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555 Twin Dolphin Drive, 5th Floor  
8 Redwood Shores, California 94065  
9 Attorneys for Defendant GOOGLE INC.

10  
11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA

13 PERFECT 10, INC., a California  
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  
corporation,

21 *Plaintiff,*

22 vs.

23 AMAZON.COM, INC., a corporation;  
24 A9.COM, INC., a corporation; and  
25 DOES 1 through 100, inclusive,

26 *Defendants.*

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

**DISCOVERY MATTER**

**DECLARATION OF THOMAS  
NOLAN IN SUPPORT OF GOOGLE  
INC.'S JOINDER IN THE AMAZON  
DEFENDANTS' MOTION TO  
COMPEL PRODUCTION OF THE  
MICROSOFT SETTLEMENT  
AGREEMENT**

Hon. Stephen J. Hillman

Date: February 16, 2010  
Time: 2:00 p.m.  
Crtrm.: 550

Discovery Cut-off: None Set  
Pretrial Conference Date: None Set  
Trial Date: None Set

1 I, Thomas Nolan, declare as follows:

2 1. I am a member of the bar of the State of California and an associate with  
3 Quinn Emanuel Urquhart Oliver & Hedges, LLP, counsel for Defendant Google Inc.  
4 in this action. I make this declaration of my personal and firsthand knowledge and, if  
5 called and sworn as a witness, could and would testify competently thereto.

6 2. Attached hereto as Exhibit A is a true and correct copy of excerpts of  
7 Defendant Google Inc.'s Eighth Set of Requests for the Production of Documents to  
8 Plaintiff Perfect 10, Inc., served August 11, 2009.

9 3. Attached hereto as Exhibit B is a true and correct copy of excerpts of  
10 Perfect 10's Response to Eighth Set of Requests for Production of Documents from  
11 Defendant Google Inc. to Plaintiff Perfect 10, Inc., served September 14, 2009.

12 4. Attached hereto as Exhibit C is a true and correct copy of meet-and-  
13 confer correspondence between counsel for Google Inc. and counsel for Perfect 10,  
14 Inc. regarding Google's Eighth Set of Requests for the Production of Documents.

15 I declare under penalty of perjury under the laws of the United States of  
16 America that the foregoing is true and correct. Executed February 4, 2010 at Los  
17 Angeles, California.

18 

19  
20 Thomas Nolan

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# EXHIBIT A

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14 555 Twin Dolphin Drive, Suite 560  
15 Redwood Shores, California 94065  
16 Attorneys for Defendant Google Inc.

11 UNITED STATES DISTRICT COURT  
12 CENTRAL DISTRICT OF CALIFORNIA

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

15 Plaintiff,

16 vs.

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

19 Defendants.

20 AND COUNTERCLAIM

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

23 Plaintiff,

24 vs.

25 AMAZON.COM, INC., a corporation;  
26 A9.COM, INC., a corporation; and  
27 DOES 1 through 100, inclusive,

28 Defendants.

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

**DEFENDANT GOOGLE INC.'S  
EIGHTH SET OF REQUESTS FOR  
THE PRODUCTION OF  
DOCUMENTS TO PLAINTIFF  
PERFECT 10, INC.**

EXHIBIT     A    

PAGE     2

1 9. If the request is silent as to the time period for which production of  
2 DOCUMENTS is sought, production shall be made of all DOCUMENTS in YOUR  
3 possession, custody, or control at any time.

4 10. This request for production of DOCUMENTS and things is continuing  
5 in nature and requires prompt production of supplemental materials if YOU obtain  
6 additional responsive DOCUMENTS or things after the time of YOUR initial  
7 response, to the full extent provided by Fed. R. Civ. P. 26(e).

8  
9 **Request for Production**

10  
11 **REQUEST FOR PRODUCTION NO. 230:**

12 The DOCUMENT or DOCUMENTS constituting the settlement agreement in  
13 the case titled *Perfect 10, Inc. v. Microsoft Corporation*, Case No. 07-cv-05156-  
14 AHM (SHx) (including the DOCUMENT or DOCUMENTS that YOU manually  
15 filed in that case on April 23, 2009 and/or April 24, 2009 pursuant to the Court's  
16 order of April 21, 2009).

17  
18 DATED: August 11, 2009

QUINN EMANUEL URQUHART OLIVER &  
HEDGES, LLP

19  
20 By Rachel Herrick Kassabian  
21 Rachel Herrick Kassabian  
22 Attorneys for Defendant Google Inc.

