	40 2-7500
PERFECT 10, INC., a California orporation, Plaintiff, vs. GOOGLE INC., a corporation; and DOES 1 through 100, inclusive, Defendants. AND COUNTERCLAIM PERFECT 10, INC., a California corporation, Plaintiff, vs. AMAZON.COM, INC., et al. Defendants.	Case No. CV 04-9484 AHM (SHx) Consolidated with Case No. CV 05- 4753 AHM (SHx) PERFECT 10'S NOTICE OF LODGING OF ITS PROPOSED ORDER REGARDING THE IDENTIFICATION OF CERTAIN DOCUMENTS Before Judge Stephen J. Hillman Date: None Set (taken under submission) Time: None Set (taken under Place: Courtroom of Judge Hillman Discovery Cut-Off Date: None Set Pretrial Conference Date: None Set Trial Date: None Set (PROPOSED ORDER SUBMITTED CONCURRENTLY HEREWITH)
Perfect 10's Notice of Lodgir the Identification	ng of its Proposed Order Regarding of Certain Documents

Ш

1

## TO THE CLERK OF THE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Plaintiff Perfect 10, Inc. hereby lodges the following document, attached herewith:

6

4

5

7

## [PERFECT 10'S PROPOSED] ORDER REGARDING THE IDENTIFICATION OF CERTAIN DOCUMENTS.

8 As set forth in Perfect 10's Memorandum in Support of Its Proposed Order 9 Regarding the Identification of Certain Documents, filed concurrently herewith, 10 Google's proposed order, lodged on November 6, 2009 at 7:24 P.M., does not 11 accurately reflect what the Court ordered during the November 3, 2009 12 telephone hearing.<sup>1</sup> In fact, it contains some rulings that directly contradict the 13 Court's rulings. For example, the Court specifically ruled that Perfect 10 did 14 not have to do what Google proposes in paragraph 2, regarding Perfect 10's 15 earlier document productions. The Court also did not make the rulings in 16 paragraphs 3 and 4. Google misstates when the documents referred to in 17 paragraph 3 of its proposed order have to be produced – the previous order 18 states that they are due ten days prior to the agreed upon date of the deposition, 19 which has now been taken off calendar. Perfect 10, of course, cannot produce 20 on November 9, 2009 the documents Mr. Hersh will refer to prepare for a 21 deposition that Defendants apparently now want to take in January 2010. As to 22 <sup>1</sup> Google's Notice of Lodging fails to inform the Court that Perfect 10 never approved Google's form of the Proposed Order. Google sent its proposed order to Perfect 10 at 3:40 P.M. on Friday, November 6, and then lodged it with 23 the Court at 7:25 P.M. that same day, without waiting for Perfect 10's comments. Furthermore, the Proposed Order does not indicate that it is only 24 the Defendants' proposal, and that Perfect 10 had not approved it. Perfect 10's version of the proposed order, submitted herewith, is captioned [Perfect 10's 25 Proposed] Order. Defendants made no attempt to work out the language of a mutually agreeable order prior to sending Google's Proposed Order late Friday 26 afternoon. 27 28 Perfect 10's Notice of Lodging of its Proposed Order Regarding the Identification of Certain Documents

