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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)]

**ORDER GRANTING IN PART
GOOGLE INC.'S MOTION TO
COMPEL PERFECT 10, INC. TO
COMPLY WITH THE
PROTECTIVE ORDER**

Hon. Stephen J. Hillman

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

AND COUNTERCLAIM

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 **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,¹ 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.
8 Defendants Amazon.com and Alexa.com filed an application to join in that motion
9 (Joinder Application), Docket No. 346, supplemented in their letter to the Court
10 dated September 16, 2009. Having considered the parties’ respective briefs and oral
11 argument, and good cause existing therefore, the Court HEREBY ORDERS that
12 Google’s Motion and Amazon.com and Alexa.com’s Joinder Application is
13 GRANTED 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.
- 17 2. URLs at which allegedly infringing material may be found, and
18 compilations thereof, are not Confidential within the meaning of the
19 Protective Order and to the extent Perfect 10 has designated them as such,
20 they are hereby ordered de-designated. All parties to the *Google* and *Amazon*
21 cases may use documents containing such URLs and such documents for
22

23 _____
24 ¹ At the September 22, 2009 hearing, the Court did not reach Issues II – VI
25 presented in the parties’ Joint Stipulation On Google Inc.’s Motion to Compel
26 Perfect 10 (1) To Produce Documents, (2) To Comply With The Protective Order,
27 and (3) To Affix Document Control Numbers To Its Document Production. Those
28 Issues will be taken up at a later date. This Order rules on Issues VII and VIII in the
aforementioned Joint Stipulation.

1 purposes of this litigation (including publicly e-filing them, showing them to
2 expert and percipient witnesses, and the like).

3 3. All documents produced by Perfect 10 in this litigation that are readily
4 ascertained to be in the public domain (such as screenshots of public websites,
5 newspaper articles, issues of Perfect 10 magazine and the like) are not
6 Confidential within the meaning of the Protective Order and to the extent
7 Perfect 10 has designated them as such, they are hereby ordered de-
8 designated.

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

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

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

22 IT IS SO ORDERED.

23 DATED: October 6, 2009

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By / S /

Hon. Stephen J. Hillman
United States Magistrate Judge