

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 91367-3640  
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 Defendant.

19 Case No. CV 04-9484 AHM (SHx)

20 **DECLARATION OF BENNETT  
21 MCPHATTER SUBMITTED IN  
22 SUPPORT OF PERFECT 10'S MOTION  
23 FOR PRELIMINARY INJUNCTION  
24 AGAINST GOOGLE**

25 **BEFORE JUDGE A. HOWARD MATZ**

26 Date: April 5, 2010

27 Time: 10:00 a.m.

28 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 I, Bennett McPhatter, declare as follows:

2 1. I am co-founder, and COO of Visual Analytics. I am primarily  
3 responsible for the creation of DIG®, which has become the standard information  
4 sharing application at a number of State, local, and city law enforcement agencies.  
5 I have worked closely with the Financial Crimes Enforcement Network (FinCEN),  
6 Internal Revenue Service (IRS, Criminal Investigations), Defense Intelligence  
7 Agency, and the Defense Information Systems Agency (DISA).

8 2. I have over 12 years of experience developing large scale distributed  
9 systems, federated search, and information sharing technologies.

10 3. I submit this declaration in connection with Perfect 10's lawsuit  
11 against Google. I have examined Exhibit 1 which is attached to this declaration. I  
12 have also examined Google's "Similar Images" Image Search. I have sufficient  
13 expertise in computer science and the Internet to determine whether the various  
14 portions of notices attached as Exhibit 1 would provide a search engine such as  
15 Google with enough information to locate the infringing image(s) or link(s).

16 4. I assume that page 1 of Exhibit 1 consists of thumbnail images from  
17 Google Image Search, along with the three links that Google provides for each  
18 such image. Assuming that is the case, page 1 of Exhibit 1 seems to provide  
19 enough information for Google to locate and block all the URLs listed on page 1.  
20 Google also has the ability to extract and compare the URLs of any similar images.  
21 The first and third URLs listed on page 1 of Exhibit 1, namely,  
22 [http://img133.imagevenue.com/loc173/th\\_64278\\_21.jpg](http://img133.imagevenue.com/loc173/th_64278_21.jpg), and  
23 [http://tbn0.google.com/images?q=tbn:Vs0bIZd\\_jqxVPM](http://tbn0.google.com/images?q=tbn:Vs0bIZd_jqxVPM): [http://img133.  
24 imagevenue.com/loc173/th\\_64278\\_21.jpg](http://img133.imagevenue.com/loc173/th_64278_21.jpg), both provide Google with sufficient  
25 information to locate the image. The middle Web Page URL  
26 (<http://forum.phun.org/showthread.php?p=729907>) with the model name is  
27 sufficient to locate the image as well, but having a copy of the image as shown also  
28 helps. In general, having copies of the images as provide in Exhibit 1 would help,

1 rather than hinder, the search engine or ISP in locating the infringing material.  
2 This is particularly true when the search engine or ISP has access to Image  
3 Recognition technology, which Google appears to have, as demonstrated by  
4 Google's "Similar Images" Image Search option. If Google has Image  
5 Recognition technology, once provided with a copy of an image, Google should be  
6 able to readily find all copies of that image in its Image Search results, and remove  
7 them from its index.

