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10  
 11 UNITED STATES DISTRICT COURT  
 12 CENTRAL DISTRICT OF CALIFORNIA

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

15 Plaintiff,

16 v.

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

19 Defendants.

CASE NO. CV 04-9484 AHM (SHx)

**DECLARATION OF SHEENA  
 CHOU SUBMITTED IN SUPPORT OF  
 PERFECT 10'S MOTION FOR  
 PRELIMINARY INJUNCTION  
 AGAINST GOOGLE**

**BEFORE JUDGE A. HOWARD MATZ**

Date: April 5, 2010

Time: 10:00 a.m.

Place: Courtroom 14, Courtroom of the  
 Honorable A. Howard Matz

Discovery Cut-Off Date: None Set

Pretrial Conference Date: None Set

Trial Date: None Set

1  
2 **DECLARATION OF SHEENA CHOU**

3 I, Sheena Chou, declare as follows:

4 1. I make this declaration in support of Perfect 10. Except where otherwise  
5 stated, I have direct and personal knowledge of the facts set forth herein and, if called  
6 as a witness, could and would competently testify thereto. I am very familiar with  
7 Perfect 10's website and with the Adobe style DMCA notices that Perfect 10 has sent  
8 Google . I have also read Google's published instructions for submitting Blogger and  
9 Image Search DMCA notices.

10 2. I currently work part time for Perfect 10, Inc. I have a degree in  
11 Economics from UCLA and am quite familiar with computers and the Internet.

12 3. One of my jobs at Perfect 10 has been to download infringing Perfect 10  
13 images from various pay websites. I have personally downloaded more than 15,000  
14 Perfect 10 images from each of at least twenty of the pay sites listed on pages 5 and 6  
15 of Exhibit 27 to the Declaration of Dr. Norman Zada ("Zada Declaration"), filed  
16 concurrently herewith. I have also downloaded thousands of Perfect 10 images from  
17 other pay sites listed on those pages. I am very familiar with Perfect 10's images. I  
18 have reviewed Perfect 10's website to become familiar with those images. In addition,  
19 many of the images from the infringing pay websites contain Perfect 10's copyright  
20 notice on the image, as they appear on Perfect 10's website, or are organized in groups  
21 of images with titles that clearly indicate that they are from Perfect 10, such as "Your  
22 requested P10 Website," "Some of your P10 Gallery," "Your P10 2006 fills,"  
23 "requested P10 2007's." The pay websites from which I have downloaded thousands  
24 of infringing Perfect 10 images include, but are not limited to: 100proofnews.com,  
25 1usenet.com, active-news.com, alibis.com, anonymousnewsfeed.com, astraweb.com,  
26 athenanews.com, binaries.net, bubbanews.com, cheapnewsgroups.com, eurofeeds.com,  
27 fastusenet.com, galacticgroups.com, giganews.com, infinityusenet.com,  
28 maximumusenet.com, newsdemon.com, newsgroup-binaries.com,

1 newsgroupdirect.com, newsgroups-download.com, newsreader.com,  
2 planetnewsgroup.com, powerusenet.com, rhinonewsgroups.com, supernews.com,  
3 thundernews.com, tigerusenet.com, usenet.com, usenet-access.com, usenet-  
4 unlimited.com, usenetgiant.com, usenetmonster.com, and usenetrocket.com.

5 4. I have observed that those pay sites also offer thousands of full-length  
6 movies and songs. I have observed that Dr. Zada has downloaded large numbers of  
7 images from those sites as well. My experience with the pay sites listed on pages 5  
8 and 6 of Exhibit 27 of the Zada Declaration is that they all offer the same images, but  
9 that they rotate the images that they offer. In other words, a particular group of Perfect  
10 10 images (“P10 Images”) may be available for download for several months, and then  
11 not available for several months, and then once again available. While one group of  
12 Perfect 10 images may not be available, other groups are. The period of time a group  
13 of images is available is often called the “retention period.” The websites have  
14 different retention periods. The longer the retention period, the greater the number of  
15 images that are available for download at any one time. That is why I was able to  
16 download more images from some sites than from others. But in the end, the P10  
17 Images available from the aforementioned websites over time appear to be the same.

18 5. I have been able to readily find P10 Images on such websites by doing  
19 searches on “P10”; P10 in combination with a date, such as “P10 2004”; the model  
20 name; or the image URL of the image, such as Marisa\_Miller\_44.jpg.

21 6. One of my other assignments has been to determine whether Google has  
22 removed URLs identified by Perfect 10 from its search results. I have been able to do  
23 this simply by inputting the URL provided by Perfect 10, without the starting http:// or  
24 www., into the Google search box.

