not whether Google *has* such a policy. Additionally, Google's DMCA tracking spreadsheets speak for themselves. Poovala Dec. Ex. II. The fact that Google received a few poor-quality faxes (including several from P10) is irrelevant to its DMCA policy. P10's claim that [REDACTED] is unsupported by both P10's and Google's evidence. Poovala Dec. ¶¶ 57-64, Exs. S-V; Zada Dec. at 20:16-26 & 23:27-28. P10's claim that [REDACTED] is unsupported by the evidence it cites, and incorrect. *See* Rebuttal Kassabian Dec. Ex. B; Rebuttal Poovala Dec. ¶ 8. P10's claim that [REDACTED] is unsupported by the evidence it cites and irrelevant to Google's policy of responding expeditiously to DMCA notices, nor does the DMCA impose specific time periods for recordkeeping.

10. For a Web Search DMCA complaint, Google directs complainants to identify the copyrighted work infringed by providing a brief description of it and the complete URL or other location where the work can be found. Poovala Dec. ¶ 7

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GOOGLE'S REPLY

P10's cited evidence does not actually dispute the identified fact, but rather is argument regarding what information P10 provided in response to Google's instructions, and thus is irrelevant. *See* Scheduling Order at 6:5-6. Both P10 and Google point to the same "documentary support" – Google's published DMCA policy for Web Search – which speaks for itself.

11. For a Web Search DMCA complaint, Google directs complainants to provide the complete URL at which the allegedly infringing material is located and the Web Search query that directly links to that web page. Poovala Dec. ¶ 8, Ex. B.

[Redacted]

GOOGLE'S REPLY

P10's cited evidence does not actually dispute the identified fact, but rather is argument regarding P10's interpretation of Google's Web Search DMCA instructions, and thus is irrelevant. *See* Scheduling Order at 6:5-6.

12. For an Image Search DMCA complaint, Google directs complainants to provide the complete URL at which the

[Redacted]

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1 infringing material is located,
2 which is the image URL.
3 Poovala Dec. ¶ 22, Ex. D.
4 Haahr Dec. ¶ 10.

[REDACTED]

8 **GOOGLE'S REPLY**

9 P10's cited evidence does not actually dispute the identified fact, but rather is
10 argument regarding P10's interpretation of Google's Image Search DMCA
11 instructions, as well as P10's opinions regarding those instructions, and thus is
12 irrelevant. *See* Scheduling Order at 6:5-6.

13 13. Google's published
14 DMCA policy for Image
15 Search tells copyright holders
16 how to locate the image URL
17 of an allegedly infringing
18 image. Poovala Dec. ¶ 23, Ex.
19 D.

[REDACTED]

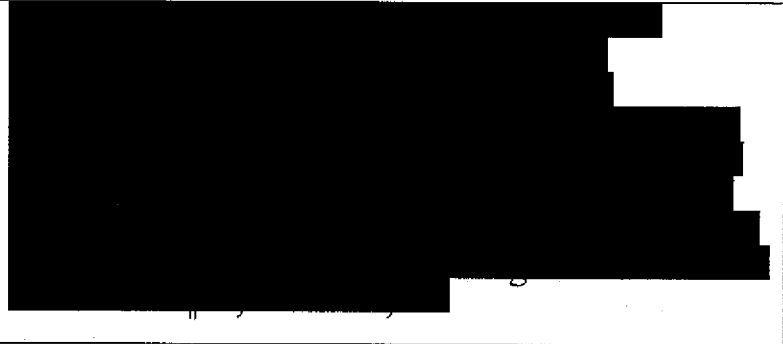
21 **GOOGLE'S REPLY**

22 P10's cited evidence does not dispute the identified fact, but rather discusses
23 what P10 claims it did in response to Google's Image Search DMCA instructions,
24 and thus is irrelevant. P10's opinion's and argument that Google's instructions
25 should explain how to submit DMCA notices for infringing images that are not
26 linked to by Google is nonsensical and irrelevant. *See* Scheduling Order at 6:5-6.

27 14. Images may be displayed
28 on one or more web pages

[REDACTED]

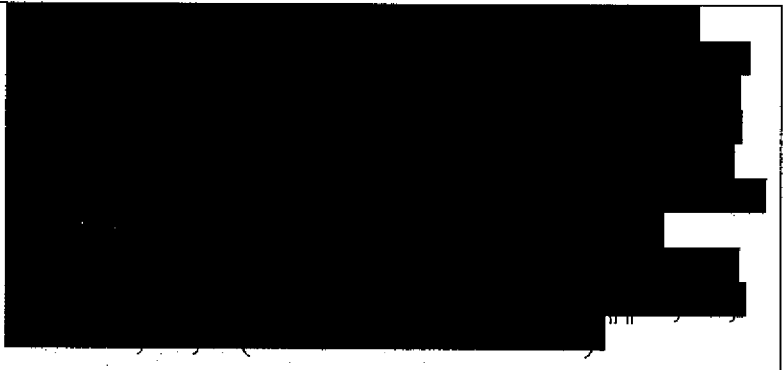
1 using a hyperlink to the image
2 URL. Haahr Dec. ¶ 10.



7 **GOOGLE'S REPLY**

8 P10 does not dispute the identified fact. P10's improper legal argument
9 should be stricken. See Scheduling Order at 6:5-6. The identified fact is
10 unsupported by the evidence it cites, and Google's Image Search DMCA
11 instructions (to which both parties cite) speak for themselves.

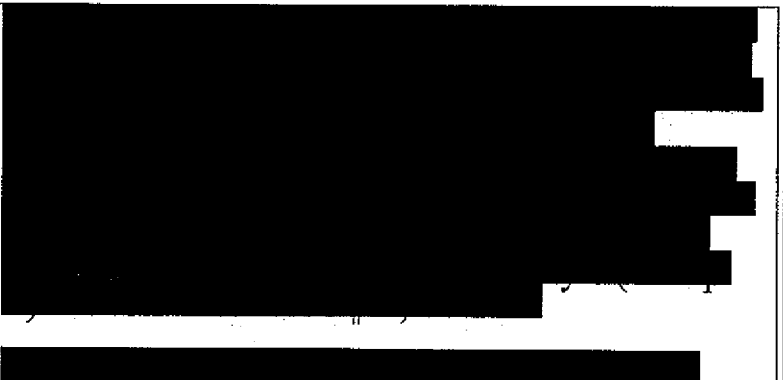
12 15. Unless provided with the
13 necessary information from the
14 copyright owner, Google has
15 no way of knowing which uses
16 the owner regards to be
17 infringing, as opposed to those
18 uses that are licensed, a fair
19 use, or otherwise acceptable to
20 the owner. Poovala Dec. ¶ 15.

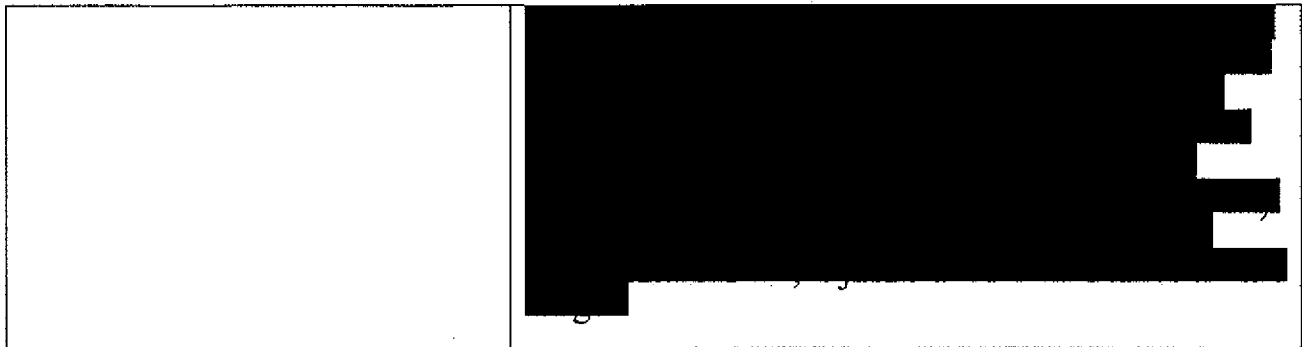


21 **GOOGLE'S REPLY**

22 P10's cited evidence does not actually dispute the identified fact—that
23 Google needs the required information from copyright owners. P10's improper and
24 circular legal argument should be stricken. See Scheduling Order at 6:5-6.

25 16. For Web and Image
26 Search DMCA complaints,
27 incomplete URLs containing
28 improper ellipses, misspellings,
or extra spaces, hinder
Google's ability to locate the
materials in question. Poovala
Dec. ¶¶ 9, 24; Haahr Dec. ¶¶ 4,
11.





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Google's Reply

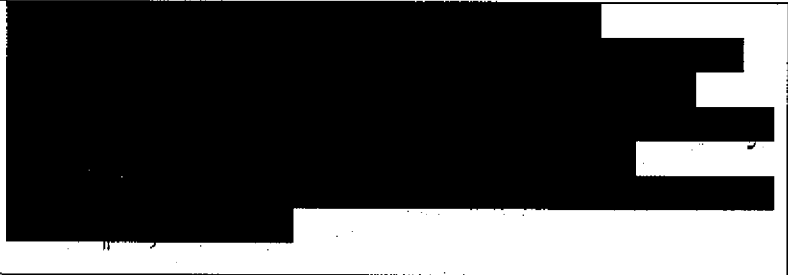
P10's cited evidence does not actually dispute the identified fact. P10's improper legal argument should be stricken. *See* Scheduling Order at 6:5-6. P10's cited evidence (including the opinions of Norman Zada and Sean Chumura regarding how Google should process DMCA notices) is irrelevant to the identified fact, and does not support it in any event.

<p>17. For Web and Image Search DMCA complaints, URLs which are not live on the web, not indexed by Google, or are excluded from search results, cannot be blocked because they already do not appear in Web or Image Search results. Poovala Dec. ¶9, 24; Haahr Dec. ¶4, 11.</p>	
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GOOGLE'S REPLY

P10's cited evidence does not actually dispute the identified fact. P10's improper legal argument should be stricken. *See* Scheduling Order at 6:5-6. P10's cited evidence (including the opinions of Norman Zada regarding Google's DMCA processing and other Google services not at issue in this lawsuit) is irrelevant to the identified fact, and in any event does not support it. P10's opinion that Google should block sites that are not even indexed or linked to by Google is nonsensical and irrelevant.

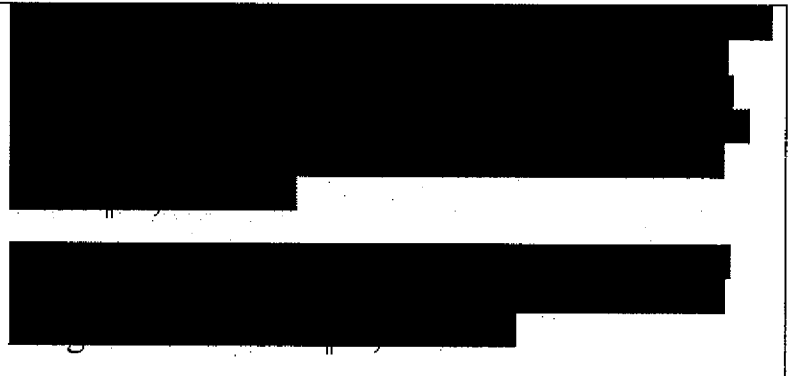
1 18. Google has a team of
2 employees charged with
3 processing DMCA removal
4 requests. Poovala Dec. ¶11.



6 **GOOGLE'S REPLY**

7 P10 does not dispute the identified fact. P10's improper legal argument
8 should be stricken. See Scheduling Order at 6:5-6.

