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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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

vs.

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

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

**[PROPOSED] ORDER GRANTING
IN PART AND DENYING IN PART
GOOGLE INC.'S MOTION RE
CONFIDENTIALITY
DESIGNATIONS AND BATE
STAMPING DOCUMENTS**

Hon. Stephen J. Hillman

AND COUNTERCLAIM

Date: September 22, 2009
Time: 10:00 AM
Crtrm.: 550

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

vs.

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

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

1 **[PROPOSED] ORDER**

2 On September 22, 2009, the Court heard argument on various discovery
3 matters raised in Defendant Google Inc.'s Motion to Compel Perfect 10 (1) To
4 Produce Documents, (2) To Comply With The Protective Order, and (3) To Affix
5 Document Control Numbers To Its Document Production, including disputes
6 relating to whether Perfect 10 has complied with the Protective Order in designation
7 of documents and/or other information as "Confidential" under its terms, and Bates
8 numbering.¹ Defendants Amazon.com and Alexa.com filed an application to join in
9 that motion (Joinder Application), Docket No. 346, supplemented in their letter to
10 the Court dated September 16, 2009. Having considered the parties' respective
11 briefs and oral argument, and good cause existing therefore, the Court HEREBY
12 ORDERS that Google's Motion and Amazon.com and Alexa.com's Joinder
13 Application is GRANTED IN PART AND DENIED IN PART, as follows:

14 1. DMCA Notices are not Confidential within the meaning of the
15 Protective Order, and to the extent Perfect 10 has designated them as such,
16 they are hereby ordered de-designated. The Court makes no ruling on
17 whether it was proper for Google to send those notices to chillingeffects.org
18 for publication on the Internet and/or for any other use and whether it was
19 proper for chillingeffects.org to publish those notices on the Internet.

20 2. All parties to the *Google* and *Amazon* cases may use documents
21 containing URLs at which allegedly infringing material may be found, and
22 compilations thereof, for purposes of this litigation only (including publicly e-
23 filing them, showing them to expert and percipient witnesses, and the like).

24
25 ¹ Google only asked the Court to rule on Issues I, VII, VIII, and IX at the
26 September 22, 2009 hearing, so the Court did not reach Issues II – VI presented in
27 the parties' Joint Stipulation On Google Inc.'s Motion to Compel Perfect 10 (1) To
28 Produce Documents, (2) To Comply With The Protective Order, and (3) To Affix
Document Control Numbers To Its Document Production.

1 This Order does not authorize Defendants to use those documents for any
2 purpose other than for the litigation of this case. For example, this Order does
3 not authorize any party to publicly post such URLs on the Internet, including
4 but not limited to posting on chillingeffects.org and/or providing such URLs
5 to chillingeffects.org and any other third-party. Furthermore, this paragraph
6 does not apply to documents that have other confidential information in them,
7 just because they may contain URLs.

8 3. All documents produced in this litigation that are readily ascertained to
9 be in the public domain (such as newspaper articles) are not Confidential
10 within the meaning of the Protective Order and to the extent Perfect 10 has
11 included them in disks or hard drives labeled Confidential, they are hereby
12 ordered de-designated.

13 4. If any defendant in the *Google* and *Amazon* cases publicly files
14 documents containing URLs at which allegedly infringing material may be
15 located, Perfect 10 may subsequently move for an order to seal such URLs or
16 such documents, which motion may be opposed by the Defendants at their
17 option; the motion shall be ruled on by the judge with which it was filed.

18 5. No party or its counsel shall be deemed in violation of the Protective
19 Order for its filing, disclosure or other use of a document produced in this
20 litigation that is not individually marked as either Confidential or Highly
21 confidential under the Protective Order, if it has a good faith belief that the
22 materials are in or from the public domain.

23 6. This Order applies equally in both of the consolidated cases, and is a
24 modification of the current Protective Order.

25 IT IS SO ORDERED.

26 Dated: October ____, 2009

By _____

Hon. Stephen J. Hillman
United States Magistrate Judge