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25  
26 EXHIBIT A

27 PAGE 3

# EXHIBIT B

1 Jeffrey N. Mausner (State Bar No. 122385)  
2 Law Offices of Jeffrey N. Mausner  
3 Warner Center Towers  
4 21800 Oxnard Street, Suite 910  
5 Woodland Hills, California 91367  
6 Email: Jeff@mausnerlaw.com  
7 Telephone: (310) 617-8100; (818) 992-7500  
8 Facsimile: (818) 716-2773

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; and  
17 DOES 1 through 100, inclusive,

18 Defendants.

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

**PERFECT 10'S RESPONSE TO  
EIGHTH SET OF REQUESTS FOR  
PRODUCTION OF DOCUMENTS  
FROM DEFENDANT GOOGLE, INC.  
TO PLAINTIFF PERFECT 10, INC.**

19 AND CONSOLIDATED CASE

20 PROPOUNDING PARTY:

DEFENDANT GOOGLE, INC.

21 RESPONDING PARTY:

PLAINTIFF PERFECT 10, INC

22 SET NUMBER:

EIGHT

23 Plaintiff Perfect 10, Inc. ("Perfect 10") responds to Defendant Google, Inc.'s  
24 Eighth Set of Requests for Production of Documents as follows:  
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1 supplement, or otherwise amend these responses and to provide information  
2 concerning facts, witnesses or documents omitted by these responses as a result of  
3 oversight, inadvertence, good faith error, or mistake.

4 **DOCUMENT REQUESTS**

5 **REQUEST FOR PRODUCTION NO. 230:**

6 The DOCUMENT or DOCUMENTS constituting the settlement agreement in  
7 the case titled *Perfect 10, Inc. v. Microsoft Corporation*, Case No. 07-cv-05156-AHM  
8 (SHx) (including the DOCUMENT or DOCUMENTS that YOU manually filed in that  
9 case on April 23, 2009 and/or April 24, 2009 pursuant to the Court's order of April 21,  
10 2009).

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 230:**

12 Perfect 10 further objects to this request on the ground that it seeks irrelevant  
13 information. Perfect 10 further objects to this request on the ground that it is not  
14 reasonably calculated to lead to the discovery of admissible evidence. Perfect 10  
15 further objects to this request on the ground that it invades Perfect 10's privacy rights  
16 and Microsoft's privacy rights. Perfect 10 further objects to this request on the ground  
17 that it seeks information about settlement negotiations and settlements in another case,  
18 which is confidential. Perfect 10 further objects to this request on the ground that it is  
19 contrary to public policy to compel production of confidential documents regarding  
20 settlement negotiations and agreements. Perfect 10 further objects to this request on  
21 the ground that Judge Hillman denied a motion to compel the production of  
22 confidential settlement agreements and related documents in another Perfect 10 case.  
23 Perfect 10 further objects to this request on the ground that Judge Matz required that  
24 the settlement agreement in the *Microsoft* matter be filed under seal. *See Perfect 10 v.*

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1 *Microsoft*, Case No. CV 07-5156, Docket No. 140. Perfect 10 further objects to this  
2 request to the extent that it seeks documents subject to the attorney-client privilege,  
3 work product doctrine, and any other applicable privilege.

4  
5 Dated: September 14, 2009

Law Offices of Jeffrey N. Mausner

6  
7 By: Jeffrey N. Mausner (SD)  
8 Jeffrey N. Mausner  
9 Attorneys for Plaintiff, Perfect 10, Inc.

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# EXHIBIT C

**quinn emanuel trial lawyers | silicon valley**

555 Twin Dolphin Drive, Suite 560, Redwood Shores, California 94065 | TEL: (650) 801-5000 FAX: (650) 801-5100

WRITER'S DIRECT DIAL NO.  
(650) 801-5005

WRITER'S INTERNET ADDRESS  
rachelkassabian@quinnemanuel.com

September 17, 2009

VIA E-MAIL AND U.S. MAIL

Jeffrey N. Mausner  
Warner Center Towers  
21800 Oxnard Street, Suite 910  
Woodland Hills, CA 91367  
jeff@mausnerlaw.com

Re: Perfect 10, Inc. v. Google Inc.: Google's Eighth Set of Requests for Production of Documents

Dear Jeff:

Please accept this letter as Google's initiation of meet and confer efforts under Civil Local Rule 37-1 regarding Perfect 10's deficient response to Google's Eighth Set of Requests for Production. Specifically, Perfect 10 improperly refused to produce documents in response to Request for Production No. 230, which sought:

The DOCUMENT or DOCUMENTS constituting the settlement agreement in the case titled Perfect 10, Inc. v. Microsoft Corporation, Case No. 07-cv-05156-AHM (SHx) (including the DOCUMENT or DOCUMENTS that YOU manually filed in that case on April 23, 2009 and/or April 24, 2009 pursuant to the Court's order of April 21, 2009).