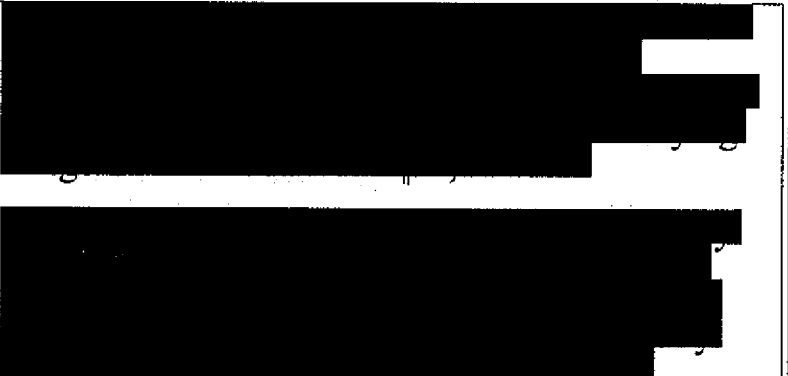
9 19. If a DMCA notice for
10 Web or Image Search does not
11 contain the required
12 information, Google notifies
13 the complainant and requests
14 additional information.
15 Poovala Dec. ¶¶ 13, 25.



16 **GOOGLE'S REPLY**

17 P10's cited evidence does not actually dispute the identified fact, nor does
18 P10 dispute receiving the Google communications requesting additional
19 information and DMCA-compliant notices. Poovala Dec., Exs. S-EE. P10's cited
20 evidence (including the opinions of Norman Zada with respect to the sufficiency of
21 Google's communications) is irrelevant to the identified fact. P10's improper legal
22 argument should be stricken. See Scheduling Order at 6:5-6.

23 20. Google verifies claims
24 of infringement by comparing
25 the copyrighted work claimed
26 to be infringed to the allegedly
27 infringing URL identified in
28 the DMCA notice. Poovala
Dec. ¶¶14, 25.



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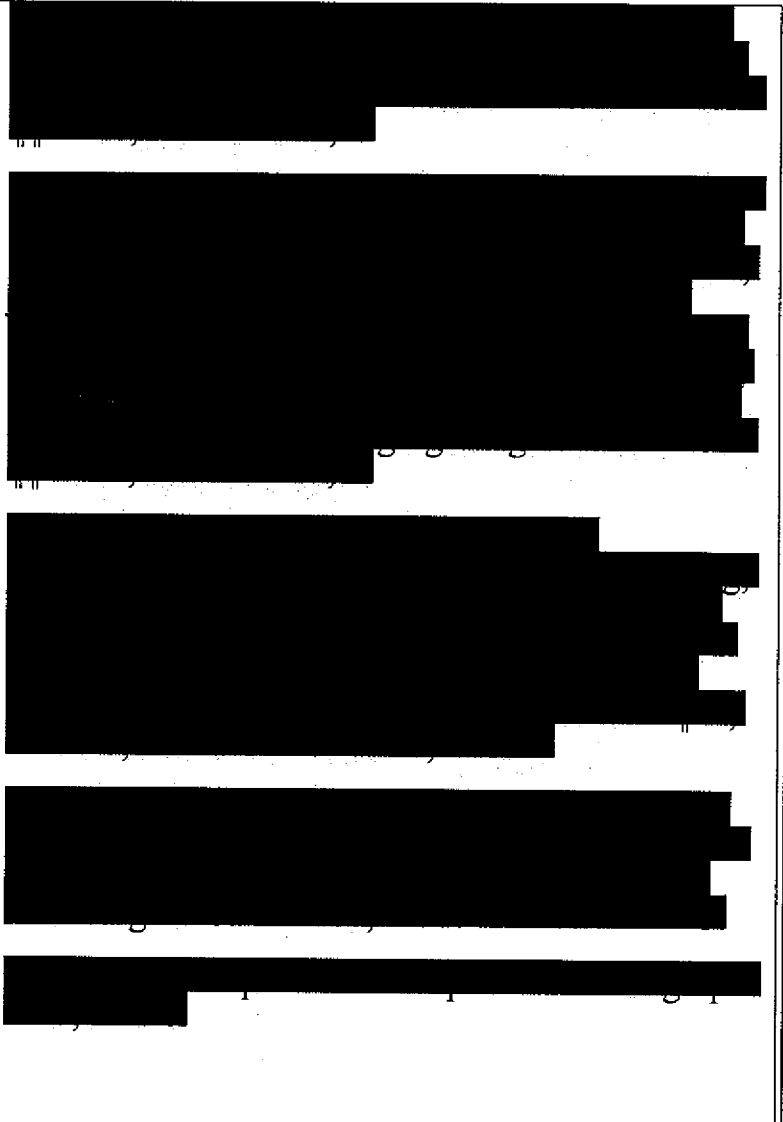
[REDACTED]

GOOGLE'S REPLY

P10's cited evidence (including the deposition testimony of Mr. MacGillivray and the Declaration of Mr. Botelho) does not actually dispute—or even support—

1 the identified fact. P10's cited evidence (including the opinions and speculations of
2 Norman Zada regarding how Google processed P10's notices, Google's DMCA
3 instructions, what Google really needs to process a DMCA notice, and the adequacy
4 of the Group C Notices) is irrelevant to the identified fact. P10's improper legal
5 argument should be stricken. See Scheduling Order at 6:5-6. Further, Google's
6 DMCA instructions speak for themselves.

7 21. Google blocks infringing
8 web page and image URLs
9 from appearing in Google
10 search results. Haahr Dec. ¶¶
11 6, 7, 9; Poovala Dec. ¶¶ 14, 24.

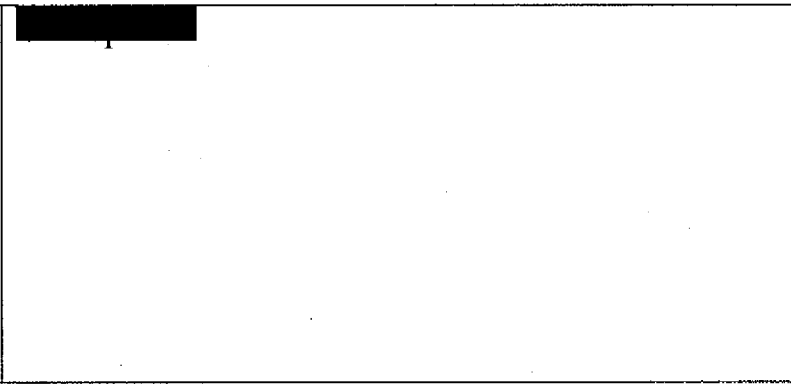


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25 **GOOGLE'S REPLY**

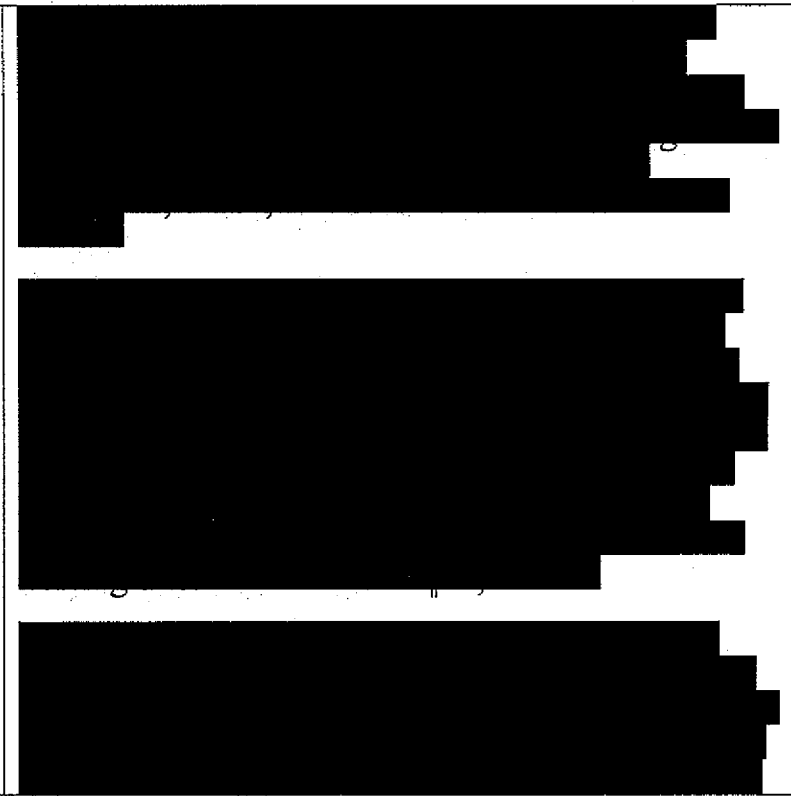
26 P10's cited evidence (including the opinions of Norman Zada, Dean
27 Hoffman, C.J. Newton, Les Schwartz and Margaret Jane Eden, and P10's claims as

1 to what Google allegedly has done in response to specific P10 notices) does not
2 actually dispute the identified fact. P10's cited evidence also is irrelevant to the
3 identified fact and is contradicted by P10's witnesses' own testimony. P10's
4 improper legal argument should be stricken. See Scheduling Order at 6:5-6.
5 Google's DMCA tracking spreadsheets and its engineering files confirming the
6 removal of infringing URLs speak for themselves, as do P10's notices. Poovala
7 Dec. Ex. II; Haahr Dec. Ex. 1. P10's statements regarding chillingeffects.org also
8 are irrelevant.

9 22. If Google receives a
10 counter-notification as a result
11 of a Search-related DMCA
12 removal and the original
13 complainant responds within
14 ten days and informs Google it
15 has filed a lawsuit, the URL
16 will remain blocked from
17 search results. Poovala Dec. ¶
18 18.



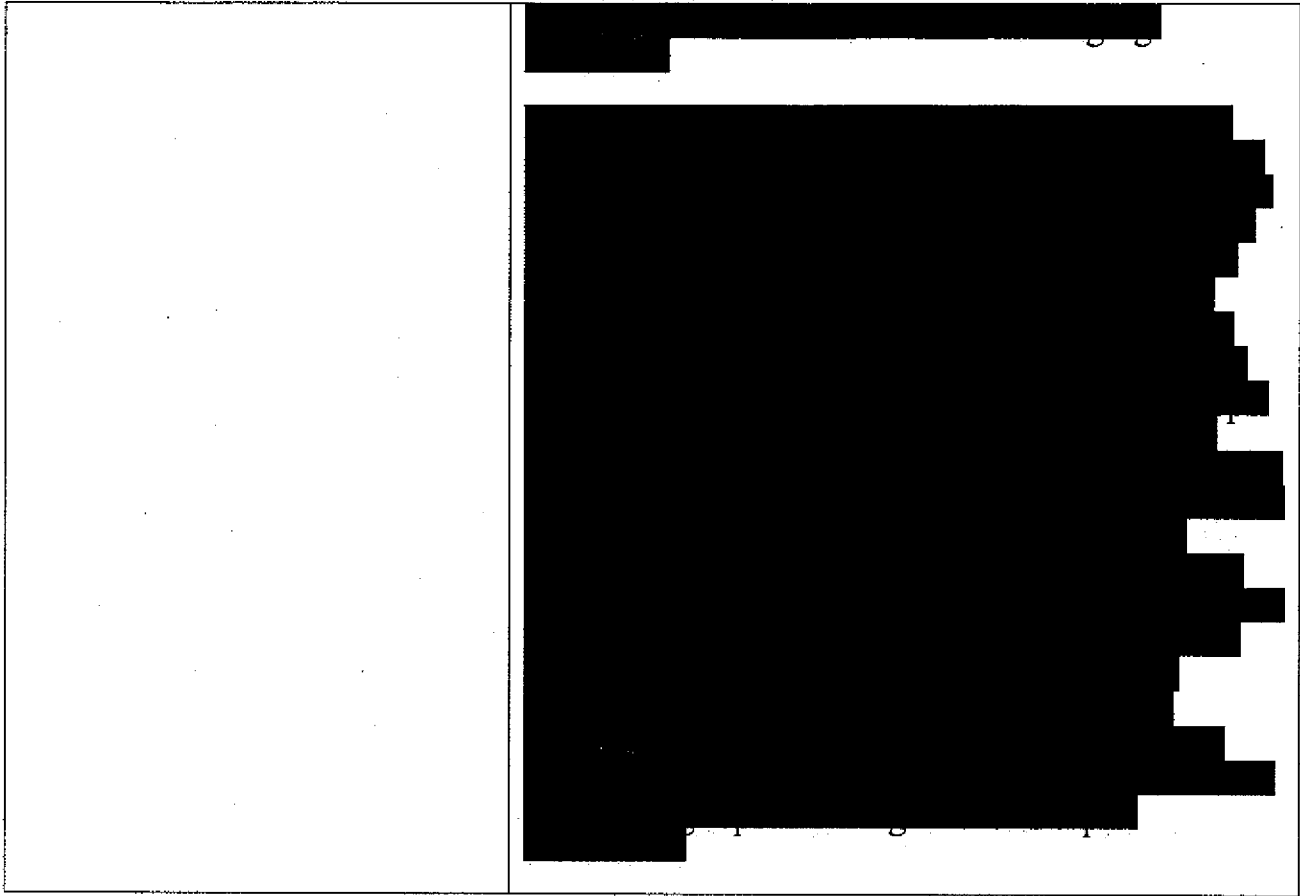
16 23. Google's Web and Image
17 Search services have no
18 subscribers or account holders.
19 Haahr Dec. ¶ 17.



