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5

6 Attorneys For Defendant
7 **MASTERCARD INTERNATIONAL INCORPORATED**

8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN JOSE DIVISION

12
13 PERFECT 10, INC., a California corporation,
14 Plaintiff,

15 vs.

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

22 Defendants.
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Case No. C 04 0371 JW (PVT)

**DECLARATION OF ANDREW P.
BRIDGES IN SUPPORT OF MOTION BY
MASTERCARD AND OTHERS FOR
AWARD OF ATTORNEYS' FEES**

Date: January 31, 2005
Time: 9:00 a.m.
Dept: Courtroom 8, 4th Floor
Judge: Honorable James Ware

Winston & Strawn LLP
101 California Street
San Francisco, CA 94111-5894

1 I, ANDREW P. BRIDGES declare as follows:

2 1. I am a partner at Winston & Strawn LLP ("Winston & Strawn") in San
3 Francisco, California, and the lead counsel for defendant MasterCard International Incorporated
4 ("MasterCard") in this case. I submit this declaration in support of MasterCard's request for
5 attorneys' fees in connection with the joint motion for fees by Defendants MasterCard, First Data
6 Corp. ("FDC"), Cardservice International, Inc. ("CSI"), and Humboldt Bank ("Humboldt"). I have
7 personal knowledge of the following facts and, if called as a witness, I can and will testify
8 competently as to all of these facts.

9 2. I am the person in charge of, and who has been most responsible and involved
10 in the day-to-day handling of, MasterCard's defense in this matter. I provide this declaration to set
11 forth and explain the attorney fees and expenses which MasterCard seeks under 17 U.S.C. § 505 and
12 15 U.S.C. § 1117(a).

13 3. Plaintiff Perfect 10, Inc. ("Plaintiff") filed its lawsuit on January 28, 2004
14 against Defendants MasterCard, Visa International Service Association ("Visa"), FDC, CSI, and
15 Humboldt (collectively, "Defendants"). Plaintiff's original complaint (the "Complaint") was
16 detailed and voluminous, spanning 155 paragraphs of allegations and nearly 500 pages of exhibits.
17 Plaintiff's principal claims were based on alleged violation of the Copyright Act and Lanham Act,
18 though it also, based on the same facts and theories, alleged state law causes of action for violation
19 of rights of publicity, unfair competition, libel, and intentional interference of prospective economic
20 advantage.

21 4. Plaintiff is a publisher, through a magazine and a website, of adult
22 entertainment. Plaintiff alleged that third-party websites violated its copyrights and trademarks by
23 using its images and its name without permission. Rather than sue those third parties directly,
24 Plaintiff took the unprecedented step of suing the Defendants in this lawsuit—all content neutral
25 providers of financial services—on the theory that, without Defendants' payment systems, the third-
26 party websites could not operate and that therefore Defendants were secondarily liable for the
27 alleged infringements of the third-party websites.

1 5. I received a B.A. from Stanford University with a distinction in 1976; a B.A.
2 from the University of Oxford in 1980; a J.D., *cum laude*, from Harvard Law School in 1983; and a
3 M.A. from Oxford University in 1985. From 1983 to 1985 I served as law clerk to the Hon. Marvin
4 H. Shoob, U.S. District Judge for the Northern District of Georgia. At the inception of this case, I
5 was a partner at Wilson, Sonsini, Goodrich & Rosati ("Wilson Sonsini") in Palo Alto, California. I
6 have nearly twenty years experience in intellectual property and unfair competition litigation,
7 including copyright, trademark and technology-related actions. Among my clients over the years
8 have been Netscape Communications Corporation; Novell, Inc.; Apple Computer, Inc.; eBay, Inc.;
9 Google Inc.; Napster, Inc.; Network Associates, Inc. (now known as McAfee, Inc.); Diamond
10 Multimedia Systems, Inc.; and ClearPlay, Inc. I served as head of Wilson Sonsini's Trademarks and
11 Advertising Practices Group from 1991 to 2001; that practice group also had significant
12 responsibility for litigation and counseling on copyright, e-commerce, Internet, new media, and
13 consumer protection matters. This case involved copyright and trademark infringement litigation
14 involving e-commerce. As such, MasterCard decided to hire me as a specialist in this unique area of
15 the law. Attached as Exhibit A is a true and correct copy of my professional biography.