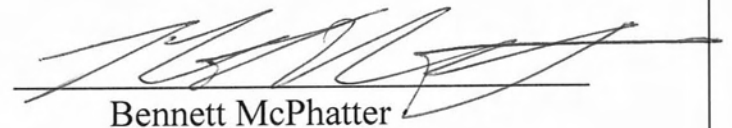
8 5. I have examined pages 2 through 8 of Exhibit 1. If Google received  
9 any of those pages in a notice, it would have enough information to locate the  
10 images on that page, and remove the image and the webpage from both its Image  
11 Search and Web Search results. To locate and remove the infringing material,  
12 Google needs only the Web Page URL, which is contained on each of those pages.  
13 Once Google has the URL of the Web Page containing an infringement, it can find  
14 that Web Page, and it can prevent any Google Search Results, whether Web Search  
15 or Image Search results, from directly linking to that web page. On pages 3-6, the  
16 Web Page URL is highlighted. On page 5, Google has suppressed that starting  
17 http:// from appearing on the user's screen but it can still locate the infringing  
18 webpage with that portion of the URL simply by searching its index. On page 7,  
19 the Web Page URL appears in the browser bar. On page 8, I am assuming that the  
20 highlighted URL identifies the web page directly above it. Google could certainly  
21 block the highlighted URL and could use the highlighted URL to determine if the  
22 corresponding web page is as shown on page 8. For page 2, Google has the search  
23 term, "Ingrid Ostvat", the base URL of the website where each image is located,  
24 darkshadow.3xforum.ro, and the "Thumbnail Source URL." This URL is  
25 displayed in the address bar of a web browser when a user clicks on the thumbnail.  
26 Page 9 of Exhibit 1 has an example of a Thumbnail Source URL. The Thumbnail  
27 Source URL contains both the "See full-size image" URL as well as the Web Page  
28 URL embedded in it, along with information regarding the search, such as whether

1 the user had their safe search on and what browser they were using. This URL  
2 may be extracted and compared by. On page 10, the first highlighted term is the  
3 "See full-size image" URL. The second highlighted term is the Web Page URL.

4 6. The URLs on the left side of page 11 of Exhibit 1 appear to be Web  
5 Page URLs with the starting http:// and/or www. removed. If that is the case,  
6 Google can use those URLs, to locate the associated web pages. It can then  
7 prevent either its Image Search or its Web Search results from directly linking to  
8 those web pages. Google can do this without any of the other information shown  
9 in the middle and right hand columns of page 11.

10  
11 I declare under penalty of perjury under the laws of the United States of  
12 America that the foregoing is true and correct to the best of my knowledge.

13 Executed on July 9, 2009, at Frederick, MD.

14  
15   
16 Bennett McPhatter

# Exhibit 1



GOOGLE Images

51 results for "Xenia Szabo"

7/8/2008

1



Search string: "Xenia Szabo"Image [http://img133.imagevenue.com/loc173/th\\_64278\\_21.jpg](http://img133.imagevenue.com/loc173/th_64278_21.jpg)Site <http://forum.phun.org/showthread.php?p=729907>Image Info: 106x160 Size: 7Kb

Thumbnail [http://tbn0.google.com/images?q=tbn:Vs0bIZd\\_igxVPM:http://img133.imagevenue.com/loc173/th\\_64278\\_21.jpg](http://tbn0.google.com/images?q=tbn:Vs0bIZd_igxVPM:http://img133.imagevenue.com/loc173/th_64278_21.jpg)

2



Search string: "Xenia Szabo"Image [http://www.imagerise.com/images.php/t4766\\_XeniaSzabo22.jpg](http://www.imagerise.com/images.php/t4766_XeniaSzabo22.jpg)Site <http://titsandhentai.wordpress.com/2008/04/16/xenia-szabo/>Image Info: 99x150 Size: 6Kb

Thumbnail [http://tbn0.google.com/images?q=tbn:MYClnOeHiRYpM:http://www.imagerise.com/images.php/t4766\\_XeniaSzabo22.jpg](http://tbn0.google.com/images?q=tbn:MYClnOeHiRYpM:http://www.imagerise.com/images.php/t4766_XeniaSzabo22.jpg)

3



Search string: "Xenia Szabo"Image [http://www.imagerise.com/images.php/t4755\\_XeniaSzabo01.jpg](http://www.imagerise.com/images.php/t4755_XeniaSzabo01.jpg)Site <http://titsandhentai.wordpress.com/2008/04/16/xenia-szabo/>Image Info: 99x150 Size: 6Kb

Thumbnail [http://tbn0.google.com/images?q=tbn:YSICEWl5K6tq6M:http://www.imagerise.com/images.php/t4755\\_XeniaSzabo01.jpg](http://tbn0.google.com/images?q=tbn:YSICEWl5K6tq6M:http://www.imagerise.com/images.php/t4755_XeniaSzabo01.jpg)