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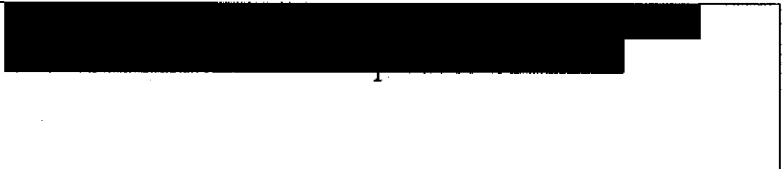
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GOOGLE'S REPLY

P10's cited evidence does not actually dispute the identified fact. P10's improper legal argument should be stricken. *See* Scheduling Order at 6:5-6. P10's cited evidence (including the opinions of Norman Zada) is irrelevant to the identified fact because it discusses Google's repeat infringer policies for other Google services – not whether Web Search and Image Search have account holders or subscribers.

24. Webmasters do not "sign up" to have their websites listed in Google's organic search results. Haahr Dec. ¶17.



GOOGLE'S REPLY

1 P10 has not cited any contrary evidence disputing this fact. It remains
2 uncontroverted.

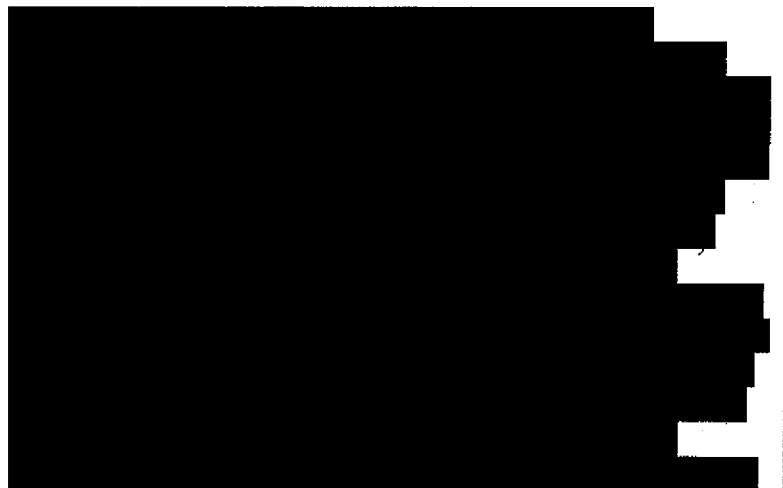
3 25. Websites are included in
4 Google's organic search results
5 if they were crawled by the
6 Googlebot and if they are
7 relevant to users' queries.
8 Haahr Dec. ¶ 17.



9 **GOOGLE'S REPLY**

10 P10's cited evidence does not actually dispute the identified fact. P10's
11 improper legal argument should be stricken. See Scheduling Order at 6:5-6. P10's
12 cited evidence (including the opinions of Norman Zada as to whether Google's
13 search results list "relevant" sites) is irrelevant because the specific results for a
14 search for "Jamike Hansen" have no bearing on the identified fact.

15 26. Google has repeat
16 infringer policies for its
17 products and services with
18 account holders, such as
19 AdSense and Blogger. Poovala
20 Dec. ¶ 36.



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GOOGLE'S REPLY

P10's cited evidence does not actually dispute the identified fact. P10's improper legal argument should be stricken. See Scheduling Order at 6:5-6. P10's cited evidence (including the opinions of Norman Zada and Sheena Chou regarding Google's DMCA processing efforts) is irrelevant to the identified fact because it is directed to allegations regarding how Google has implemented its repeat infringer policies – not whether Google has such policies for services with account holders and subscribers. Additionally, Google's published repeat infringer policies and DMCA tracking spreadsheets for Blogger and AdSense speak for themselves. Poovala Dec. Exs. F, G, J, K, II; Rebuttal Poovala Dec. Ex. C.

27. Google does not actively prevent copyright owners from collecting information needed to issue notifications of copyright infringement under the DMCA. Poovala Dec. ¶ 39.

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GOOGLE'S REPLY

P10's cited evidence does not actually dispute the identified fact. P10's improper legal argument should be stricken. See Scheduling Order at 6:5-6. P10's cited evidence (including the opinions of Norman Zada, Dean Hoffman, C.J. Newton, Les Schwartz and Margaret Jane Eden regarding Google's DMCA instructions) does not actually support the identified fact, and is irrelevant to it. Google's published DMCA instructions speak for themselves.

Group A: The 2001 Notices¹

28. During discovery in this action, P10 produced 17 claimed DMCA notices dated in 2001, all of which were dated more than three years prior to P10's filing of this action. Kassabian Dec. ¶ 13, Ex. 1-L17.

[REDACTED]

¹ The Group A Notices include e-mail communications from Perfect 10 to Google dated May 11, 2001 (Kassabian Dec. Ex. L1), May 15, 2001 (Exs. L2, L3 and L4), May 18, 2001 (Exs. L5, L6 and L7), May 21, 2001 (Exs. L8, L9 and L10), May 22, 2001 (Exs. L11, L12 and L13), May 24, 2001 (Ex. L14), June 26, 2001 (Ex. L15), June 29, 2001 (Ex. L16) and July 6, 2001 (Ex. L17).

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GOOGLE'S REPLY

P10 does not dispute the identified fact, so it remains uncontroverted. P10's improper legal argument should be stricken. *See* Scheduling Order at 6:5-6.

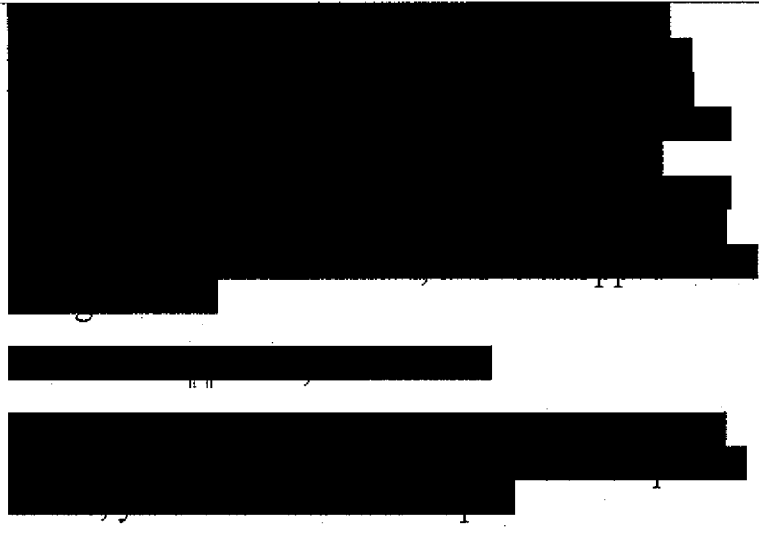
29. P10 has indicated that its suit is not based on the DMCA notices purportedly sent to Google in 2001. Kassabian Dec. ¶ 3, Ex. B.

[REDACTED]

GOOGLE'S REPLY

1 P10's cited evidence (the Mausner Declaration) does not actually dispute
2 Google's cited evidence – it just attempts to re-characterize it. P10 does not dispute
3 that it refused to provide discovery regarding the Group A Notices. P10's improper
4 legal argument should be stricken. See Scheduling Order at 6:5-6. The remainder
5 of P10's claims are irrelevant to the identified fact and are unsupported by the
6 evidence it cites.

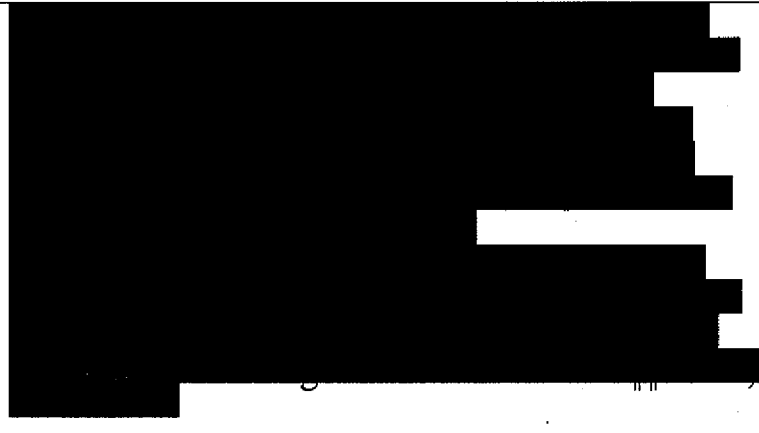
7 30. None of the Group A
8 Notices properly identified the
9 copyrighted work claimed to
10 be infringed. Kassabian Dec.
11 ¶¶2, 13, Exs. A & L1-L17.

A large rectangular area of the document is completely redacted with black ink, covering approximately lines 7 through 15.

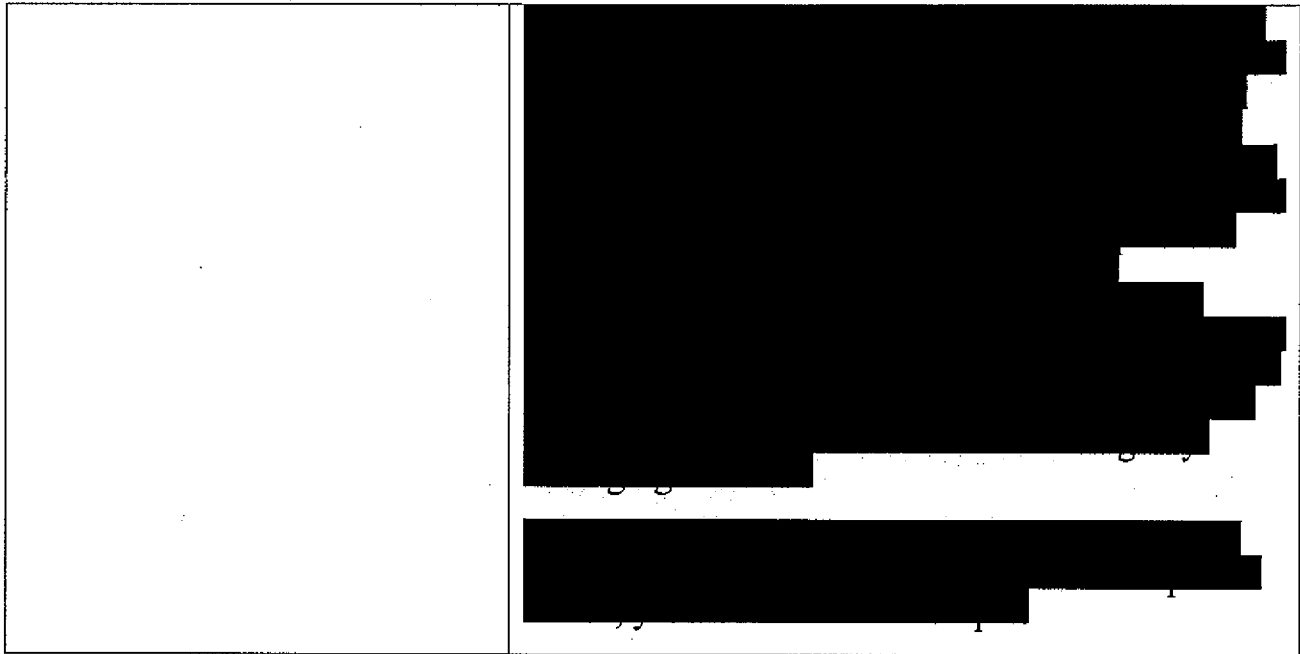
16 **GOOGLE'S REPLY**

17 P10's cited evidence does not actually dispute the identified fact with respect
18 to all but one of the alleged infringements in the Group A Notices, and even as to
19 that infringement, mischaracterizes the underlying notice, which speaks for itself.
20 P10's improper legal argument should be stricken. See Scheduling Order at 6:5-6.