16 6. On April 9, 2004, I moved my practice from Wilson Sonsini to Winston &
17 Strawn. MasterCard chose to keep me as its chief lawyer on this matter, and, therefore, it substituted
18 Winston & Strawn for Wilson Sonsini. Winston & Strawn is a nationally known law firm with a
19 leading reputation in litigation, including copyright and trademark litigation. I have consistently
20 remained lead counsel for MasterCard at both Wilson Sonsini and Winston & Strawn.

21 7. In the interest of streamlining proceedings and economy, I worked with
22 counsel for the other Defendants in coordinating the defense of this action to the greatest extent
23 practicable in order to avoid a significant duplication of effort and expense. A key portion of this
24 joint defense was to file a consolidated motion to dismiss, as Defendants believed that Plaintiff had
25 failed to state any legally cognizable claims. MasterCard's attorneys expended a significant amount
26 of time and effort strategizing, researching, preparing and arguing the motion to dismiss. I was
27 extensively involved in strategic planning, analysis, investigations, research, and drafting and
28 redrafting of the briefs on the original motion to dismiss. I also took the lead in preparing to argue

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1 and arguing the copyright and trademark issues at the hearing on the motion to dismiss the original
2 complaint.

3 8. When Plaintiff filed an amended complaint, I again collaborated with other
4 Defendants in preparing a new motion to dismiss. I spent significant time preparing and filing
5 additional briefing and preparing for oral argument to defeat the Plaintiff's claims again.

6 9. I am intimately familiar with the proceedings in the case and the work done by
7 Wilson Sonsini and Winston & Strawn on MasterCard's behalf. I have been responsible for
8 preparing or reviewing the invoices for the attorneys' fees and disbursements billed to MasterCard. I
9 have reviewed the billing rates for the attorneys in this case.

10 10. Attorneys and paralegals at Wilson Sonsini record the time they spend on
11 particular matters as they complete each task, on a daily basis. The time entries are entered into
12 desktop software and released periodically into the firm's accounting system for bill preparation by
13 the firm's accounting department as directed by the billing partner.

14 11. Attorneys and paralegals at Winston & Strawn record the time they spend on
15 particular matters as they complete each task, on a daily basis. The time entries are entered into
16 desktop software ("CMS.net") and released periodically into the firm's accounting system for bill
17 preparation by the firm's accounting department as directed by the billing partner.

18 12. Pursuant to Civil L.R. 54-5(2) and 54-5(3), I have set forth below the
19 individuals at Wilson Sonsini and Winston & Strawn who have provided legal services to
20 MasterCard in connection with this action, as well as a brief description of their relevant
21 qualifications and experience, a statement of services rendered by each person and their customary
22 hourly rate:

23 a. Andrew Bridges. I have described my professional
24 background in paragraph 5 above. Attached as Exhibit A is a true and
25 correct copy of my professional biography. I provided the following legal
26 services to MasterCard in the defense of this action: case review and
27 assessment, client meetings and litigation counseling, litigation strategy,
28 legal and fact analysis, corresponding with opposing and joint defense

1 counsel, supervising legal research, brief drafting and redrafting,
2 coordinating joint defense strategy and filings, and preparing and
3 conducting oral argument. My regular and customary hourly billing rate
4 for 2004 at Wilson Sonsini, which is the rate being charged to and paid by
5 MasterCard for the defense of this action, was \$560 per hour. My regular
6 and customary hourly billing rate for 2004 at Winston & Strawn is \$575
7 per hour, but because this case moved with me from Wilson Sonsini, for
8 this case I maintained the rate of \$560 per hour. As of December 17,
9 2004, I provided MasterCard with 228.20 hours of legal services at \$560
10 per hour for a total of \$127,792.00 in fees for that time.

11 b. John Nishi. Mr. Nishi is a partner with over 10 years
12 experience, counseling over 300 clients in trademark, advertising,
13 copyright, and Internet matters and participating in and supporting
14 litigation. Attached as Exhibit B is a true and correct copy of Mr. Nishi's
15 professional biography. Mr. Nishi provided the following legal services to
16 MasterCard in the defense of this action: case review and assessment,
17 client counseling, litigation strategy, legal and fact analysis, supervising
18 legal research and brief drafting. Mr. Nishi's regular and customary
19 hourly billing rate for 2004 at Winston & Strawn, which is the rate being
20 charged to and paid by MasterCard for the defense of this action, is \$425
21 per hour. As of December 17, 2004, Mr. Nishi provided MasterCard with
22 82.80 hours of legal services for a total of \$35,105.00 in fees for that time.