25 7. The Adobe files provided by Perfect 10 in its notices have been sufficient  
26 to allow Google to find the infringing material. I know this because I have extracted  
27 hundreds of URLs from those same files using Adobe’s URL extraction feature, and  
28 have placed those same URLs into Google’s search box or into my browser bar to

1 verify that those web pages were still either directly linked to by Google in its search  
2 results, or were still on Google's blogger.com servers. I was able to locate the  
3 infringing material in this manner using the URLs provided by Perfect 10 in its notices.  
4 I have been able to extract URLs from Adobe documents at the rate of approximately 5  
5 URLs a minute.

6 8. One of my other assignments has been to determine whether Google has  
7 removed full-size Perfect 10 images from Google's blogger.com servers in response to  
8 Perfect 10's notices. By "blogger.com URLs," I will mean web pages or URLs that  
9 include the term blogger.com. By "blogspot.com URLs," I will mean web pages or  
10 URLs that include the term blogspot.com. From what I have seen, Google's  
11 blogspot.com hosting program is different from its blogger.com image storage  
12 program. The blogspot.com site typically displays medium-size P10 Images and text.  
13 When I have clicked on such medium-size P10 Images, a full-size P10 Image on a  
14 blogger.com web page has often appeared on my screen, devoid of any text. Between  
15 January 25, 2010 and February 22, 2010, I verified that at least 3837 blogger.com  
16 URLs, which were extracted from Perfect 10's Adobe notices sent to Google from July  
17 2, 2007 through May 7, 2009, when inputted into my browser bar, still resulted in P10  
18 Images accessible to Internet users. I used our Adobe program to resave those images  
19 in PDF format. The date shown on each Adobe file is the date that I resaved the  
20 image. I have verified that at most 107 of the blogger URLs, out of approximately  
21 3943 URLs identified by Perfect 10 in its notices, have been disabled as of February  
22 22, 2010. Most of these 107 URLs were not disabled until months after Google first  
23 received notice from Perfect 10. The vast majority of the blogger.com URLs in  
24 Perfect 10's notices, at least 3837 out of 3943, had not been disabled at the time that I  
25 performed this assignment, many months after Perfect 10 had sent the notices to  
26 Google. My work relating to P10 Images on blogger.com web pages is contained in  
27 Exhibit 9 (the disk), in a folder labeled "Blogger up 2010." The Adobe files in that  
28 folder show the dates for which full-size P10 Images were still available on

1 blogger.com servers. The excel spreadsheet that I made, which summarizes the results  
2 of my work, is contained in the same folder in Exhibit 9 entitled “Blogger up 2010.”  
3 The excel spreadsheet gives the URL of the web page on the left, with the starting  
4 http:// removed. I have been able to locate the infringing P10 Images by simply  
5 inputting that URL into my browser bar without the http://. The “B” and “C” columns  
6 give dates when those images were identified in Perfect 10 DMCA notices to Google.  
7 The date in column “D” gives the last date that Perfect 10 has an Adobe file showing  
8 that the P10 Image was still available at that blogger.com URL. The only URLs that I  
9 was not able to retrieve the P10 Image for between January 25, 2010 and February 22,  
10 2010 are the ones that are shown in red.

11 9. I was also assigned to determine the number of blogspot.com post URLs  
12 and other blogspot.com URLs that Perfect 10 identified to Google in its notices, and  
13 the number of identified blogspot.com post-URLs that Google had not suppressed as of  
14 February 22, 2010. I will use the term “post URL” to refer to what Google’s Blogger  
15 DMCA instructions call the “permalink of the post.” I found at least 219 blogspot.com  
16 URLs that were not post URLs, and at least 346 blogspot.com post URLs, for a total of  
17 at least 565 blogspot.com URLs, that Perfect 10 identified to Google in its Adobe style  
18 notices, beginning June 28, 2007. Of the 346 post URLs identified to Google, at least  
19 190 had not been suppressed as of February 2010. I am not aware of any post URLs  
20 identified by Perfect 10 that Google suppressed within three months of receiving  
21 notice. My work is contained in Exhibit 9, the disk, in a folder labeled “Post URLs not  
22 removed 2110.” I have also included a spreadsheet in that folder which summarizes  
23 my work. The left column contains the infringing identified blogspot.com post URL,  
24 with the starting http:// removed. The second column, entitled “Notice Date,” contains  
25 the date of the DMCA notice which identified that infringing web page. The third  
26 column, entitled “Up,” contains the last date I verified that webpage was still live. The  
27 final column, entitled “Web Search,” contains a “YES” if Google was directly linking  
28 to that infringing web page via its Web Search results. If the URL included a session

1 ID, which is a character string added on to the end of the URL that relates to the user, I  
2 removed it when inputting it into the Google search box as the session ID varies  
3 constantly and has nothing to do with the underlying URL of the infringing web page.  
4 I have also included Adobe files which provide evidentiary support for the  
5 spreadsheets.