21 31. None of the Group A
22 Notices properly identified the
23 location of the allegedly
24 infringing material. Kassabian
25 Dec. ¶¶2, 13, Exs. A & L 1-
26 L17.

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GOOGLE'S REPLY

P10's cited evidence does not actually dispute the identified fact with respect to all but one of the alleged infringements in the Group A Notices, and even as to that infringement, mischaracterizes the underlying notice, which speaks for itself. P10's improper legal argument should be stricken. See Scheduling Order at 6:5-6.

Group B: The Spreadsheet Notices²

32. None of the Group B Notices properly identified the copyrighted work allegedly



² The Group B Notices include P 1 O's notices dated May 31, 2004, June 1, 2004, June 4, 2004, June 16, 2004, June 28, 2004, July 6, 2004, July 11,2004, July 19, 2004, October 11,2004, November 2,2004, November 8, 2004, November 15, 2004, November 16, 2004, November 18,2004, November 26, 2004, December 1, 2004, December 9,2004, December 21, 2004, December 27, 2004, December 29, 2004, December 31, 2004, January 3, 2005, January 16, 2005, January 21, 2005, January 25, 2005, February 3, 2005, February 7, 2005, February 11,2005, February 17, 2005, February 23, 2005, March 6, 2005, March 27,2005, April 3,2005, April 3,2005, April 11, 2005, May 1,2005, May 7, 2005, June 12,2005, June 19,2005, July 16,2005, July 26,2005, August 30,2005, September 27,2005, December 7, 2005, December 22,2005, December 23, 2005, February 13,2006, and April 24, 2007. Poovala Dec. Exs. L1-L48.

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infringed. Poovala Dec. ¶¶41-47, Exs. L1-L48. Kassabian Dec. ¶ 2, Ex. A.

[REDACTED]

[REDACTED]

[REDACTED]

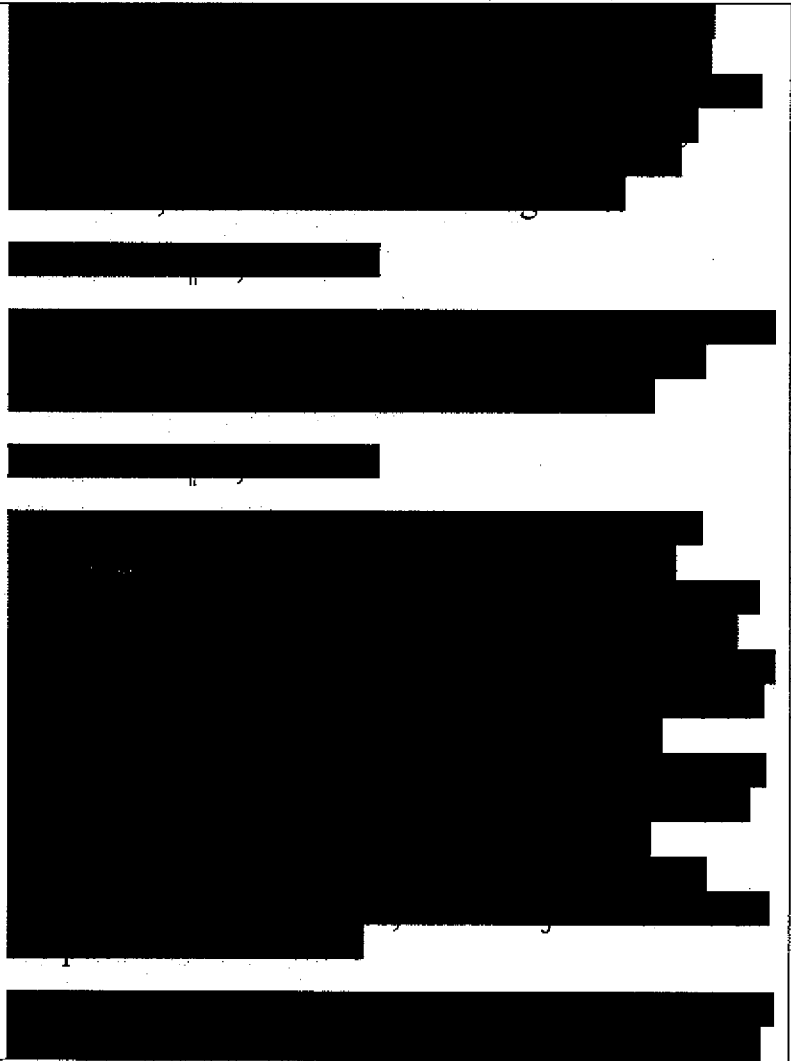
[REDACTED]

[REDACTED]

GOOGLE'S REPLY

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2 P10's cited evidence does not actually dispute the identified fact. P10's
3 improper legal argument should be stricken. *See* Scheduling Order at 6:5-6. P10's
4 cited evidence (including the opinions of Norman Zada, Sean Chumura, David
5 O'Connor, and Bennett McPhatter, regarding Google's DMCA instructions and
6 whether P10 followed them, and Yahoo!'s purported processing efforts) is irrelevant
7 to the identified fact. Google's DMCA instructions and P10's notices speak for
8 themselves. Further, that P10 provided the exact page number in P10 Magazine to
9 identify the copyrighted work infringed at one URL in one of its Group B Notices is
10 irrelevant to the question of whether that notice, or any of the other Group B
11 Notices, was sufficient in its entirety.

12 33. None of the Group B
13 Notices properly identified the
14 location of the allegedly
15 infringing material. Poovala
16 Dec. ¶¶41-47, Exs. L1-L48.
17 Kassabian Dec. ¶ 2, Ex. A.



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[REDACTED]

GOOGLE'S REPLY

P10's cited evidence does not actually dispute the identified fact with respect to all but one of the alleged infringements in the Group B Notices, and even as to that infringement, mischaracterizes the underlying notice, which speaks for itself. P10's cited evidence (including the opinions of Norman Zada, Sean Chumura, David O'Connor, and Bennett McPhatter regarding (1) Google's alleged ability to process P10's notices and (2) Google's DMCA instructions) is irrelevant to the identified fact because it is directed to Google's processing of P10's notices, not whether those notices included the referenced information. P10's improper legal argument should be stricken. *See* Scheduling Order at 6:5-6.

34. P10's notices dated May 31, June 1, June 4, June 16, June 28, July 6, July 11, and July 19, 2004 do not identify a specific copyrighted work claimed to be infringed for one or more of the allegedly infringing URLs included in that communication. Poovala Dec. ¶¶41, 44, Exs. L1-L8.

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[REDACTED]

GOOGLE'S REPLY

P10's cited evidence does not actually dispute the identified fact. P10's improper legal argument should be stricken. *See* Scheduling Order at 6:5-6. P10's cited evidence (including the opinions of Norman Zada regarding (1) what Google did or should have done in response to specific P10 notices and (2) Google's DMCA instructions) is irrelevant to the identified fact because it is directed to Google's alleged processing efforts, not the adequacy or content of P10's notices. P10 does not dispute that some portion of its Group B Notices did not provide the identified information. Google's published DMCA instructions and P10's notices speak for themselves.

35. P10's notices dated May 31, June 1, June 4, June 16, 2004 do not identify the Google search query used to locate the allegedly infringing material for one or more of the allegedly infringing URLs included in that communication. Poovala Dec. ¶ 41, Exs. L1-L4.

[REDACTED]

GOOGLE'S REPLY

1 P10 does not dispute the identified fact. It remains uncontroverted. P10's
2 improper legal argument should be stricken. See Scheduling Order at 6:5-6.

3 36. P10's notices dated June
4 16, June 28, July 6, July 11,
5 July 19, October 11, November
6 2, November 8, November 15,
7 November 16, November 18,
8 November 26, December 1,
9 December 9, December 21,
10 December 27, December 29,
11 and December 31, 2004,
12 January 3, January 16, January
13 21, January 25, February 3,
14 February 7, February 11,
15 February 17, February 23,
16 March 6, March 27, April 3,
17 April 3, April 11, May 1, May
18 7, June 12, June 19, July 16,
19 July 26, and August 30, 2005
list multiple pages in Perfect 10
Magazine as the copyrighted
work claimed to be infringed at
one or more of the allegedly
infringing URLs included in
that communication. Poovala
Dec. ¶¶41, 44, Exs. L4-L42.



20 **GOOGLE'S REPLY**

21 P10's cited evidence does not actually dispute the identified fact. P10's
22 improper legal argument should be stricken. See Scheduling Order at 6:5-6. P10's
23 cited evidence (including the opinions of Norman Zada regarding (1) what Google
24 did or should have done in response to specific P10 notices and (2) P10's
25 explanation of why it prepared its Group B Notices as it did) is irrelevant to the
26 identified fact because it does not dispute the referenced content of P10's notices.
27 P10 does not dispute that some portion of its Group B Notices did not provide the

1 identified information. Google's published DMCA instructions and P10's notices
2 speak for themselves.

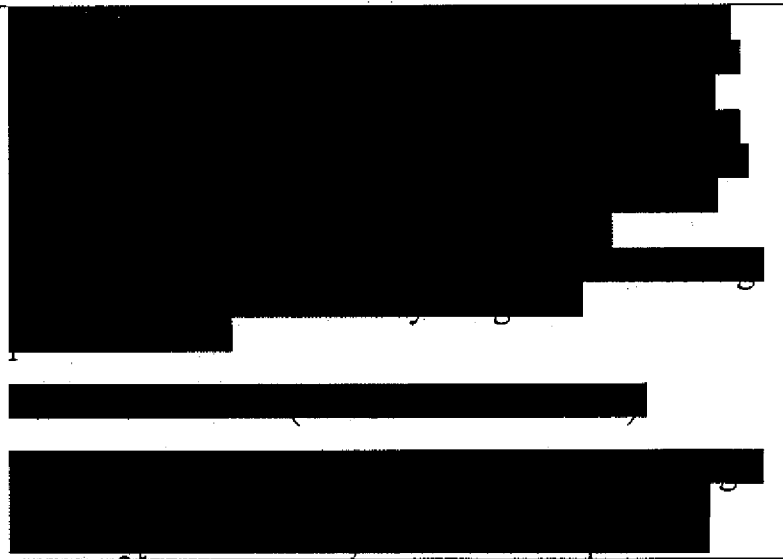
3 37. P10's notices dated June
4 28, July 6, July 11, July 19,
5 October 11, November 2,
6 November 8, November 15,
7 November 16, November 18,
8 November 26, December 1,
9 December 9, December 21,
10 December 27, December 29,
11 and December 31, 2004,
12 January 3, January 16, January
13 21, January 25, February 3,
14 February 7, February 11,
15 February 17, February 23,
16 March 6, April 11, May 1, May
17 7, June 12, July 16, December
18 7, December 22, and December
19 23, 2005 list "amyweber.net"
20 as the copyrighted work
21 claimed to be infringed at one
22 or more of the allegedly
23 infringing URLs included in
24 that communication. Poovala
25 Dec. ¶¶ 41, 44, Ex. L5-L31,
26 L35-L38, L40, L44-L46.



