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11 UNITED STATES DISTRICT COURT  
 12 CENTRAL DISTRICT OF CALIFORNIA

14 PERFECT 10, INC., a California  
 corporation,

15 *Plaintiff,*

16 vs.

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

19 *Defendants.*

20 AND COUNTERCLAIM  
 21

CASE NO. CV 04-9484 AHM (SHx)

**DISCOVERY MATTER**

**GOOGLE INC.'S STATUS REPORT  
 RE GOOGLE'S SUPPLEMENTAL  
 PRODUCTION IN RESPONSE TO  
 THE COURT'S JUNE 16, 2010  
 ORDER**

Hon. Stephen J. Hillman

Date: None Set  
 Time: None Set  
 Crtrm.: 550

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

1 Google respectfully submits the following status report regarding its  
2 supplemental production of documents in response to the Court’s July 2, 2010 Order  
3 (Dkt. No. 921).

4 **I. SUPPLEMENTAL PRODUCTION PURSUANT TO THE JUNE 16,**  
5 **2010 ORDER**

6 On June 16, 2010, the Court denied P10’s Motion for Evidentiary Sanctions,  
7 but partially granted P10 the alternative relief it had requested—additional  
8 document production. In the June 16, 2010 Order, the Court ruled that Google was  
9 to further supplement its production of the following categories of documents:

- 10 1. DMCA logs for Web Search, Image Search and AdSense maintained in  
11 an electronic spreadsheet format;
- 12 2. AdSense repeat infringer tracking spreadsheets;<sup>1</sup>
- 13 3. DMCA termination notices for Web Search, Image Search and  
14 AdSense;
- 15 4. Communications with “owners” of websites listed in P10’s Request for  
16 Production No. 29, to the extent that ownership information is available in Google’s  
17 records;
- 18 5. Documents related to Google’s repeat infringer policies;
- 19 6. Board meeting minutes discussing P10 or copyright infringement,  
20 misappropriation of rights of publicity, or trademark infringement in connection  
21 with adult content; and
- 22 7. Reports, studies, or internal memoranda ordered, requested, or  
23 circulated by Bill Brougher, Susan Wojcicki, Walt Drummond, and Eric Schmidt or  
24 circulated by or to John Levine, Heraldo Botelho, Radhika Malpani, Jessie Jiang,

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26 <sup>1</sup> Numbers 1 and 2 are combined below because Google’s spreadsheet DMCA  
27 log for AdSense is the same as the DMCA repeat infringer tracking spreadsheet for  
28 AdSense.

1 Lawrence You, Diane Tang, and Alexander MacGillivray relating to the following  
2 topics: search query frequencies, search query frequencies for adult-related terms,  
3 number of clicks on adult images and images in general, traffic to infringing  
4 websites, the draw of adult content, and percentage of searches conducted with the  
5 safe search filter off.

6 Google's continued diligent efforts to supplement its production of each of  
7 the categories of documents addressed in the Court's Order are described below.

8 **II. DMCA SPREADSHEETS FOR WEB SEARCH, IMAGE SEARCH**  
9 **AND ADSENSE**

10 On July 20, 2010, Google completed its supplemental production of AdSense  
11 repeat infringer DMCA processing spreadsheets and P10-specific DMCA  
12 processing spreadsheets for Web and Image Search to cover DMCA notices  
13 received since Google's last production of these categories of documents as directed  
14 by the Court. Google also voluntarily re-produced AdSense repeat infringer DMCA  
15 processing spreadsheets and P10-specific DMCA processing spreadsheets it had  
16 previously produced. These spreadsheets are all of the DMCA logs for Web Search,  
17 Image Search and AdSense that exist in native-spreadsheet format and were located  
18 after a reasonable search. Google's supplemental production was made in Excel  
19 format as P10 requested on June 28, 2010.

20 **III. DMCA TERMINATION NOTICES FOR ADSENSE**

21 Google has made significant efforts to locate, collect and produce additional  
22 AdSense DMCA termination notices resulting from third-party DMCA notices  
23 Google has received, but its supplemental production of those documents is not yet  
24 completed. The process of locating potentially responsive emails related to  
25 Google's enforcement of its repeat infringer policies for AdSense required more  
26 than 25 days to complete, in part because of the absence of key legal personnel  
27 described in Google's June 30, 2010 *Ex Parte* Application (Dkt. No. 917). The  
28

1 significant volume of the documents collected for review required an additional four  
2 days for processing.

3 As described in Google's *Ex Parte*, Google has assigned additional legal  
4 personnel to this supplemental production effort in an attempt to produce these  
5 documents as soon as possible. The review of the documents to locate AdSense  
6 DMCA termination notices is more than halfway completed, and Google expects to  
7 be able to make a further supplemental production of AdSense termination notices  
8 within a few weeks.

9 Web and Image Search do not have account holders or subscribers (see July  
10 26, 2010 DMCA Order (Dkt. No. 937) at 7), so there are no accounts to terminate  
11 for those products.

12 **IV. COMMUNICATIONS WITH OWNERS OF CERTAIN WEBSITES**

13 Google has completed a reasonable search of its AdSense publisher contracts  
14 and confirmed that it has no additional records that would allow it to identify the  
15 owners of the websites listed in P10's Request for Production No. 29. Accordingly,  
16 Google has no additional documents responsive to this category.

17 **V. DOCUMENTS DESCRIBING REPEAT INFRINGER POLICIES**

18 On July 20, 2010, Google completed its supplemental production of DMCA  
19 policies and forms for AdSense, AdWords and Blogger and its production of terms  
20 and conditions and program policies prohibiting repeat infringement for AdSense  
21 and Blogger.

22 **VI. BOARD MEETING MINUTES DISCUSSING P10 OR IP**  
23 **VIOLATIONS RELATED TO ADULT CONTENT**

24 Google has completed a reasonable search of its minutes of Board of Director  
25 meetings and confirmed that it has no additional records that mention P10 or  
26 Google's potential liability for copyright infringement, misappropriation of rights of  
27 publicity or trademark infringement in connection with adult content.

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1 **VII. REPORTS, STUDIES, OR MEMORANDA RELATED TO SPECIFIED**  
2 **TOPICS CIRCULATED BY CERTAIN INDIVIDUALS**

3 Google has made significant efforts to locate, collect and produce additional  
4 reports, studies and memoranda ordered, requested, or circulated by certain Google  
5 employees related to search query frequencies, search query frequencies for adult-  
6 related terms, number of clicks on adult images and images in general, traffic to  
7 infringing websites, the draw of adult content, and percentage of searches conducted  
8 with the safe search filter off, but its supplemental production of those documents is  
9 not yet completed. The process of collecting the email and other files of the relevant  
10 Google employees required more than 20 days to complete, in part because of the  
11 absence of key legal personnel described in Google's *Ex Parte*. The processing of  
12 the significant volume of documents collected for review is being done on a rolling  
13 basis to speed the review, but will require several weeks to complete.

14 As described in Google's *Ex Parte*, Google has assigned additional legal  
15 personnel to this supplemental production effort in an attempt to produce these  
16 documents as soon as possible. Despite these efforts, Google estimates that it will  
17 take at least four more weeks to complete the review and prepare a production of  
18 any responsive documents.

19 DATED: July 31, 2010

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22  
23 By /s/ Margret M. Caruso  
Margret M. Caruso  
24 Attorneys for Defendant GOOGLE INC.  
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