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9 Attorneys for Plaintiff Perfect 10, Inc.

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 PERFECT 10, INC., a California
13 corporation,

14 Plaintiff,

15 vs.

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

18 Defendants.

19 AND COUNTERCLAIM

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

22 Plaintiff,

23 vs.

24 AMAZON.COM, INC., et al.

25 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

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]**

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

3
4 Plaintiff Perfect 10, Inc. hereby lodges the following document, attached
5 herewith:

6 **[PERFECT 10'S PROPOSED] ORDER REGARDING THE**
7 **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.¹ 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 ¹ Google's Notice of Lodging fails to inform the Court that Perfect 10
23 never approved Google's form of the Proposed Order. Google sent its proposed
24 order to Perfect 10 at 3:40 P.M. on Friday, November 6, and then lodged it with
25 the Court at 7:25 P.M. that same day, without waiting for Perfect 10's
26 comments. Furthermore, the Proposed Order does not indicate that it is only
27 the Defendants' proposal, and that Perfect 10 had not approved it. Perfect 10's
28 version of the proposed order, submitted herewith, is captioned [Perfect 10's
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
afternoon.

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
8 10's Memorandum in Support of Its Proposed Order Regarding the
9 Identification of Certain Documents, filed concurrently herewith.

10
11 Dated: November 9, 2009

Respectfully submitted,
Law Offices of Jeffrey N. Mausner

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14 By: *Jeffrey N. Mausner*
15 Jeffrey N. Mausner
16 Attorney for Plaintiff Perfect 10, Inc.
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