4



Search string: "Xenia Szabo"Image [http://img11.imagevenue.com/loc229/th\\_16866\\_01.jpg](http://img11.imagevenue.com/loc229/th_16866_01.jpg)Site <http://www.szstar.com/showthread.php?p=1367574>Image Info: 106x160 Size: 7Kb

Thumbnail [http://tbn0.google.com/images?q=tbn:kSvskXqpK00tXM:http://img11.imagevenue.com/loc229/th\\_16866\\_01.jpg](http://tbn0.google.com/images?q=tbn:kSvskXqpK00tXM:http://img11.imagevenue.com/loc229/th_16866_01.jpg)

5



Search string: "Xenia Szabo"Image <http://blog7.fc2.com/a/aitaine/file/20060525.jpg>Site <http://aitaine.blog7.fc2.com/blog-date-200605.html>Image Info: 300x451 Size: 49Kb

Thumbnail <http://tbn0.google.com/images?q=tbn:zfMv2sApk-Kw4M:http://blog7.fc2.com/a/aitaine/file/20060525.jpg>



"Ingrid Ostvat"

Search Images

Search the Web

[Advanced Image Search](#)  
[Preferences](#)

SafeSearch is off

Images Showing:    ▼ Results 19 - 36 of about 130 (0.04 seconds)



PERFECT10 com - The World s Most ...  
99 x 150 - 7k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 6k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 5k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 4k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 5k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 5k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 4k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 6k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 5k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 6k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 5k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 5k - jpg  
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PERFECT10 com - The World s Most ...  
99 x 150 - 5k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 4k - jpg  
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...  
99 x 150 - 6k - jpg  
[darkshadow.3xforum.ro](#)





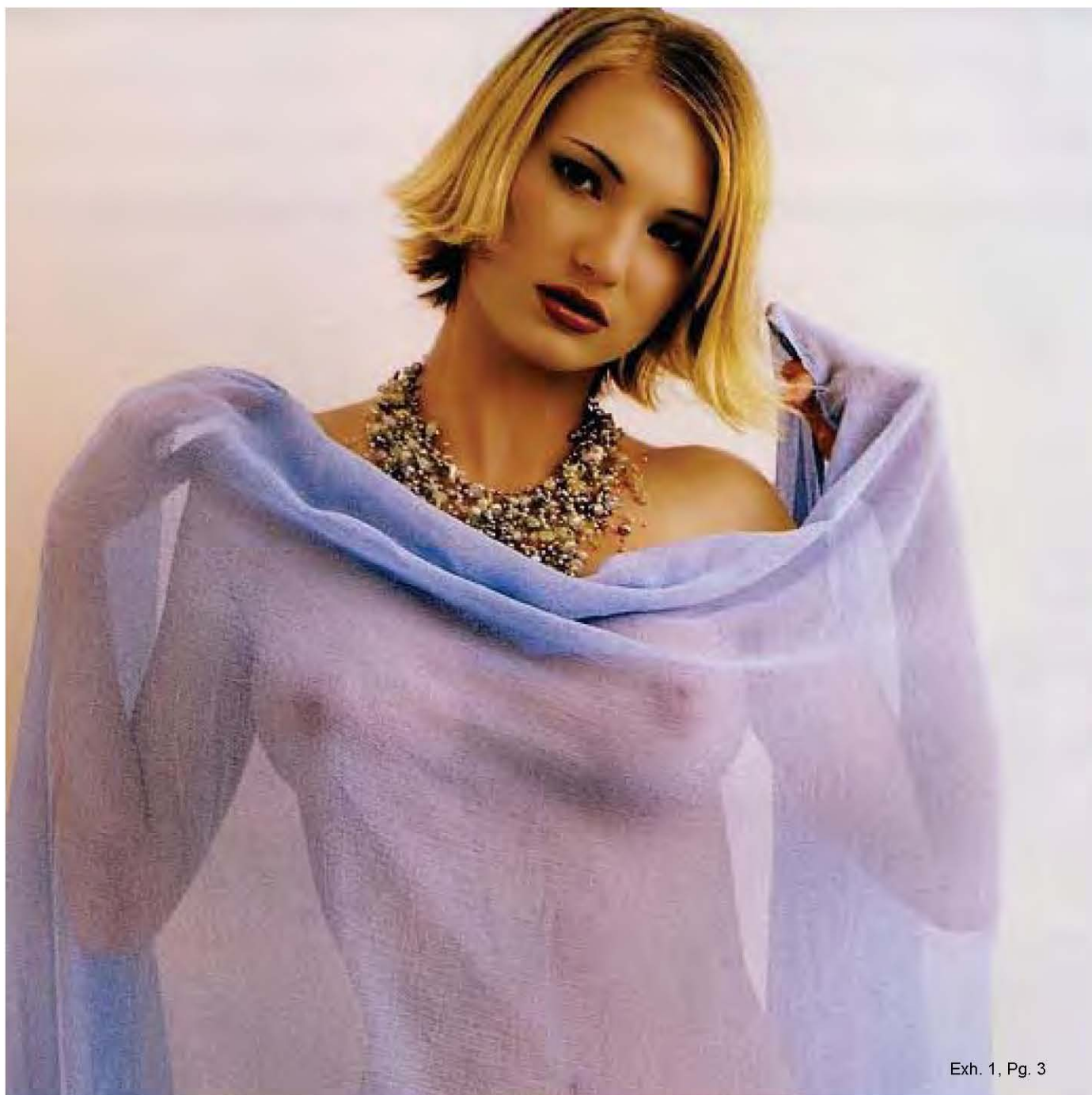
This is Google's cache of <http://www.monitor.hr/belle/0112/011206.htm>. It is a snapshot of the page as it appeared on 16 Sep 2008 18:14:02 GMT. The [current page](#) could have changed in the meantime. [Learn more](#)

