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 VISA INTERNATIONAL SERVICE ASSOCIATION

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 10 UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 11  
 12 SAN JOSE DIVISION

13 PERFECT 10, INC., a California corporation,

14 Plaintiff,

15 v.

16 VISA INTERNATIONAL SERVICE  
 ASSOCIATION; FIRST DATA CORP, a  
 corporation; CARDSERVICE  
 17 INTERNATIONAL, INC., a corporation;  
 MASTERCARD INTERNATIONAL  
 18 INCORPORATED, a corporation;  
 HUMBOLDT BANK, a national banking  
 19 association; and DOES 1 through 100,  
 inclusive,

20 Defendants.  
 21

Case No. CV 04 00371 JW (PVT)

**DEFENDANT VISA INTERNATIONAL  
 SERVICE ASSOCIATION'S NOTICE OF  
 MOTION AND MOTION FOR AWARD OF  
 ATTORNEYS' FEES AND COSTS**

Date: January 31, 2005  
 Time: 9:00 a.m.

The Hon. James Ware  
 Courtroom 8, 4th Floor

1 TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT on January 31, 2004, or as soon thereafter as may be heard in  
3 the above-entitled court, located at 280 South 1st Street, San Jose, California, 95113, Defendant Visa  
4 International Service Association ("Visa") will and hereby does move the court for an award of all of  
5 its attorneys' fees and costs, because Visa, as a prevailing defendant, is entitled to its attorneys' fees  
6 and costs under the Copyright Act and the Lanham Act, and all of Plaintiff's claims are related and  
7 intertwined.

8 The motion will be based on this Notice of Motion and Motion, the Memorandum of Points  
9 and Authorities filed herewith, the Declaration of Mark T. Jansen, the pleadings and papers filed  
10 herein, and any argument of counsel.

11  
12 DATED: December 15, 2004

Respectfully submitted,

13 TOWNSEND AND TOWNSEND AND CREW LLP

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15 By: \_\_\_\_\_  
16 DANIEL J. FURNISS  
17 MARK T. JANSEN  
18 JOHN C. BAUM  
19 ANTHONY J. MALUTTA

20 Attorneys for Defendant  
21 VISA INTERNATIONAL SERVICE ASSOCIATION

22 60374741 v1

**PROOF OF SERVICE**

I, Linda M. Tan, declare: I am employed in the City and County of San Francisco, California in the office of a member of the bar of this court at whose direction this service was made. I am over the age of eighteen and not a party to this action. My business address is Townsend and Townsend and Crew LLP, Two Embarcadero Center, Eighth Floor, San Francisco, California, 94111.

On December 15, 2004, I served the following documents exactly entitled: **DEFENDANT VISA INTERNATIONAL SERVICE ASSOCIATION'S NOTICE OF MOTION AND MOTION FOR AWARD OF ATTORNEYS' FEES AND COSTS** on the interested parties in this action by:

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**E-FILING AND/OR E-MAILING DOCUMENT**

ELECTRONIC TRANSMISSION: I caused said document to be sent by electronic transmission to the e-mail address indicated for the party(ies) listed above. The transmitting terminal address is \_\_\_\_\_@townsend.com.

**ONLY E-FILING DOCUMENT**

ELECTRONIC TRANSMISSION: I declare that a copy of said document(s) was filed electronically on December 15, 2004. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on December 15, 2004, at San Francisco, California.

\_\_\_\_\_  
/s/  
Linda M. Tan

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