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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)]

**SUPPLEMENTAL DECLARATION
 OF RACHEL HERRICK
 KASSABIAN IN SUPPORT OF (1)
 GOOGLE'S MOTION TO COMPEL
 PERFECT 10 TO PRODUCE
 DOCUMENTS, TO COMPLY WITH
 PROTECTIVE ORDER AND TO
 AFFIX DOCUMENT CONTROL
 NUMBERS TO ITS DOCUMENT
 PRODUCTION, AND (2)
 GOOGLE'S MOTION TO
 DETERMINE THE SUFFICIENCY
 OF PERFECT 10, INC.'S
 RESPONSES TO GOOGLE'S
 REQUESTS FOR ADMISSION**

19 AND COUNTERCLAIM

20 PERFECT 10, INC., a California
 corporation,
 21
 Plaintiff,

22 vs.

24 AMAZON.COM, INC., a corporation;
 A9.COM, INC., a corporation; and
 25 DOES 1 through 100, inclusive,
 26
 Defendants.

Hon. Stephen J. Hillman

Courtroom.: 550
 Hearing Date: September 22, 2009
 Hearing Time: 10:00 am

Discovery Cutoff: None Set
 Pretrial Conference Date: None Set
 Trial Date: None Set

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I, Rachel Herrick Kassabian, declare as follows:

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

Google's Continued Efforts to Meet and Confer Regarding its Pending Motion to Compel Perfect 10 (1) To Produce Documents, (2) To Comply With Protective Order, And (3) To Affix Document Control Numbers To Its Document Production.

2. Attached as Exhibit A is a true and correct copy of a letter I sent to Perfect 10's counsel Jeffrey Mausner dated August 27, 2009. By that letter, Google attempted to narrow the issues remaining for decision by the Court with respect to Google's pending Motion To Compel Perfect 10 (1) To Produce Documents, (2) To Comply With Protective Order, And (3) To Affix Document Control Numbers To Its Document Production. In response, Perfect 10 declined to stipulate to any of Google's proposals, and declined to reconsider any of its positions as set forth in the parties' Joint Stipulation filed May 7, 2009. Accordingly, Google's Motion remains ripe for adjudication by this Court.

Cost Estimates for the Application of Control Numbers to Perfect 10's Document Production

3. At the telephonic hearing on September 14, 2009, the Court requested that the parties obtain cost estimates for Perfect 10 to apply control numbers to its document production. We have done some research and confirmed that there are a variety of free (or low cost) options that Perfect 10 may employ to apply such control numbers to its past and future document productions.

1 4. First, the computer program Adobe Acrobat (version 6.0 or later),
2 which Perfect 10 has used to create most of its document production, has a free
3 “page numbering” feature that allows a user to affix sequential page numbers to all
4 Adobe PDF documents. The feature will automatically add a sequenced number to
5 each page of the Adobe files that make up the majority of Perfect 10’s electronic
6 production. Additionally, all image files, Microsoft Office documents, web pages,
7 text files, and a variety of other file types can be converted to Adobe files (with
8 Adobe Acrobat's free "create PDF from file" function) and similarly numbered.
9 Because Perfect 10 has already purchased and currently uses this Adobe software,
10 Perfect 10 can affix sequential control numbers to its electronic document
11 productions at no additional cost. Attached as Exhibit B is a true and correct copy
12 of an Acrobat Support web page accessed on September 18, 2009 describing how to
13 use the free page-numbering feature in Adobe Acrobat.

14 5. Second, Adobe Acrobat Professional (version 8.0 and later) contains a
15 specific "Bates numbering" feature. Like the page numbering feature in prior
16 versions of Adobe Acrobat, the Bates numbering feature adds sequential page
17 numbers to all Adobe PDF documents in the header or footer, and also stores meta-
18 data regarding the page numbering in the document file, in order to assist with
19 document production in litigation. The Bates numbering feature allows sequential
20 page numbers to be added automatically to multiple PDF documents at once. It is
21 my understanding that Perfect 10 uses Adobe Acrobat Professional for its document
22 productions in this case, and it likely already has version 8.0 or later which has the
23 free Bates numbering feature. If not, Perfect 10 can upgrade to Adobe Acrobat 9.0
24 Professional for a one-time fee of \$159.00. Attached as Exhibit D is a true and
25 correct copy of an adobe.com Acrobat Tutorial page accessed on September 18,
26 2009 describing how to use the free Bates numbering feature in Adobe Acrobat
27 Professional.