[Text-only version](#)

These search terms are highlighted: **zoya konyieva**

# Zoya Konyieva

[Monitor home](#) | [Belle indeks](#) | [Prosinac 2001](#) | [Prije](#) | [Poslije](#)



Exh. 1, Pg. 3



# Zoya Konyieva

[Monitor home](#) | [Belle indeks](#) | [Prosinac 2001](#) | [Prije](#) | [Poslije](#)



[Monitor home](#) | [Belle indeks](#) | [Prosinac 2001](#) | [Prije](#) | [Poslije](#)



See full size image.  
wallpapers.wallpapercar.com/russian-girl/russ...  
140 x 111 - 6k  
Image may be scaled down and subject to copyright.

Remove Frame  
Image Results

Below is the image in its original context on the page: [wallpapers.wallpapercar.com/russian-girl/](http://wallpapers.wallpapercar.com/russian-girl/)

**Beautiful Russian Girls**

Find a soul mate, love and marriage from our Ukraine and Russian women

**Armenian Match - Barev**

Smart, Sexy Armenians Meet Here. Find your Armenian Match Here!

**Meet Beautiful Singles**

Browse photos of Millicns of Users Find True Love today

**Totally Free Wallpapers**

Get Bikini Com Girls Wallpaper Download Now! Quick & Easy

Ads by Google

Ads by Google







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<http://www.perfectten.com>

Exh. 1, Pg. 6



Interesting to have panties which match your top...I have to say I love her shoes. Lovely long legs are set off so well with the right shoes...

corset girl

Hot Lingerie Links Tiny Panties! Cleavage! Boosting Bras Naughty Links

**Lace Lingerie**  
Find great deals and save! Compare products, prices & stores

**Panty of the Month**  
As Seen on CNN and in Playboy! New Sexy Lingerie Set Every Month

Ads by Google

POSTED BY JENNIFER AT 12:46 AM 0 COMMENTS

FRIDAY, DECEMBER 03, 2004

### Black Lace Scarf



A black thong and a, well, scarf?? Once again the idea of lingerie is concealment as well as provocation and this long shot is a little of both...Why is Natalia S.rocka walking down a country road wearing very little? Another mystery for the ages...