23 c. Jennifer Golinveaux. Ms. Golinveaux is an associate with
24 over five years experience in intellectual property litigation, including
25 trademark and copyright litigation. Attached as Exhibit C is a true and
26 correct copy of Ms. Golinveaux's professional biography. Ms. Golinveaux
27 provided the following legal services to MasterCard in the defense of this
28 action: legal research, client counseling, fact investigation, memoranda

1 drafting, and brief drafting. Ms. Golinveaux's regular and customary
2 hourly billing rate for 2004 at Winston & Strawn, which is the rate being
3 charged to and paid by MasterCard for the defense of this action, is \$300
4 per hour. As of December 17, 2004, Ms. Golinveaux provided
5 MasterCard with 60 hours of legal services for a total of \$18,000.00 in
6 fees for that time.

7 d. Michael Brophy. Mr. Brophy is an associate with over six
8 years experience in litigation, including trademark and copyright
9 litigation. Attached as Exhibit D is a true and correct copy of Mr.
10 Brophy's professional biography. Mr. Brophy provided the following
11 legal services to MasterCard in the defense of this action: legal research,
12 fact investigation, and brief drafting. Mr. Brophy's regular and customary
13 hourly billing rate for 2004 at Winston & Strawn, which is the rate being
14 charged to and paid by MasterCard for the defense of this action, is \$280
15 per hour. As of December 17, 2004, Mr. Brophy provided MasterCard
16 with 63.70 hours of legal services for a total of \$17,836.00 in fees for that
17 time.

18 e. John Stevenson. Mr. Stevenson associated with Winston &
19 Strawn in 2003. Attached as Exhibit E is a true and correct copy of Mr.
20 Stevenson's professional biography. Mr. Stevenson provided the
21 following legal services to MasterCard in the defense of this action: legal
22 research, fact investigation, memoranda drafting, and brief drafting. Mr.
23 Stevenson's regular and customary hourly billing rate for 2004 at Winston
24 & Strawn, which is the rate being charged to and paid by MasterCard for
25 the defense of this action, is \$220 per hour. As of December 17, 2004,
26 Mr. Stevenson provided MasterCard with 10.10 hours of legal services for
27 a total of \$2,222.00 in fees for that time.
28

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1 f. Jack Lerner. Mr. Lerner was associated with Wilson
2 Sonsini. Attached as Exhibit F is a true and correct copy of Mr. Lerner's
3 professional biography. Mr. Lerner provided the following legal services
4 to MasterCard in the defense of this action: legal research, fact
5 investigation, and brief drafting. Mr. Lerner's regular and customary
6 hourly billing rate for 2004 at Wilson Sonsini, which is the rate being
7 charged to and paid by MasterCard for the defense of this action, was
8 \$310 per hour. As of December 17, 2004, Mr. Lerner provided
9 MasterCard with 12.0 hours of legal services for a total of \$3,720.00 in
10 fees for that time.

11 g. David Kramer. Mr. Kramer is a partner at Wilson Sonsini.
12 Attached as Exhibit G is a true and correct copy of Mr. Kramer's
13 professional biography. Mr. Kramer provided the following legal services
14 to MasterCard in the defense of this action: case review and assessment,
15 litigation strategy, legal and fact analysis. Mr. Kramer's regular and
16 customary hourly billing rate for 2004 at Wilson Sonsini, which is the rate
17 being charged to and paid by MasterCard for the defense of this action, is
18 \$430 per hour. As of December 17, 2004, Mr. Kramer provided
19 MasterCard with 0.80 hours of legal services for a total of \$344.00 in fees
20 for that time.

21 h. Eva Franko. Ms. Franko is a senior paralegal with
22 significant experience in copyright and trademark actions. Ms. Franko
23 provided paralegal and case management services to MasterCard in the
24 defense of this action. Ms. Franko's regular and customary hourly billing
25 rate for 2004 at Winston & Strawn, which is the rate being charged to and
26 paid by MasterCard for the defense of this action, is \$210 per hour. As of
27 December 17, 2004, Ms. Franko provided MasterCard with 109.70 hours
28 of paralegal services for a total of \$23,037.00 in fees for that time.