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1 6. Third, there exists a variety of free software that will similarly affix
2 sequential page numbers to any PDF document without the need for any software
3 from Adobe. Attached as Exhibit C is a true and correct copy of web pages
4 accessed on September 18, 2009 describing one such free software application,
5 called “A-PDF Number.”

6 **Updated Chart of Unproduced Perfect 10 Financial Reports**

7 7. At pages 25-26 of the Joint Stipulation on Google’s pending Motion to
8 Compel Perfect 10 (1) To Produce Documents, (2) To Comply With the Protective
9 Order, and (3) To Affix Document Control Numbers To Its Document Production
10 (Docket No. 408), filed May 7, 2009, Google included a chart identifying months
11 for which (based on Google’s review of Perfect 10’s document productions up to
12 that date) Perfect 10 had failed to produce monthly financial reports. Since May
13 2009, Perfect 10 has produced some additional financial reports. Accordingly,
14 attached as Exhibit E is an updated chart identifying the months for which (based on
15 Google’s review of Perfect 10’s document productions as of the date of this
16 declaration) it appears that Perfect 10 still has failed to produce monthly financial
17 reports.

18 **Google's Continued Efforts to Meet and Confer Regarding its Pending**
19 **Motion to Determine the Sufficiency of Perfect 10's Responses to**
20 **Google's Requests for Admission (Sets 1 and 2)**

21 8. Pursuant the Court’s direction and in hopes of resolving Google’s
22 Motion to Compel responses to its Requests for Admission, last week Google
23 initiated further meet and confer efforts with Perfect 10 regarding Perfect 10’s
24 deficient responses to those Requests. Unfortunately, Perfect 10 has refused to
25 withdraw any of its objections, and has further refused to provide complete and
26 substantive responses to even one specific Request at issue in Google’s Motion to
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1 Compel. Indeed, Perfect 10's meet and confer position is actually *regressing*, rather
2 than advancing toward a resolution of these issues.

3 9. Specifically, as this Court may recall, one of the issues in Google's
4 motion to compel concerns Perfect 10's refusal to answer 478 Requests for
5 Admission directed to Perfect 10's 70+ DMCA Notices. *See* Joint Stipulation
6 (Docket No. 372) at 337-347. This equates to an average of approximately seven
7 Requests directed to the contents and circumstances of each Notice. When Perfect
8 10 first served its objections to Google's Requests approximately 15 months ago in
9 June 2008, it stated that it would agree to answer just 100 of the 478 unanswered
10 Requests, provided that Google withdrew the remaining Requests, which Perfect 10
11 claimed were too time-consuming to answer. During meet and confer efforts in Fall
12 2008, Perfect 10 increased its offer to 150 Requests (though still providing no basis
13 for refusing to answer the remaining 328), again conditioning its offer on Google's
14 withdrawal of the remaining Requests.

15 10. During Google's latest meet and confer efforts last week, Perfect 10
16 *backtracked*, offering to answer just 125 of the unanswered Requests, again
17 provided that Google withdraw the remaining 353 Requests. Perfect 10 still has not
18 provided a legitimate basis for refusing to answer the remaining Requests directed to
19 its own 70+ DMCA Notices, nor has Perfect 10 agreed to narrow the issues by
20 dropping its claims regarding one or more of the DMCA Notices at issue in Google's
21 Requests for Admission.

22 11. The contents and sufficiency of *all* of Perfect 10's 70+ DMCA Notices
23 are currently being considered by Judge Matz in connection with Google's pending
24 Motions for Summary Judgment Regarding Google's Entitlement to Safe Harbor
25 under the DMCA (Docket Nos. 426-428). Perfect 10's responses to these 478
26 unanswered Requests likely will aid the Court in resolving Google's pending DMCA
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1 motions. Accordingly, Google's Motion to Compel Responses to Google's
2 Requests for Admission remains ripe for adjudication by the Court.

3 I declare under penalty of perjury under the laws of the United States of
4 America that the foregoing is true and correct. Executed September 21, 2009 at
5 Redwood Shores, California.

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8 Rachel Herrick Kassabian
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