17 **GOOGLE'S REPLY**

18 P10 does not dispute the identified fact, and in fact admits it. P10's improper
19 legal argument should be stricken. See Scheduling Order at 6:5-6.

20 38. P10's notices dated
21 January 21, February 3,
22 February 7, February 11,
23 February 17, February 23,
24 March 6, March 27, April 11,
25 May 7, June 12, June 19, July
26 26, August 30, September 27,
27 December 7, December 22, and
28 December 23, 2005, February
list "perfect10.com" as the
copyrighted work claimed to
be infringed at one or more of
the allegedly infringing URLs
included in that
communication. Poovala Dec.



1 ¶¶ 41, 44, Ex. L24, L26-L32,
2 L35, L37-L39, L41-L48.

[REDACTED]

12 **GOOGLE'S REPLY**

13 P10 does not dispute the identified fact, and in fact admits it. P10's improper
14 legal argument should be stricken. *See* Scheduling Order at 6:5-6.

15 39. P10's notice dated
16 January 16, 2005 lists "Perfect
17 10 DVD" as the copyrighted
18 work claimed to be infringed at
19 one or more of the allegedly
20 infringing URLs included in
21 that communication. Poovala
22 Dec. ¶¶ 41, 44, Ex. L23.

[REDACTED]

23 **GOOGLE'S REPLY**

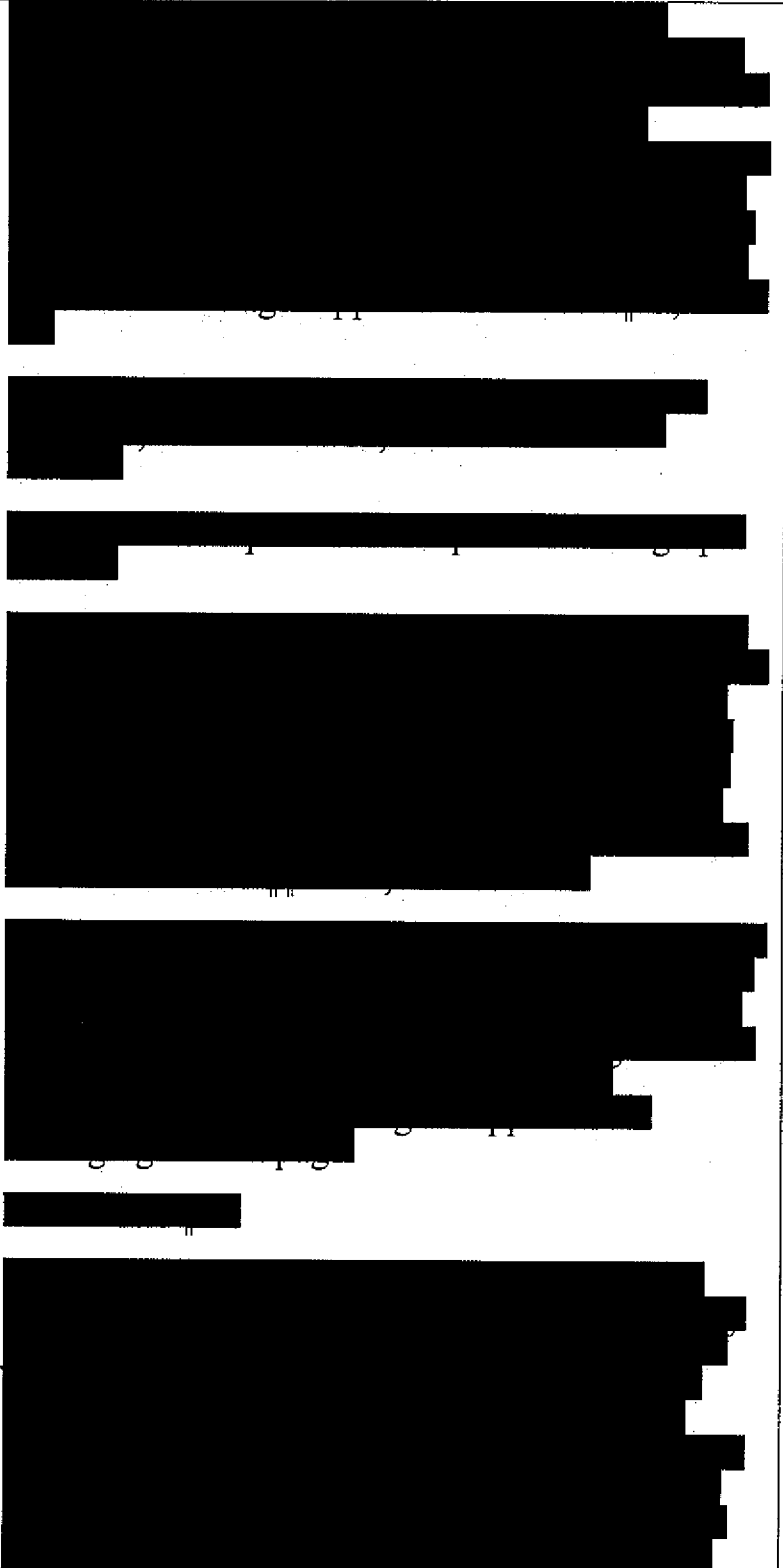
24 P10 does not dispute the identified fact. P10's improper legal argument
25 should be stricken. *See* Scheduling Order at 6:5-6.

26 40. P10's notices dated April
27 11 and December 7, 2005 list
28 "Perfect 10 Model Boxing
DVD" as the copyrighted work
claimed to be infringed at one
or more of the allegedly
infringing URLs included in
that communication. Poovala

[REDACTED]

1 Dec. ¶¶41, 44, Ex. L35, L44.

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3 41. At many of the web page
4 URLs identified in P10's Group
5 B Notices, multiple images
6 were displayed, but P10 did not
7 identify which images
8 infringed its copyrights.
9 Poovala Dec. ¶¶ 41, 45, Ex. L.



1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 **GOOGLE'S REPLY**

7 P10's cited evidence does not actually dispute the identified fact. P10's
8 improper legal argument should be stricken. See Scheduling Order at 6:5-6. P10's
9 cited evidence (including the opinions of Norman Zada regarding how Google
10 processed P10's notices and P10's explanation of why it prepared the notices the
11 way it did) is irrelevant to the identified fact because it does not dispute the contents
12 of the notices themselves.

13 42. P10 does not claim that
14 the entirety of "perfect10.com"
15 was infringed at any of the
16 URLs in P10's Group B
17 Notices. Kassabian Dec. ¶ 10,
18 Ex. I (P10's Responses to
19 Requests for Admission).

[REDACTED]

20 **GOOGLE'S REPLY**

21 P10's cited evidence does not dispute Google's cited evidence, nor could it,
22 since P10 cannot contradict its own prior sworn admissions to avoid summary
23 judgment. See Fed. R. Civ. P. 36(b) ("A matter admitted under this rule is
24 conclusively established unless the court, on motion, permits the admission to be
25 withdrawn or amended."); *School Dist. No. 1J, Multnomah County, Or. v. ACandS,*
26 *Inc.*, 5 F.3d 1255, 1264 (9th Cir. 1993) (upholding lower court grant of summary
27

1 judgment despite affidavit that contradicted prior interrogatory response). P10's
2 improper legal argument should be stricken. See Scheduling Order at 6:5-6.

3 43 There are thousands of
4 images viewable on perfect
5 10.com. Kassabian Dec. ¶9,
6 Ex. H (Zada Declaration).

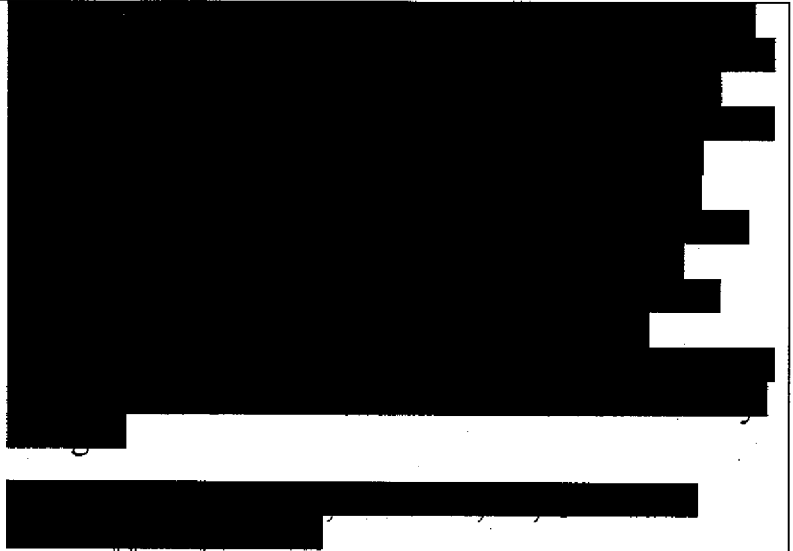
7 44. P10 does not claim that
8 every image in the multiple-
9 page sections of Perfect 10
10 Magazine cited in its Group B
11 Notices was infringed at any of
12 the URLs cited therein.
13 Kassabian Dec. ¶ 10, Ex. I
14 (P10's Responses to Requests
15 for Admission).

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21 **GOOGLE'S REPLY**

22 P10's cited evidence does not dispute Google's cited evidence, nor could it,
23 since P10 cannot contradict its own prior sworn admissions to avoid summary
24 judgment. See Fed. R. Civ. P. 36(b); *School Dist. No. 1J, Multnomah County, Or. v.*
25 *ACandS, Inc.*, 5 F.3d 1255, 1264 (9th Cir. 1993). P10's claims are not supported by
26 the cited evidence, nor are they relevant to the identified fact. P10's improper legal
27 argument should be stricken. See Scheduling Order at 6:5-6.

28 45. Each of P10's Group B
Notices contain one or more

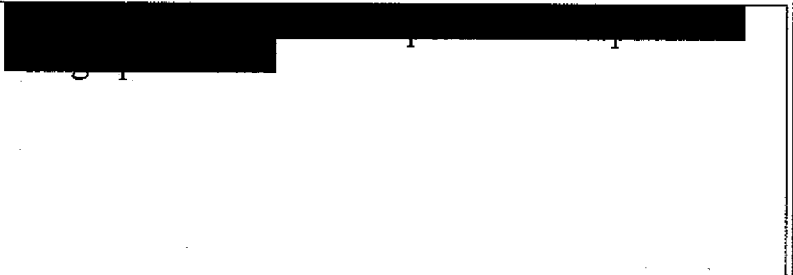
1 incomplete URLs. Poovala
2 Dec. ¶¶ 41, 45, Ex. L.



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11 **GOOGLE'S REPLY**

12 P10's cited evidence does not actually dispute the identified fact. P10's
13 improper legal argument should be stricken. See Scheduling Order at 6:5-6. P10's
14 cited evidence (including the opinions of Norman Zada and Sean Chumura
15 regarding P10's attempt to justify why it prepared its Group B Notices the way it
16 did) is irrelevant to the contents of the notices themselves. P10's claims are
17 contradicted by its own DMCA notices, which speak for themselves.

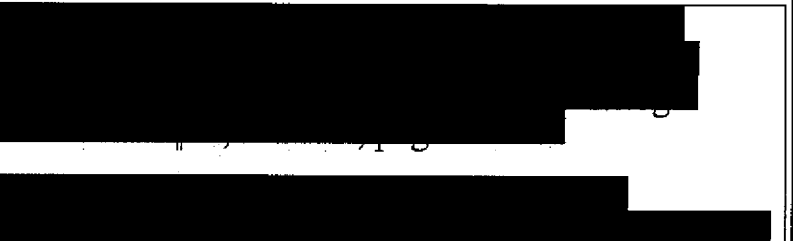
18 46. Each of P10's Group B
19 Notices cited one or more
20 URLs that displayed multiple
21 images, with no specification
22 as to which image was at issue.
23 Poovala Dec. Ex. ¶¶ 41, 45,
24 46, Exs. L and M.