1       the remaining matters in paragraphs 1, 3, and 4, Judge Hillman made his rulings         2       on the record, and what Google states is not an accurate transcription of those         3       rulings. Defendants are abusing the discovery process. They have taken a         4       motion regarding Bates numbering of documents, and are attempting to twist it         5       into a barrage of proposals that have never been briefed or accepted by the         6       Court. Defendants submitted a proposed order without any mention of the fact         7       that the Court never so ordered and Perfect 10 never so agreed. See Perfect         10's Memorandum in Support of Its Proposed Order Regarding the         12       Law Offices of Jeffrey N. Mausner         13       By: Jeffrey N. Mausner         14       By: Jeffrey N. Mausner         15       Attorney for Plaintiff Perfect 10, Inc.         16       Perfect 10's Notice of Lodging of its Proposed Order Regarding         19       Perfect 10's Notice of Lodging of its Proposed Order Regarding         23       Perfect 10's Notice of Lodging of its Proposed Order Regarding         24       Perfect 10's Notice of Lodging of its Proposed Order Regarding         26       Perfect 10's Notice of Lodging of its Proposed Order Regarding         27       Perfect 10's Notice of Lodging of its Proposed Order Regarding         28<			
3       rulings. Defendants are abusing the discovery process. They have taken a         4       motion regarding Bates numbering of documents, and are attempting to twist it         5       into a barrage of proposals that have never been briefed or accepted by the         6       Court. Defendants submitted a proposed order without any mention of the fact         7       that the Court never so ordered and Perfect 10 never so agreed. See Perfect         8       I/' s Memorandum in Support of Its Proposed Order Regarding the         9       Identification of Certain Documents, filed concurrently herewith.         10       Dated: November 9, 2009       Respectfully submitted, Law Offices of Jeffrey N. Mausner         13       By: Jeffrey N. Mausner         14       By: Jeffrey N. Mausner         15       Attorney for Plaintiff Perfect 10, Inc.         16       17         17       By: Jeffrey N. Mausner         18       19         20       Image: See Perfect 10, Inc.         21       Image: See Perfect 10, Inc.         22       Image: See Perfect 10, Inc.         23       Image: See Perfect 10, Inc.         24       Image: See Perfect 10, Inc.         25       Image: See Perfect 10, Inc.         26       Image: See Perfect 10, Inc.         27	1	the remaining matters in paragraphs 1, 3, and 4, Judge Hillman made his rulings	
1       motion regarding Bates numbering of documents, and are attempting to twist it into a barrage of proposals that have never been briefed or accepted by the         6       Court. Defendants submitted a proposed order without any mention of the fact that the Court never so ordered and Perfect 10 never so agreed. See Perfect 10's Memorandum in Support of Its Proposed Order Regarding the         10       Identification of Certain Documents, filed concurrently herewith.         11       Dated: November 9, 2009       Respectfully submitted, Law Offices of Jeffrey N. Mausner         13       By: Jeffrey N. Mausner         14       By: Jeffrey N. Mausner         15       Jeffrey N. Mausner         16       Attorney for Plaintiff Perfect 10, Inc.         17       Respective of plaintiff Perfect 10, Inc.         18       Perfect 10's Notice of Lodging of its Proposed Order Regarding	2	on the record, and what Google states is not an accurate transcription of those	
1       Introducting of proposals that have never been briefed or accepted by the         6       Court. Defendants submitted a proposed order without any mention of the fact         7       that the Court never so ordered and Perfect 10 never so agreed. See Perfect         8       10's Memorandum in Support of Its Proposed Order Regarding the         9       Identification of Certain Documents, filed concurrently herewith.         10       11         11       Dated: November 9, 2009       Respectfully submitted, Law Offices of Jeffrey N. Mausner         13       14       By: Jeffrey N. Mausner         14       By: Jeffrey N. Mausner         15       Jeffrey N. Mausner         16       17         18       19         20       21         21       22         23       2         24       2         25       2         26       2         27       2         28       Perfect 10's Notice of Lodging of its Proposed Order Regarding	3	rulings. Defendants are abusing the discovery process. They have taken a	
Court. Defendants submitted a proposed order without any mention of the fact that the Court never so ordered and Perfect 10 never so agreed. <i>See</i> Perfect 10's Memorandum in Support of Its Proposed Order Regarding the Identification of Certain Documents, filed concurrently herewith. Dated: November 9, 2009 Respectfully submitted, Law Offices of Jeffrey N. Mausner By: <u>Jeffrey N. Mausner</u> Jeffrey N. Mausner Attorney for Plaintiff Perfect 10, Inc. By: <u>2009</u> Perfect 10's Notice of Lodging of its Proposed Order Regarding	4	motion regarding Bates numbering of documents, and are attempting to twist it	
<ul> <li>Contraction of Certain Documents and Perfect 10 never so agreed. See Perfect</li> <li>10's Memorandum in Support of Its Proposed Order Regarding the</li> <li>Identification of Certain Documents, filed concurrently herewith.</li> <li>Dated: November 9, 2009 Respectfully submitted,</li> <li>Law Offices of Jeffrey N. Mausner</li> <li>By: Jeffrey N. Mausner</li> <li>Jeffrey N. Mausner</li> <li>Attorney for Plaintiff Perfect 10, Inc.</li> </ul>	5	into a barrage of proposals that have never been briefed or accepted by the	