Hot Lingerie Links Tiny Panties! Cleavage! Boosting Bras Naughty Links

POSTED BY JENNIFER AT 1:53 AM 1 COMMENTS

### Raised slip

- babescg
- babe-a-licious
- unique peek
- blonde blcg
- your dirty mind
- attu sees all
- dumpa link
- we are making porn
- babes kick ass we are
- making porn
- dadump

#### PICTURE SITES

- Hot Celebrity Photos
- jen's list
- babes creamlcg
- creamlcg
- knakworst
- soft galleries
- babelcg
- hawt babes
- glamour legs (Japan!)
- surabayajane blcg
- sensual arousal blcg
- sexcity forums
- bad girls blcg
- best of nudes
- indienudes
- god's art
- excellent photos
- voluptus
- babelcg
- adult top blogs
- nude.hu
- the omega project
- beauty girls
- sexy pix
- sexy pix mega

#### NAUGHTY BLOGS

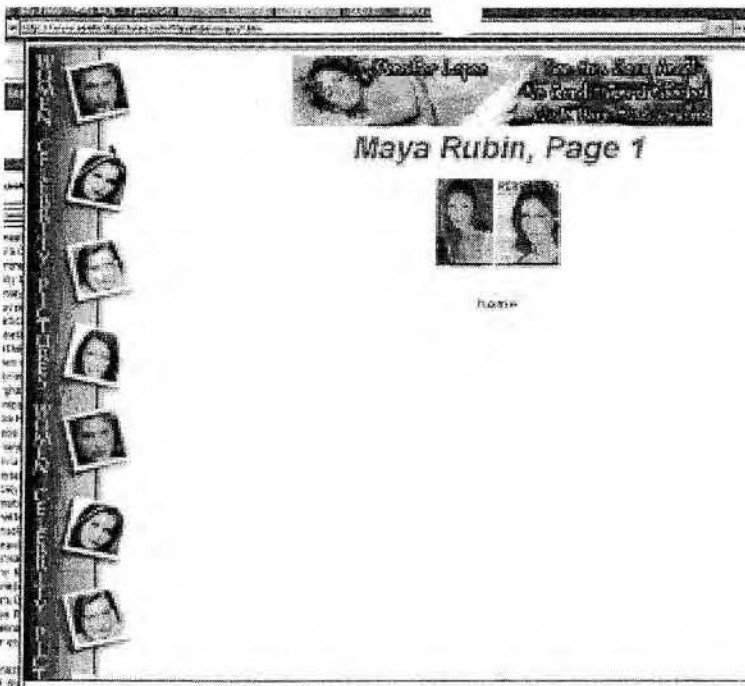
- Sexoteric
- A New York Escorts
- Confessions
- Bacchus
- Daze Reader
- newlywed satisfaction
- Prurient Obscenities
- SLA
- TwiddlyBits
- Word Oyster
- panty perv