6 10. I have observed that in a number of cases, the full-size blogger image still  
7 appears on Google's blogger.com servers, even when the original blogspot site that  
8 displayed those images no longer exists. In those situations, there is no permalink or  
9 top level domain of the blog and date of the blog entry that Perfect 10 could provide,  
10 as requested by Google. Furthermore, Perfect 10 has provided the top level domain  
11 with the date, as well as the permalink, in most notices, because it has sent to Google a  
12 copy of the infringing web page which typically displays that information. Perfect 10  
13 has also provided to Google, in its DMCA notices, the complete URL of the  
14 blogger.com web page containing the full-size P10 image, along with a copy of that  
15 web page.

16 11. I have also observed that image URLs on blogger.com are also available  
17 on blogspot.com servers, showing the same image. The URL is the same, except with  
18 the base URL changed. For example,  
19 "bp0.blogger.com/\_aAjR8G9PWr8/Rzut2EjjNqI/AAAAAAAAABZk/bHNb3OFY9R8/s  
20 1600-h/066\_DeathSCPX\_Nickie\_Yager\_02.jpg" displays the same image as  
21 "1.bp.blogspot.com/\_aAjR8G9PWr8/Rzut2EjjNqI/AAAAAAAAABZk/bHNb3OFY9R8  
22 /s1600-h/066\_DeathSCPX\_Nickie\_Yager\_02.jpg." One can take any of the blogger  
23 URLs in the spreadsheet and substitute "bpX.blogger.com" for "X+1.blogspot.com"  
24 and receive the same image. In other words, the images on blogger.com are also on  
25 blogspot.com. Bp2.blogger.com can be substituted with 3.bp.blogspot.com,  
26 bp3.blogger.com can be substituted with 4.bp.blogspot.com and so on and so forth.



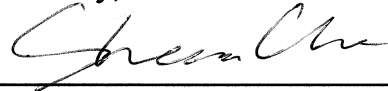
1           12. I have also done work to verify that Google has not removed its ads from  
2 web pages that Perfect 10 has identified in its notices. My work is contained in Exhibit  
3 9 (the disk) in a folder labeled “Continued AdSense infringement.”

4           13. I am quite familiar with perfect 10.com, which is not a blog. The images  
5 on perfect10.com cannot be identified by a “permalink of the post”, as there is no such  
6 thing on perfect10.com. I have examined thousands of infringing blogger.com web  
7 pages that Perfect 10 included in its DMCA notices to Google. Those web pages  
8 consisted of a P10 Image and a blogger.com URL. There was no other text on those  
9 web pages, no posts, and no “permalink of a post.”

10           14. I have studied Google’s DMCA instructions for Image Search and for  
11 Web Search. Based on my experience, I believe that Google Image Search instructions  
12 are in most cases completely unnecessary, and in many cases, unworkable, as  
13 illustrated by the website nudecelebforum.com. This website has infringed thousands  
14 of P10 Images. It has approximately 60 infringing web pages that contain  
15 approximately 17,000 P10 Images. To identify the 60 infringing web pages, Perfect 10  
16 could send to Google 60 URLs, with or without the copies of the actual infringing web  
17 pages. Once Google received those 60 URLs, to block any Google Image Search links  
18 from directly linking to any of those infringing web pages, Google would have to  
19 remove all thumbnails in its Image Search results from any of those 60 web pages,  
20 including any non-P10 Images. *So by specifying 60 Web page URLs, Perfect 10 could*  
21 *permanently block any of 17,000 P10 images from ever appearing in Google’s Image*  
22 *Search results.* However, according to Google’s Image Search instructions, Google  
23 will only block P10 Images from nudecelebforum.com that are *currently* in Google’s  
24 Image Search results. So it would be impossible to prevent all 17,000 P10 Images  
25 from appearing in Google’s Image search results using Google’s Image Search  
26 instructions, unless all 17,000 Images were indexed, in which case Perfect 10 would  
27 have to identify 17,000 Image URLs, which would be extraordinarily time consuming  
28 and completely unnecessary. Furthermore, even if Perfect 10 were able to do that,

1 Google could still link to the same infringing web pages using a non-P10 thumbnail.  
2 That is why by far the best way to identify the infringing material on  
3 nudecelebforum.com is to provide the URLs for the 60 infringing web pages. Even  
4 though Google's Image Search instructions, in most cases, make the notification  
5 process for copyright holders much harder than it needs to be, I have seen that Perfect  
6 10 has identified infringing P10 Images following Google's Image Search instructions,  
7 but that Google nevertheless has not removed such identified images from its Image  
8 Search results.

9 I declare under penalty of perjury under the laws of the United States of  
10 America that the foregoing is true and correct to the best of my knowledge. Executed  
11 on March 1, 2010, in Los Angeles County, California.



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Sheena Chou

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