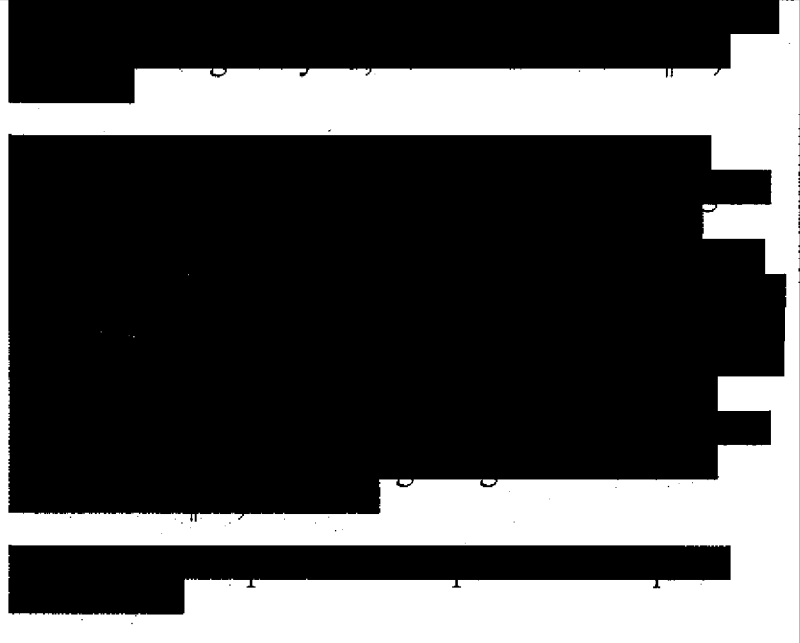
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26 **GOOGLE'S REPLY**

27 P10's cited evidence does not actually dispute the identified fact.

28 47. P10 did not provide an
image URL for each of the
alleged infringements of its
copyrighted works identified
in its Group B Notices.
Poovala Dec. ¶¶ 41, 46-47,



1 Exs. L1- L48.



11
12 **GOOGLE'S REPLY**

13 P10's cited evidence does not actually dispute the identified fact, and in fact
14 P10 admits that it did not provide image URLs for all of the alleged infringements
15 identified in its Group B Notices. P10's improper legal argument should be
16 stricken. See Scheduling Order at 6:5-6. P10's cited evidence (including Norman
17 Zada's opinions regarding what Google really needs to process a DMCA notice) is
18 irrelevant to the content of the Group B Notices, which speak for themselves.

19 48. P10's notices dated June
20 28, July 6, and July 11, 2004
21 contained identical lists of
22 allegedly infringing URLs, but
23 P10 did not disclose this fact to
Google when submitting them.
Poovala Dec. ¶¶ 41, 45, Exs.
L5, L6, L7.



24 **GOOGLE'S REPLY**

25 P10's cited evidence does not actually dispute the identified fact. P10's claim
26 that its July 11, 2004 notice contained 19 pages *in addition to* the identical list of
27

1 infringing URLs from the July 6, 2004 notice, does not contradict the identified fact.
2 P10's improper legal argument should be stricken. See Scheduling Order at 6:5-6.

3 **Group C: DVD and Hard Drive Notices³**

4 49. Google's search products do
5 not crawl, index, or link to Usenet
6 news servers. Haahr Dec. ¶¶14-
7 15.

[REDACTED]

[REDACTED]

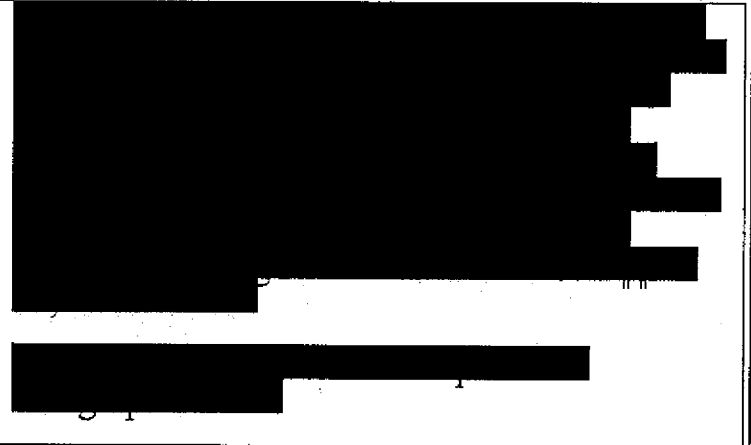
[REDACTED]

22 **GOOGLE'S REPLY**

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25 ³ The Group C Notices include P10's notices dated December 9,2005, March
26 20, 2007, June 28, 2007, July 2, 2007, July 12, 2007, July 31,2007, October 16,
27 2007, December 13,2007, January 24,2008, March 17,2008, July 9, 2008,
28 November 26, 2008, November 27, 2008, April 24,2009, May 7,2009, May 30,
2009, June 4,2009, and June 13,2009. Poovala Dec. Exs. NI-NIS.

1 P10's cited evidence does not actually dispute the identified fact. P10's
2 improper legal argument should be stricken. See Scheduling Order at 6:5-6. P10's
3 cited evidence (including the opinions of Norman Zada regarding what Google
4 crawls and indexes) is irrelevant to the identified fact because it is directed to
5 whether Google crawls other sites or home pages of sites, not whether Google
6 crawls, indexes, or links to *Usenet news servers*. P10's examples of Google
7 crawling what it has defined as "usenet sites" are not relevant because the examples
8 are web pages on web servers, not *Usenet content on Usenet news servers*.

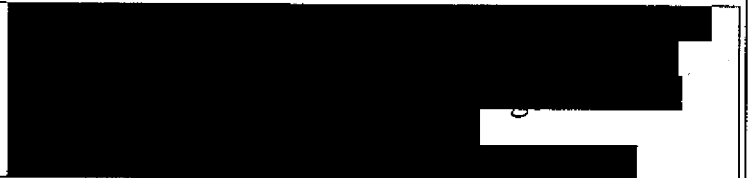
9 50. Google's search products do
10 not crawl, index, or link to
11 password-protected content.
12 Haahr Dec. ¶¶14-15.



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16 **GOOGLE'S REPLY**

17 P10's cited evidence does not actually dispute the identified fact. P10's
18 improper legal argument should be stricken. See Scheduling Order at 6:5-6. P10's
19 cited evidence (including the opinions of Norman Zada regarding what Google
20 crawls and indexes) is irrelevant to the identified fact because it is directed to
21 whether Google crawls and indexes home pages, which is not password-protected
22 content. P10's examples of crawling password-protected sites are not relevant
23 because they are limited to the homepages of such sites, and not the password-
24 protected content.

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26 51. None of the Group C
27 Notices properly identified the
28 copyrighted work allegedly
infringed. Poovala Dec. ¶¶48-55,
Exs. N1-N18. Kassabian Dec.



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¶12, Ex. A.

[REDACTED]

GOOGLE'S REPLY

1 P10's cited evidence does not actually dispute the identified fact. P10's
2 improper legal argument should be stricken. See Scheduling Order at 6:5-6. P10's
3 cited evidence (including the opinions of Norman Zada regarding Google's DMCA
4 instructions and how P10 believes that Google could have processed the Group C
5 notices) does not support P10's claims, and is irrelevant to the contents of Group C
6 Notices, which speak for themselves.

7 52. None of the Group C
8 Notices properly identified the
9 location of the allegedly
10 infringing material. Poovala Dec.
11 ¶¶ 48-55, Exs. N1-N18, Kassabian
12 Dec. ¶ 2, Ex. A.



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[REDACTED]

GOOGLE'S REPLY

P10's cited evidence does not actually dispute the identified fact. P10's improper legal argument should be stricken. See Scheduling Order at 6:5-6. P10's cited evidence (including the opinions of Norman Zada regarding Google's DMCA instructions and how P10 believes that Google could have processed the Group C notices) does not support P10's claims, and is irrelevant to the contents of Group C Notices, which speak for themselves.

53. P10's notices dated December 9, 2005, March 20, June 28, October 16, and December 13, 2007, March 17 and November 26, 2008, and May 7, 2009 complain of alleged infringement on the Usenet. Poovala Dec. ¶¶ 48-49, Exs. N1-N3, N7-N8, N10, N12, N15.

[REDACTED]

GOOGLE'S REPLY

P10 does not dispute the identified fact. P10's improper legal argument should be stricken. See Scheduling Order at 6:5-6.

54. The DVDs and hard drive received with P10's notices dated December 9, 2005, March 20,

[REDACTED]

01980.51320/3092049.1

1 June 28, October 16, and
2 December 13, 2007, January 24,
3 March 17, and July 9, 2008, and
4 April 24 and May 7, 2009 include
5 raw image files that do not display
6 web page URLs or image URLs.
7 Poovala Dec. ¶¶ 48, 53, 54, Exs.
8 NI-N3, N7-N11, N14-N15.

[REDACTED]

6 **GOOGLE'S REPLY**

7 P10's cited evidence does not actually dispute the identified fact. P10's
8 improper legal argument should be stricken. See Scheduling Order at 6:5-6. P10's
9 cited evidence does not support its claim, as none of the examples of raw image files
10 P10 provides at Exhibit 23 of the Zada Declaration display any URLs.

11 55. The folder "z perfect 10
12 web site" on the hard drive that
13 accompanied P10's June 28, 2007
14 notice contains 367 subfolders and
15 over 15,000 pages of allegedly
16 copyrighted P10 images. Poovala
17 Dec. ¶ 48, Ex. N3; Declaration of
18 Sibrina Khan in Support of
19 Google's Motions for Summary
20 Judgment Re: Entitlement to Safe
21 Harbor Under 17 U.S.C. § 512
22 ("Khan Dec.") ¶ 20.

[REDACTED]

23 56. Other than the references to
24 the entire folder named "z perfect
25 10 web site" on the hard drive that
26 accompanied P10's notice dated
27 June 28, 2007, P10's notices dated
28 between June 28, 2007 and May 7,
2009 do not identify the
copyrighted works claimed to be
infringed. Poovala Dec. ¶¶ 48, 50,
Exs. N3-N15.

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[REDACTED]

GOOGLE'S REPLY

P10's cited evidence does not actually dispute the identified fact. P10's improper legal argument should be stricken. *See* Scheduling Order at 6:5-6. P10's cited evidence (including the opinions of Norman Zada regarding Google's DMCA instructions and how it could have processed the Group C notices) does not support its claim, and is irrelevant to the contents of the Group C Notices, which speak for themselves.

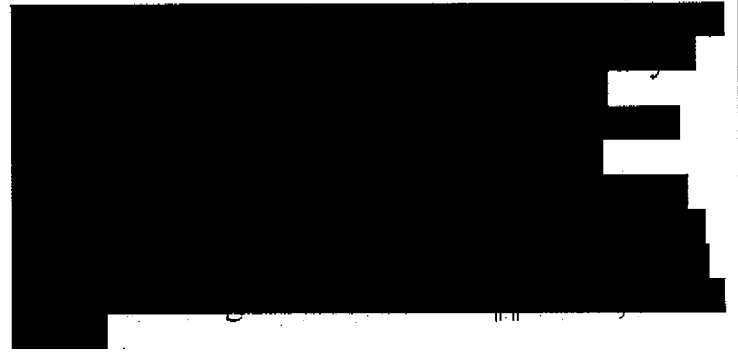
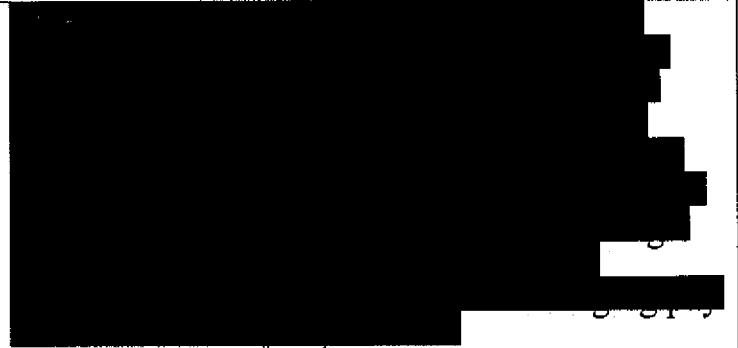
57. P10's notice dated December 9, 2005 does not identify any copyrighted works claimed to be infringed. Poovala Dec. ¶ 48, Ex. N1.