#### SYNDICATED AT

- web nymph



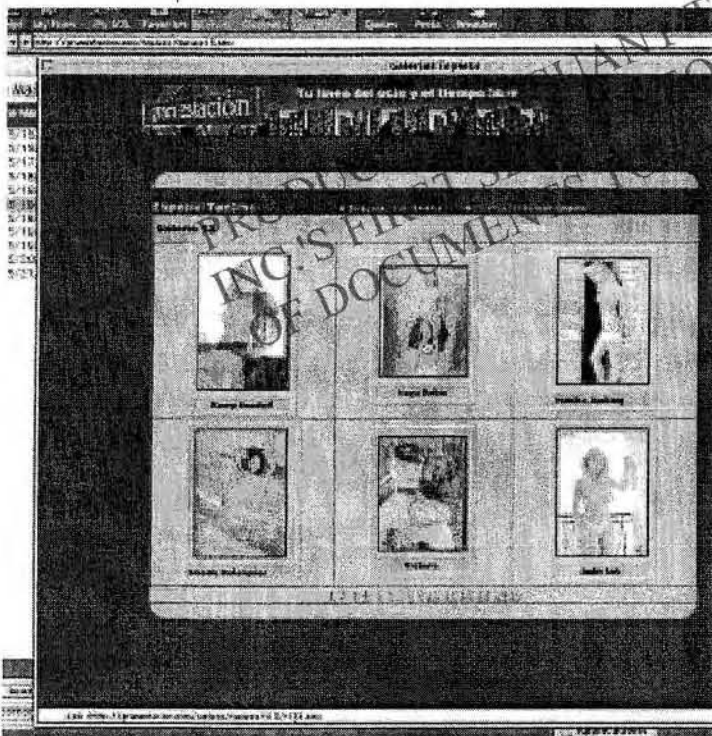




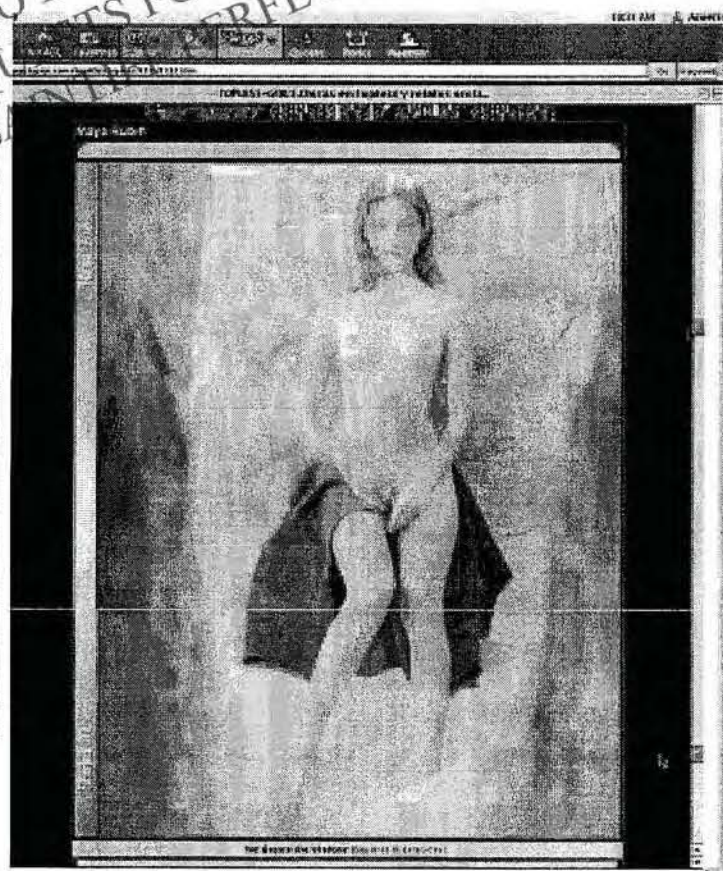
<http://www.celebritypictures.com/MayaRubin/maya1.htm>



<http://www.celebritypictures.com/Pictures/MayaRubin/maya2.jpg>



<http://granestacion.com/topless/topless13.htm>



<http://granestacion.com/topless/topless/t13/t131.htm>

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File Edit View Document Comments Forms Tools Advanced Window Help
Create Combine Multimedia Comment Sticky Note Text Edits
1 / 1 127% Find

"Ingrid Ostvat" - Google Image Search

Web Images Maps News Video Gmail more

Sign in



"Ingrid Ostvat"

Search Images

Search the Web

Advanced Image Search Preferences

SafeSearch is off

Images Showing: All image sizes Any content All colors Results 19 - 36 of about 130 (0.04 seconds)