8     10's Memorandum in Support of Its Proposed Order Regarding the       10's Memorandum in Support of Its Proposed Order Regarding the       11       12       11       12       13       14       15       16       17       18       19       20       21       22       23       24       25       26       27       28       20       21       22       23       24       25       26       27       28	6	Court. Defendants submitted a proposed order without any mention of the fact	
9     Identification of Certain Documents, filed concurrently herewith.       10     11       11     Dated: November 9, 2009     Respectfully submitted, Law Offices of Jeffrey N. Mausner       13     14     By: Jeffrey N. Mausner       15     Jeffrey N. Mausner       16     17       17     Attorney for Plaintiff Perfect 10, Inc.       18     19       20     21       21     2       23     2       24     25       26     27       28     2       29     2	7	that the Court never so ordered and Perfect 10 never so agreed. See Perfect	
10     11       11     Dated: November 9, 2009     Respectfully submitted, Law Offices of Jeffrey N. Mausner       13 $B_{y:}$ Jeffrey N. Mausner       14     Jeffrey N. Mausner       15     Jeffrey N. Mausner       16     Attorney for Plaintiff Perfect 10, Inc.       17     18       19     20       21     2       23     2       24     25       26     2       27     2       28     Perfect 10's Notice of Lodging of its Proposed Order Regarding	8	10's Memorandum in Support of Its Proposed Order Regarding the	
11       Dated: November 9, 2009       Respectfully submitted, Law Offices of Jeffrey N. Mausner         13 $By: \frac{Jeffrey N. Mausner}{Jeffrey N. Mausner}$ 15       Jeffrey N. Mausner         16       Attorney for Plaintiff Perfect 10, Inc.         17       18         19       20         21       2         23       24         24       25         26       2         27       2         28       Perfect 10's Notice of Lodging of its Proposed Order Regarding	9	Identification of Certain Documents, filed concurrently herewith.	
12     Law Offices of Jeffrey N. Mausner       13     By:     Jeffrey N. Mausner       15     Jeffrey N. Mausner       16     Attorney for Plaintiff Perfect 10, Inc.       17     Attorney for Plaintiff Perfect 10, Inc.       18     19       20     21       21     22       23     24       25     26       27     2       28     Perfect 10's Notice of Lodging of its Proposed Order Regarding	10		
13       13         14       By:       Jeffrey N. Mausner         15       Jeffrey N. Mausner         16       Attorney for Plaintiff Perfect 10, Inc.         17       18         19       20         21       22         23       24         25       26         27       2         28       2         29       2         20       2         21       2         22       23         24       25         26       27         28       2         29       2         20       2         21       2         22       23         24       25         25       26         27       2         28       Perfect 10's Notice of Lodging of its Proposed Order Regarding	11	Dated: November 9, 2009 Respectfully submitted,	
14       By:       Jeffrey N. Mausner         15       Jeffrey N. Mausner         16       Attorney for Plaintiff Perfect 10, Inc.         17       18         19       20         20       21         21       22         23       24         25       26         27       2         28       Perfect 10's Notice of Lodging of its Proposed Order Regarding	12	Law Offices of Jeffrey N. Mausner	
15       Jeffrey N. Mausner         16       Attorney for Plaintiff Perfect 10, Inc.         17       18         19       20         20       21         21       22         23       24         25       26         27       2         28       2         29       2         20       2         21       2         22       23         24       25         26       2         27       2         28       2	13	Loffron N. Mausnar	
13       Attorney for Plaintiff Perfect 10, Inc.         16       17         17       18         19       20         21       22         23       24         25       26         27       2         28       2         29       2         20       2         21       2         23       2         24       2         25       26         27       2         28       Perfect 10's Notice of Lodging of its Proposed Order Regarding	14		
16         17         18         19         20         21         22         23         24         25         26         27         28         2      <	15		
18         19         20         21         22         23         24         25         26         27         28         2 <tr< td=""><td>16</td><td></td></tr<>	16		
19         20         21         22         23         24         25         26         27         28         2	17		
20 21 22 23 24 25 26 27 28 Perfect 10's Notice of Lodging of its Proposed Order Regarding	18		
21 22 23 24 25 26 27 28 Perfect 10's Notice of Lodging of its Proposed Order Regarding	19		
22 23 24 25 26 27 28 Perfect 10's Notice of Lodging of its Proposed Order Regarding	20		
<ul> <li>23</li> <li>24</li> <li>25</li> <li>26</li> <li>27</li> <li>28</li> <li>2</li> <li>2</li> <li>2</li> <li>Perfect 10's Notice of Lodging of its Proposed Order Regarding</li> </ul>	21		
24 25 26 27 28 Perfect 10's Notice of Lodging of its Proposed Order Regarding	22		
<ul> <li>25</li> <li>26</li> <li>27</li> <li>28</li> <li>28</li> <li>Perfect 10's Notice of Lodging of its Proposed Order Regarding</li> </ul>	23		
26     27     28     2     Perfect 10's Notice of Lodging of its Proposed Order Regarding	24		
27 28 Perfect 10's Notice of Lodging of its Proposed Order Regarding	25		
28 Perfect 10's Notice of Lodging of its Proposed Order Regarding	26		
Perfect 10's Notice of Lodging of its Proposed Order Regarding	27		
the Identification of Certain Documents	28	_	
		the Identification of Certain Documents	