[REDACTED]

GOOGLE'S REPLY

1 P10's cited evidence does not actually dispute the identified fact, and in fact
2 admits it. P10's improper legal argument should be stricken. *See* Scheduling Order
3 at 6:5-6. P10's Group C Notices speak for themselves.

4 58. P10's notice dated
5 December 9, 2005 does not
6 identify any web page or image
7 URLs that allegedly infringe P10's
8 copyrighted works. Poovala Dec.
9 ¶ 48, Ex. N1.



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16 **GOOGLE'S REPLY**

17 P10's cited evidence does not actually dispute the identified fact, and in fact
18 admits it. P10's improper legal argument should be stricken. *See* Scheduling Order
19 at 6:5-6. P10's cited evidence (including the opinions of Norman Zada regarding
20 what Google needed to process P10's notices) is irrelevant to the contents of the
21 Group C Notices themselves, which speak for themselves.

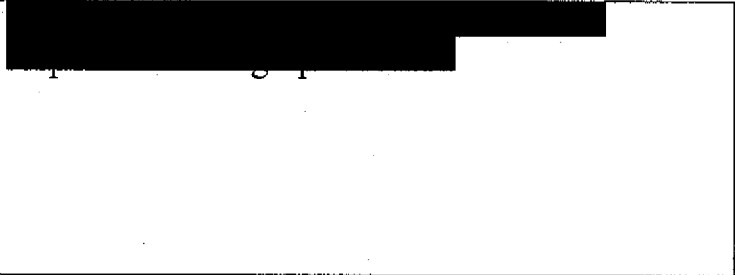
22 59. P10's notice dated March
23 20, 2007 was addressed to
24 Google's Board of Directors.
25 Poovala Dec. ¶ 48, Ex. N2.



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27 **GOOGLE'S REPLY**

1 P10 does not dispute the identified fact. P10's improper legal argument
2 should be stricken. See Scheduling Order at 6:5-6.

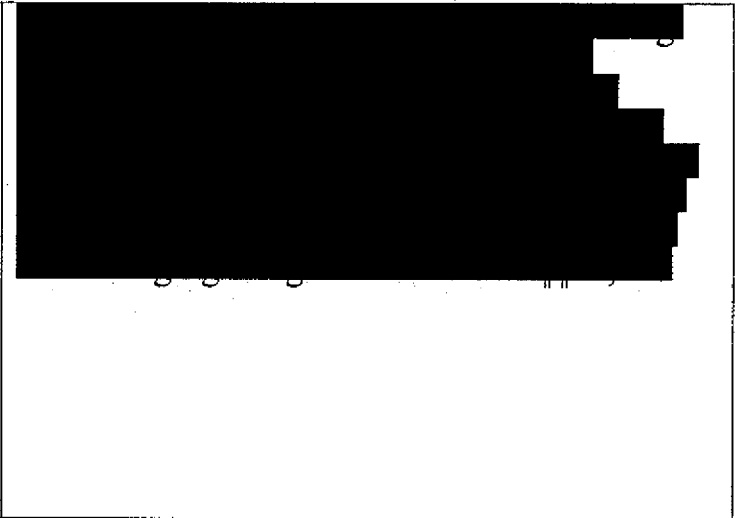
3 60. None of the members of
4 Google's Board of Directors has
5 ever served as Google's designated
6 agent for the receipt of notices of
7 claimed copyright infringement
8 under the DMCA. Poovala Dec. ¶
9 3.



8 **GOOGLE'S REPLY**

9 P10 does not dispute the identified fact.

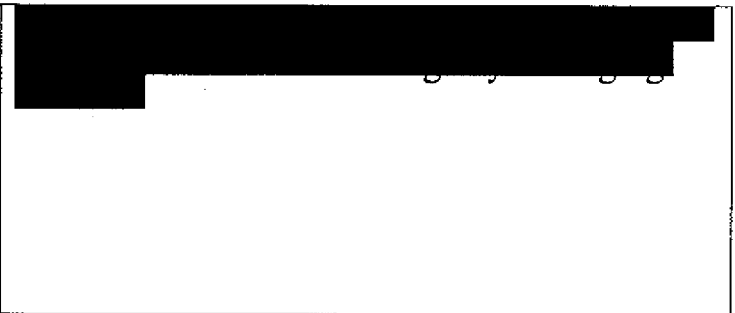
10 61 Each of P10's notices dated
11 December 9, 2005, March 20,
12 2007, June 28, 2007, July 2, 2007,
13 July 12, 2007, July 31, 2007,
14 October 16, 2007, December 13,
15 2007, January 24, 2008, March 17,
16 2008, July 9, 2008, April 24, 2009,
17 and May 7, 2009 contains multiple
18 layers of electronic folders
19 comprising thousands of pages of
20 allegedly infringing material.
21 Poovala Dec. ¶¶48, 52, Exs. N1-
22 N11, N14-N15; Khan Dec. ¶4-5,
23 10-19.



18 **GOOGLE'S REPLY**

19 P10 does not dispute the identified fact. P10's improper legal argument
20 should be stricken. See Scheduling Order at 6:5-6.

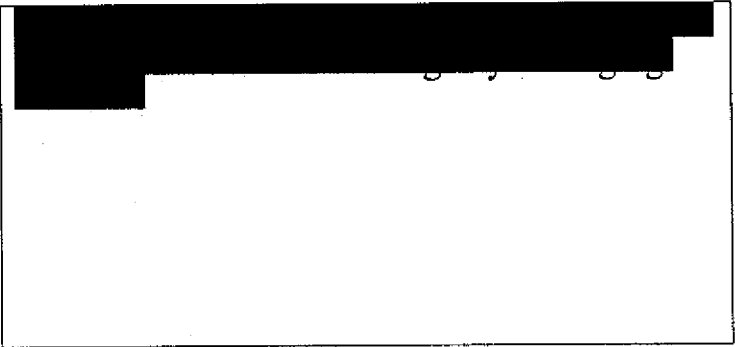
21 62. The "z other infringing
22 websites folder" on the hard drive
23 received with P10's notice dated
24 June 28, 2007 has three subfolders
25 consisting of 46,187 pages of
26 allegedly infringing material.
27 Poovala Dec. ¶ 48, Ex. N3; Khan
28 Dec. ¶ 19.



27 **GOOGLE'S REPLY**

28 P10 does not dispute the identified fact.

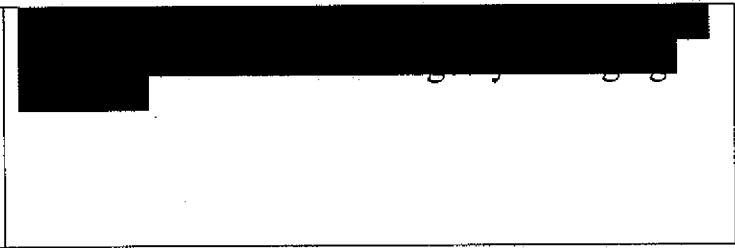
1 63. The "ALL LARGE ARE
2 P10" subfolder in the "z other
3 infringing websites" folder on the
4 hard drive received with P10's
5 notice dated June 28, 2007
6 comprises at least 24,870 pages of
7 allegedly infringing material.
8 Poovala Dec. ¶48, Ex. N3; Khan
9 Dec. ¶ 19.



7 **GOOGLE'S REPLY**

8 P10 does not dispute the identified fact.

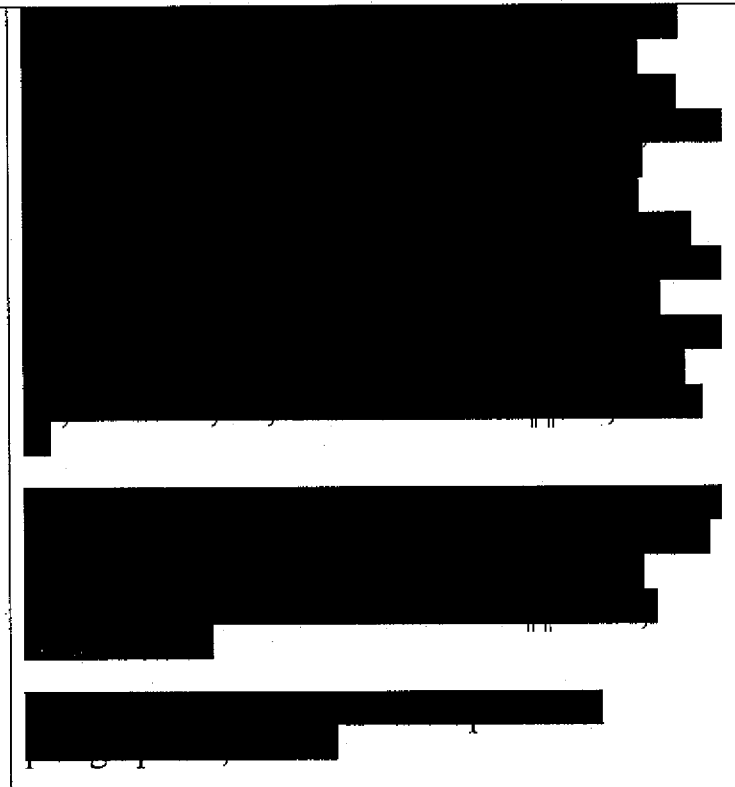
9 64. DVD2 submitted with P10's
10 notice dated December 13, 2007
11 contains 28,672 pages of allegedly
12 infringing material within layers of
13 folders and subfolders. Poovala
14 Dec. ¶ 48, Ex. N8; Khan Dec. ¶16.



13 **GOOGLE'S REPLY**

14 P10 does not dispute the identified fact.

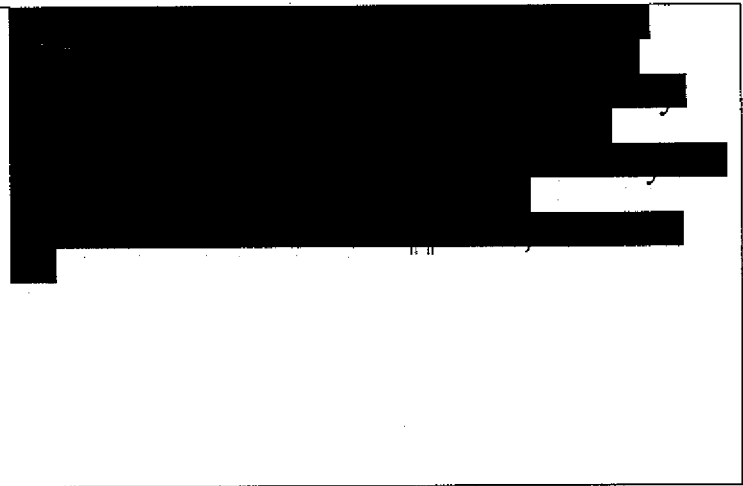
15 65. Each of P10's notices dated
16 December 9, 2005, March 20, 2007,
17 June 28, 2007, July 2, 2007, July
18 12, 2007, July 31, 2007, October
19 16, 2007, December 13, 2007,
20 January 24, 2008, March 17, 2008,
21 July 9, 2008, November 26, 2008,
22 April 24, 2009, and May 7, 2009
23 contains one or more incomplete
24 URLs. Poovala Dec. ¶¶48, 55,
25 Exs. N1-N12, N14-N15.