PERFECT10 com - The World s Most ... 99 x 150 - 6k - jpg darkshadow.3xforum.ro

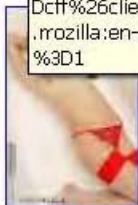
http://images.google.com/imgres?imgurl=http://www.imagerse.com/images.php/t133\_AlexandraBerejnova42copy.jpg&imgrefurl=http://darkshadow.3xforum.ro/post/1532/1/PERFECT10\_com\_-\_The\_World\_s\_Most\_Beautiful\_Natural\_women\_/&usq=\_\_RtMcrOXj2G7\_XlIP-9Fv6Flbwxw=8h=150&w=99&sz=78&hl=en&start=19&um=1&tbid=d7MunVjsDS9eM:&tbh=96&tbw=63&prev=/images%3Fq%3D%2522Ingrid%2B0stvat%2522%26ndsp%3D18%26hl%3Den%26safe%3Dcfff%26client%3Dfirefox-a%26channel%3Ds%26rls%3Dorg.mozilla:en-US:official%26sa%3DN%26start%3D18%26um%3D1



PERFECT10 com - The World s Most ... x 150 - 6k - jpg darkshadow.3xforum.ro



PERFECT10 com - The World s Most ... 99 x 150 - 5k - jpg darkshadow.3xforum.ro



PERFECT10 com - The World s Most ... 99 x 150 - 4k - jpg darkshadow.3xforum.ro



PERFECT10 com - The World s Most ... 99 x 150 - 5k - jpg darkshadow.3xforum.ro



PERFECT10 com - The World s Most ... 99 x 150 - 5k - jpg darkshadow.3xforum.ro



PERFECT10 com - The World s Most ... 99 x 150 - 4k - jpg



PERFECT10 com - The World s Most ... 99 x 150 - 6k - jpg



PERFECT10 com - The World s Most ... 99 x 150 - 5k - jpg

May 2009
Sun Mon Tue Wed Thu Fri Sat
1 2
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10 11 12 13 14 15 16
17 18 19 20 21 22 23
24 25 26 27 28 29 30

[http://images.google.com/imgres?imgurl=http://www.imagerise.com/images.php/t133\\_AlexandraBerejnova42copy.jpg&imgrefurl=http://darkshadow.3xforum.ro/post/1532/1/PERFECTION.com - The World's Most Beautiful Natural women /&usq=RtMcrOXj2G7\\_XliP-9Fv6Flbwxw=&h=150&w=99&sz=7&hl=en&start=11&um=1&tbnid=d7MunlVjsDS9eM:&tbnh=96&tbnw=63&prev=/images%3Fq%3Dsite:www.imagerise.com%2B%2522Ingrid%2BOstvat%2522%2Bdarkshadow.3xforum.ro%26hl%3Den%26safe%3Doff%26client%3Dfirefox-a%26channel%3Ds%26rls%3Dorg.mozilla:en-US:official%26um%3D1](http://images.google.com/imgres?imgurl=http://www.imagerise.com/images.php/t133_AlexandraBerejnova42copy.jpg&imgrefurl=http://darkshadow.3xforum.ro/post/1532/1/PERFECTION.com - The World's Most Beautiful Natural women /&usq=RtMcrOXj2G7_XliP-9Fv6Flbwxw=&h=150&w=99&sz=7&hl=en&start=11&um=1&tbnid=d7MunlVjsDS9eM:&tbnh=96&tbnw=63&prev=/images%3Fq%3Dsite:www.imagerise.com%2B%2522Ingrid%2BOstvat%2522%2Bdarkshadow.3xforum.ro%26hl%3Den%26safe%3Doff%26client%3Dfirefox-a%26channel%3Ds%26rls%3Dorg.mozilla:en-US:official%26um%3D1)



