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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 v.

16 GOOGLE, INC., a corporation,  
17 Defendant.

18  
19 AND CONSOLIDATED CASE.

Case No. CV04-9484 AHM (SHx)  
Consolidated with Case No. CV 05-4753  
AHM (SHx)

**Before Judge Stephen J. Hillman**

**DISCOVERY MATTER**

**NOTICE OF MOTION AND MOTION  
OF PLAINTIFF PERFECT 10, INC.  
FOR A DOCUMENT PRESERVATION  
ORDER TO PREVENT SPOILIATION  
OF EVIDENCE BY GOOGLE**

[Joint Stipulation and Declarations of Dr.  
Norman Zada and Wendy Augustine, and  
two Declarations of Jeffrey N. Mausner In  
Support Thereof, and [Proposed] Order  
Also Filed]

Date: January 11, 2010

Time: 2:00 p.m.

Place: Courtroom 550, Courtroom of the  
Honorable Stephen J. Hillman

Discovery Cut-Off Date: None Set

Motion Cut-Off Date: None Set

Pretrial Conference Date: None Set

Trial Date: None Set

1 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that on January 11, 2010 at 2 P.M., or as soon  
3 thereafter as the matter may be heard, in the Courtroom of the Honorable Stephen J.  
4 Hillman, Courtroom 550 of United States District Court for the Central District of  
5 California, Plaintiff Perfect 10, Inc. (“Perfect 10”) will and hereby does move this  
6 Court for a document preservation order to prevent spoliation of evidence by Google,  
7 Inc. (“Google”), as set forth in Perfect 10’s [Proposed] Order Granting Its Motion For  
8 The Imposition Of A Document Preservation Order, submitted herewith, and in the  
9 Joint Stipulation On Google’s Inc.’s Motion For A Document Preservation Order To  
10 Prevent Further Spoliation Of Evidence By Perfect 10, Inc., And Perfect 10, Inc.’s  
11 Motion For A Document Preservation Order To Prevent Spoliation Of Evidence By  
12 Google, filed separately under seal by Perfect 10 (the “Joint Stipulation”).

13 This Motion is made on the grounds that Google has concealed and suppressed  
14 documents and, therefore, may have destroyed documents. Google has failed to  
15 produce critical documents, including emails, which have been *ordered* produced by  
16 both Judge Hillman and Judge Matz. On November 29-30, 2009, Perfect 10 filed a  
17 Motion for Evidentiary and Other Sanctions Against Defendant Google Inc. and/or  
18 For the Appointment of A Special Master, based upon Google’s disobedience of  
19 discovery orders. A copy of Perfect 10’s Memorandum of Points and Authorities in  
20 Support of that motion is submitted under seal as Exhibit B to the Declaration of  
21 Jeffrey Mausner In Support of Perfect 10’s Position Regarding Document  
22 Preservation Order (“Mausner Preservation Order Decl.”), filed concurrently.  
23 Although Perfect 10 contends that there is no basis for imposing a preservation-order  
24 against it, Perfect 10 does not object to the imposition of a preservation-order that  
25 applies equally and mutually to it and Google.

26 This Motion is based upon this Notice of Motion, the Joint Stipulation, and the  
27 Declarations of Dr. Norman Zada, Jeffrey N. Mausner, and Wendy Augustine in  
28 support of the Motion, and the Declaration of Jeffrey N. Mausner regarding Google’s

1 non-compliance concerning the preparation of the Joint Stipulation (submitted pursuant  
2 to Local Rule 37-2.4), and the [Proposed] Order, submitted separately herewith, the  
3 complete files and records in this action, all matters of which this Court properly may  
4 take judicial notice, and any additional matters that may be submitted to the Court at or  
5 before any hearing on the Motion, including in any reply papers.

6 Pursuant to Local Rule 37-1, the parties met and conferred on the matters in this  
7 Motion on September 8, 2009, and times thereafter, by letter and email.

8 Dated: December 15, 2009                      LAW OFFICES OF JEFFREY N. MAUSNER

9  
10 By: Jeffrey N. Mausner  
11 Jeffrey N. Mausner  
12 Attorney for Plaintiff Perfect 10, Inc.  
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