1 **GOOGLE'S REPLY**

2 P10's cited evidence does not dispute the identified fact. P10's improper
3 legal argument should be stricken. See Scheduling Order at 6:5-6. P10's cited
4 evidence (including the opinions of Norman Zada and Sean Chumura regarding the
5 information it thinks Google needs to process a DMCA notice) is irrelevant to
6 contents of the Group C Notices, which speak for themselves.

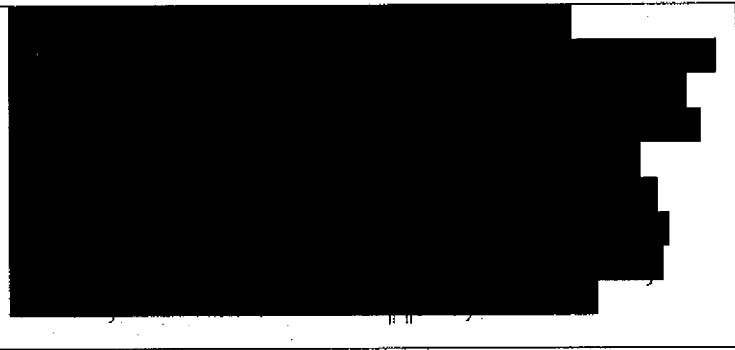
7 66. Each of P10's notices dated
8 March 20, 2007, June 28, 2007,
9 July 2, 2007, July 12, 2007, July
10 31, 2007, October 16, 2007,
11 December 13, 2007, January 24,
12 2008, March 17, 2008, July 9,
13 2008, November 27, 2008, April
14 24, 2009, May 7, 2009, May 30,
2009, June 4, 2009, and June 13,
2009 includes one or more screen
shots displaying multiple Images.
Poovala Dec. ¶¶48, 55, Exs. N2-
N11, N13, N18.



15 **GOOGLE'S REPLY**

16 P10 does not dispute the identified fact. P10's improper legal argument
17 should be stricken. See Scheduling Order at 6:5-6.

18 67. Each of P10's notices dated
19 between March 20, 2007 and June
20 13, 2009 includes one or more
21 screen shots that do not display
22 image URLs. Poovala Dec. ¶¶ 48,
23 5, Exs. N2-N18.



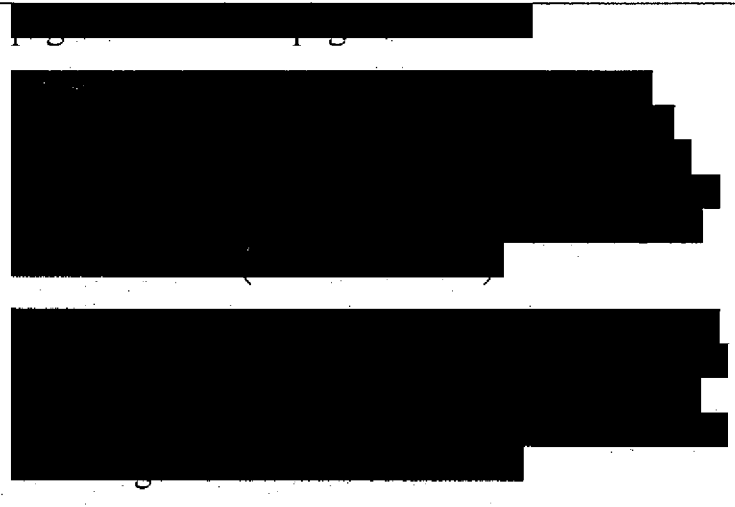
24 **GOOGLE'S REPLY**

25 P10 does not dispute the identified fact. P10's improper legal argument
26 should be stricken. See Scheduling Order at 6:5-6.

27 68. P10's notices dated between
28 March 20, 2007 and June 13, 2009
included screen shots depicting



1 alleged framing or inline linking
2 showing apparent independent
3 navigation of the framed web page
4 such that even when the complete
5 URL for that page is displayed in
6 the screen shot, the URL does not
7 lead to the allegedly inline-linked
8 web page. Poovala Dec. ¶¶48, 55,
9 Exs. N2-N18, R.

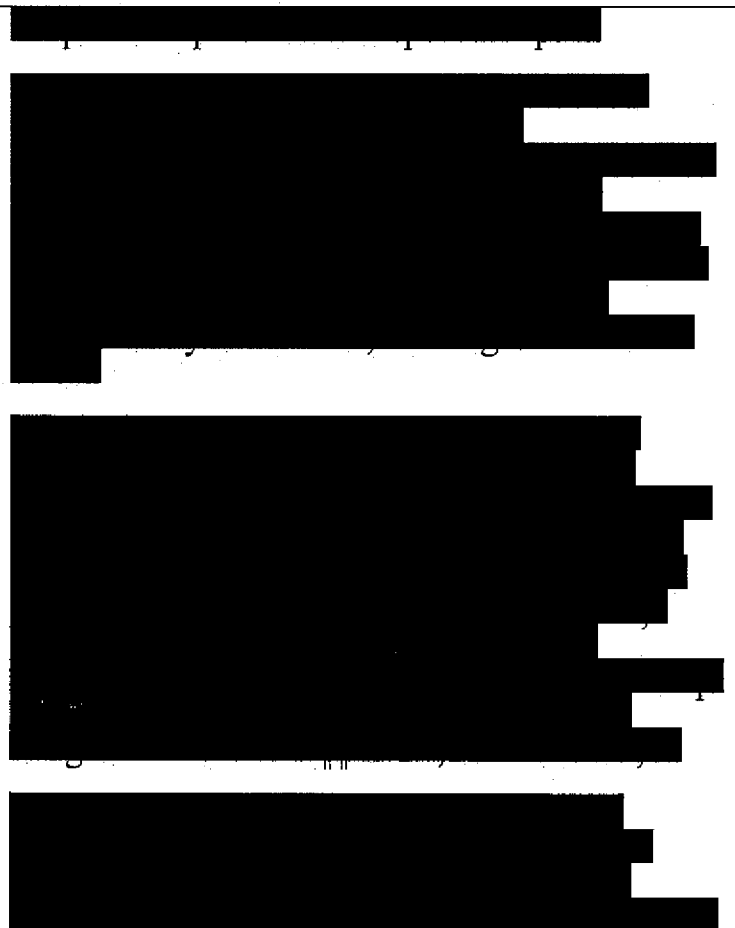


10 **GOOGLE'S REPLY**

11 P10 does not dispute the identified fact. P10's improper legal argument
12 should be stricken. See Scheduling Order at 6:5-6.

13 **Google's Processing of P10's Notices**

14 69. Over the past four-plus
15 years, Google has reviewed
16 numerous URLs [redacted]
17 in response to P10's DMCA
18 notices, and has blocked many of
19 those URLs [redacted]
20 from appearing in Web or Image
21 Search results. Poovala Dec. ¶91,
22 Exs. FF, GG, HH, II; Haahr Dec.
23 ¶¶6, 9, Exs. 1 and 2.



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[REDACTED]

GOOGLE'S REPLY

P10 does not dispute the identified fact and in fact admits it. P10's improper legal argument should be stricken. *See* Scheduling Order at 6:5-6.

70. Google carefully reviewed P10's notices to ensure that its repeat infringer policies were enforced. Poovala Dec. ¶ 92.

[REDACTED]

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[Redacted]

GOOGLE'S REPLY

P10's cited evidence (including the Botelho Declaration and Zada's various opinions) does not actually dispute the identified fact. P10's improper legal argument should be stricken. *See* Scheduling Order at 6:5-6. Google's DMCA tracking spreadsheets documenting Google's enforcement of its repeat infringer policies, as well as P10's DMCA notices, speak for themselves.

71. P10's notices failed to specify when, if ever, they were complaining of AdSense content

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

GOOGLE'S REPLY

P10's cited evidence (including Zada's various opinions) does not actually dispute the identified fact. P10's improper legal argument should be stricken. *See* Scheduling Order at 6:5-6. Google's DMCA tracking spreadsheets documenting Google's enforcement of its repeat infringer policies, as well as P10's DMCA

1 notices, speak for themselves. P10 does not dispute that it never followed Google's
2 DMCA instructions for AdSense.

3 **Google's Processing of the Group B Notices**

4 72. Google sent P10
5 correspondence identifying
6 deficiencies in P10's DMCA
7 notices. Poovala Dec. ¶¶56-73,
8 Exs. S-EE.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

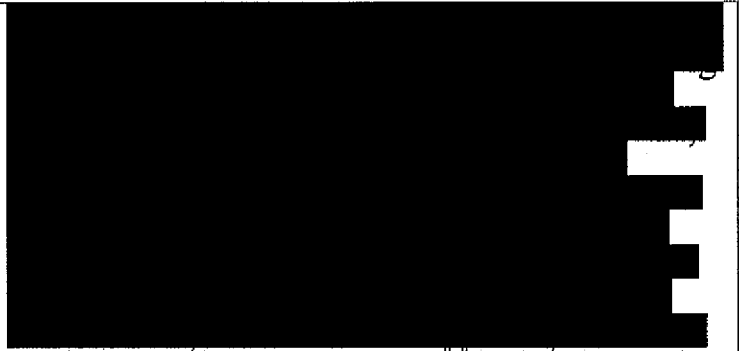
[REDACTED]

24 **GOOGLE'S REPLY**

25 P10's cited evidence (including Zada's various opinions) does not actually
26 dispute the identified fact, and in fact admits it. P10's improper legal argument
27

1 should be stricken. *See* Scheduling Order at 6:5-6. Google's communications and
2 instructions to P10 speak for themselves.

3 73. In response, P10 disputed
4 that its notices were defective, and
5 did not re-submit corrected
6 notices. Poovala Dec. ¶ 74.



10 **GOOGLE'S REPLY**

11 P10's cited evidence (including Zada's various opinions) does not actually
12 dispute the identified fact. P10's improper legal argument should be stricken. *See*
13 Scheduling Order at 6:5-6. P10's responsive communications disputing Google's
14 instructions speak for themselves.

15 74. The majority (i.e. more than
16 half) of P10's notices dated
17 between May 31, 2004 and June
18 13, 2009 did not include
19 electronic soft copy lists of
20 allegedly infringing URLs.
21 Poovala Dec. ¶ 84, Exs. L and N.



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[Redacted]

GOOGLE'S REPLY

P10's cited evidence (including Zada's various opinions) does not actually dispute the identified fact. P10's improper legal argument should be stricken. *See* Scheduling Order at 6:5-6. P10's claim is contradicted by the referenced P10 DMCA Notices, which speak for themselves.

75. In response to P10's notices, Google blocked access to any discernable web page or image URL identified by P10

[Redacted]

[Redacted]

[Redacted]

[Redacted]

GOOGLE'S REPLY

P10's cited evidence (including Zada's various opinions, and the Botelho Declaration) does not actually dispute the identified fact. P10's improper legal argument should be stricken. *See* Scheduling Order at 6:5-6. Google's DMCA

1 tracking spreadsheets and engineering files documenting the suppression of
2 infringing URLs speak for themselves.

3 76. Google tracked the
4 processing of P10's notices.
5 Poovala Dec. ¶¶78-80, 88; Exs.
6 FF, GG, HH, II.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

18 **GOOGLE'S REPLY**

19 P10's cited evidence (including Zada's various opinions) does not actually
20 dispute the identified fact. P10's improper legal argument should be stricken. *See*
21 Scheduling Order at 6:5-6. Google's DMCA tracking spreadsheets and engineering
22 files documenting the suppression of infringing URLs speak for themselves. P10's
23 cited evidence (including the opinions of Norman Zada regarding Google's DMCA
24 logs) is irrelevant to the fact that Google tracked its processing efforts.

25 77. Google completed
26 processing of the majority of the
27 Group B Notices within one to
28 two weeks of receipt; some were
completed in as little as two days.

[REDACTED]