INFRINGING URL	GOOGLE SEARCH	PERFECT 10 MAGAZINE ISSUE OR WEBSITE
minovia.com/modules/uskolaxgallery/index.php?carpeta=natalia_sirocka	natalia sirocka	vol 3, no 3, p 14-21
ottoperuna.altervista.org/pagine/Wallpapers/SirockaNatalia/Sirocka_sfondi.htm	natalia sirocka	vol 3, no 3, p 15
panienki.com/Panienki/Natalia_Sirocka/natalia_sirocka.html	natalia sirocka	vol 3, no 3, p 14-21
pix.alronix.net/Photo_Scans/Tits/Natalia_Sirocka	natalia sirocka	vol 3, no 3, p 15
playboy.fason.ru/Natalia_Sirocka.php	natalia sirocka	vol 3, no 3, p 17
antoninoc.net/Top_model/top_model14.htm	natalia sirocka	vol 3, no 3, p 14 - 21
freebabes.nl/thumbnails.asp?categorie=141&categorytxt=Natalia+Sirocka	natalia sirocka	
freeones.com/html/n_links/Natalia_Sirocka.shtml	"natalia sirocka"	vol 3, no 3, p 14 - 21
paparazzi.com/natalias/natalia.htm	"natalia sirocka"	vol 1, no 6 p 50 - 55
russiancelebrities.org/rciSet.asp?GID=4&PID=494&SID=1	"natalia sirocka"	vol 3, no 3, p 14 - 21
minovia.com/modules/uskolaxgallery/famosas.php?carpeta=natalia_sirocka	"natalia sirocka"	vol 1, no 6 p 50 - 55
1024x768wallpapers.com/categories.php?cat_id=665	"natalia sirocka"	
ragazzesexy.tv/images.cgi?direct=Varie_Straniere_2/Natalia_Sirocka	"natalia sirocka"	vol 3, no 3, p 14 - 21
angelfire.com/celeb2/superaeon/Pictures/Zz/ZZ-NataliaSirocka.htm	"natalia sirocka"	
abc-celebs.com/mod_celeb_N.htm	"natalia sirocka"	
celebs.jerkengine.com/FD/ Browse/Main?letter=N&type=image	"natalia sirocka"	vol 3, no 3, p 14 - 21
miss.mgn.ru/gallery/cat.asp?iCat=25	"natalia sirocka"	vol 3, no 3, p 14 - 21
playboy.fason.ru/model.php	"natalia sirocka"	vol 3, no 3, p 14 - 21
sultan14416.supereva.it/nataliasirocka/nataliasirocka.htm	"natalia sirocka"	
pix.alronix.net/Photo_Scans/ Tits/Natalia_Sirocka/pic00097.htm	"natalia Sirocka"	vol 3, no 3, p 14 - 21
greh.ru/foto/bysi/	"natalia Sirocka"	vol 3, no 3, p 14 - 21
minovia.com/modules/ uskolaxgallery/famosas.php?muestrame=n	"natalia Sirocka"	vol 3, no 3, p 14 - 21
russiancelebrities.org/rciSet.asp?GID=4&PID=493&SID=1	"natalia Sirocka"	vol 3, no 3, p 14 - 21
pix.alronix.net/Photo_Scans/Fashion/Nataskia_Maren	nataskia maren	vol1, no 4, p 14
minovia.com/modules/uskolaxgallery/famosas.php?carpeta=nataskia_maren	nataskia maren	vol 1, no 4, p 15
celebsxposed.net/preview/preview2.html	nataskia maren	vol 1, no 4, p 12 - 19
all-nude-celebrities-free.com/celebrities/n.html	nataskia maren	vol 2, no 6, p 6
models.ksenia.com/	nataskia maren	vol 1, no 5 p 34
celebs.jerkengine.com/FD/ Browse/Main?letter=N&type=image	"nataskia maren"	vol 1, no 4, p 12 - 19
minovia.com/modules/uskolaxgallery/ index.php?carpeta=nataskia_maren	"nataskia maren"	vol 1, no 4, p 12 - 19
playboy.fason.ru/Nataskia_Maren.php	"nataskia maren"	vol 2, no 6, p 6

EXHIBIT 46 Page 406

ER G516

PG\_DMGCA0248

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