Google's request calls for relevant documents and is "reasonably calculated to lead to the discovery of admissible evidence" because Perfect 10 has put the value of its alleged copyrighted works at issue here. Perfect 10's objection that this request calls for "private and confidential" information is not a basis for refusing to produce responsive documents. The Protective Order provides the necessary protections for and limitations on disclosure of private and confidential information, so if Perfect 10 wishes, it may designate responsive documents as "confidential" thereunder. Perfect 10's additional objections of attorney-client privilege and work product

**quinn emanuel urquhart oliver & hedges, llp**

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LONDON | 16 Old Bailey, London EC4M 3EG United Kingdom | TEL: +44(0)20 7653 2000 FAX: +44(0)20 7653 2100

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EXHIBIT

PAGE

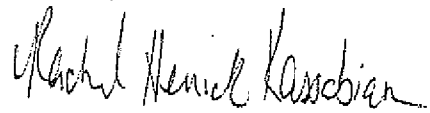
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doctrine are similarly meritless, because no such protections apply to a settlement agreement executed with a third party and filed with the Court.

Please withdraw these improper objections and produce responsive documents without further delay.

Sincerely,



Rachel Herrick Kassabian

RHK:brl

01980.51320/3105041.1

## Thomas Nolan

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**From:** Brad R. Love  
**Sent:** Tuesday, October 06, 2009 2:44 PM  
**To:** Jeffrey Mausner  
**Cc:** Rachel Herrick Kassabian; Valerie Kincaid; Michael T Zeller; Thomas Nolan; Jansen, Mark T.  
; Cahn, Timothy R.  
**Subject:** RE: Perfect 10, Inc. v. Google Inc.

Jeff,

We disagree that "information regarding the amount of the settlement" found in Perfect 10's financial statements would make Google's Request for Production No. 230 unnecessary. Google has requested the "DOCUMENT or DOCUMENTS constituting the settlement agreement in the case titled Perfect 10, Inc. v. Microsoft Corporation, Case No. 07-cv-05156-AHM (SHx) (including the DOCUMENT or DOCUMENTS that YOU manually filed in that case on April 23, 2009 and/or April 24, 2009 pursuant to the Court's order of April 21, 2009)." If anything, Perfect 10 will need to produce the entire settlement agreement from the Microsoft case as part of the source documents supporting Perfect 10's financial statements and tax returns at least ten business days prior to the deposition of Bruce Hersh. Please confirm that Perfect 10 will do so.

Regards,

Brad Love  
Quinn Emanuel Urquhart Oliver & Hedges, LLP  
50 California Street, 22nd Floor  
San Francisco, CA 94111  
Direct: (415) 875-6330  
Main Phone: (415) 875-6600  
Main Fax: (415) 875-6700  
E-mail: [bradlove@quinnemanuel.com](mailto:bradlove@quinnemanuel.com)  
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**From:** Jeffrey Mausner [mailto:[jeff@mausnerlaw.com](mailto:jeff@mausnerlaw.com)]  
**Sent:** Sunday, September 27, 2009 4:58 PM  
**To:** Brad R. Love  
**Cc:** Rachel Herrick Kassabian; Valerie Kincaid  
**Subject:** FW: Perfect 10, Inc. v. Google Inc.

In light of Judge Hillman's ruling regarding the financial statements, under which you will receive information regarding the amount of the settlement, this request is no longer necessary, in addition to Perfect 10's stated objections. Jeff.

---

**From:** Brad R. Love [mailto:[bradlove@quinnemanuel.com](mailto:bradlove@quinnemanuel.com)]  
**Sent:** Thursday, September 17, 2009 12:31 PM

**To:** Jeff Mausner  
**Cc:** Rachel Herrick Kassabian  
**Subject:** Perfect 10, Inc. v. Google Inc.

Dear Jeff,

Please see attached.

Regards,

Brad Love  
Quinn Emanuel Urquhart Oliver & Hedges, LLP  
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San Francisco, CA 94111  
Direct: (415) 875-6330  
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