1 13. MasterCard has paid all incurred fees and costs to date with the exception of
2 the recaptured discount/bonus for success and the total incurred fees and costs through December 17,
3 2004 are \$228,056.00 in fees and \$4,498.70 in disbursements, for a total of \$232,554.40. Attached
4 as Exhibit H is a true and correct copy of a statement summarizing the total time and fees billed by
5 each individual, as of November 17, 2004. Pursuant to Civil L.R. 54-5(b)(2), if the Court requires,
6 an abstract of, or the contemporary time records, will be available for inspection subject to the
7 attorney-client privilege and work product protections, as applicable. Attached as Exhibit I is a true
8 and correct copy of a statement summarizing the disbursements incurred. I have also attached a
9 copy of the Bill of Costs as Exhibit J to this Declaration.

10 14. I must explain a special billing arrangement between MasterCard and Winston
11 & Strawn on this litigation. In connection with the engagement, MasterCard sought, and Winston &
12 Strawn granted, a discount of ten percent (10%) on the hourly rates stated above (not on costs and
13 disbursements) with the added provision that, in the event of dismissal of the case or other judgment
14 at the pleadings stage, the discount would be recaptured by Winston & Strawn as a bonus for
15 success. Thus, invoices to date reflect a ten percent discount from the fees shown above, but a future
16 invoice, reflecting the recaptured discount as a bonus for success will bring the billed amounts to
17 equal the amounts shown above. MasterCard has timely paid its invoices in this matter and I am
18 confident that it will pay all amounts billed in this matter.

19 15. With all of the claims based on identical facts and related, if not identical,
20 legal theories, the extensive overlap would make it would be impossible to precisely differentiate
21 work done among the claims. Even if the amount of time dedicated to claims other than copyright
22 and trademark claims could be calculated, it would be relatively insignificant. As the Court is
23 aware, all the issues and claims in the case shared one overarching theme.

24 16. I have reviewed the attorney fees and expenses, and, in my opinion, they were
25 reasonably incurred in connection with this lawsuit. The hourly rates charged to MasterCard are at
26 or less than the regularly hourly rates billed to Wilson Sonsini and Winston & Strawn's clients. I
27 believe that these rates are reasonable, competitive rates for attorneys and paralegals with their
28

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1 qualifications, and firmly in line with the rates customarily charged by attorneys and paralegals in
2 the San Francisco Bay Area legal markets for lawyers with the relevant expertise in this matter.

3 17. I used junior attorneys and paralegals as much as possible to reduce attorney
4 fees and litigation expenses. Whenever a task did not require an attorney, I attempted to have a
5 paralegal do the work. My senior paralegal, Eva Franko, assisted in various tasks relating to
6 MasterCard's motions to dismiss.

7 18. MasterCard asks to supplement this declaration and motion, when filing its
8 reply brief, with information about fees and expenses incurred after December 17, 2004 in
9 connection with this motion, or with any further information the Court desires.

10 19. As prevailing parties, MasterCard and the other Defendants are entitled to an
11 award of their attorneys' fees and other expenses incurred in defending this action. Pursuant to Civil
12 L.R. 54-5(b)(1), counsel for all Defendants met and conferred with Plaintiff's attorney, Howard
13 King, prior to bringing this motion, for the purpose of attempting to resolve any disputes with
14 respect to the motion. Immediately following the November 15, 2004 hearing on Defendants'
15 motion to dismiss the First Amended Complaint, all defense counsel met in person with Mr. King
16 and he agreed that we had met and conferred on the issue of Defendants legal defense fees. This
17 motion is required because Plaintiff's attorney refused to acknowledge Plaintiff's liability to
18 reimburse any part of Defendants' attorneys' fees as part of costs.

19 I declare under penalty of perjury under the laws of the United States of America that
20 the foregoing is true and correct and that this declaration was executed on December 17, 2004 in San
21 Francisco, California.

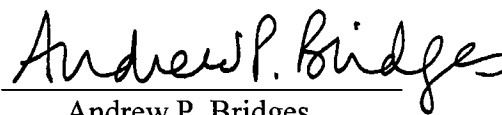

22 
23 Andrew P. Bridges
24 Andrew P. Bridges
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Exhibit A

- Practice Concentration:** Litigation, with an emphasis on trademark, copyright, advertising, consumer protection, unfair competition, Internet, and media litigation and counseling
- Year Joined W&S:** 2004, as a Partner
- Education and Honors:** Stanford University, B.A. in Greek and Latin, with distinction, 1976, Phi Beta Kappa, University of Oxford (Merton College), B.A. in Literae Humaniores, with honors, 1980, M.A., 1985; Harvard Law School, J.D., *cum laude*, 1983
- Admitted to Practice:** California, Georgia; U.S. District Court, District of Arizona, District of Colorado, Northern District of Georgia, Eastern and Western Districts of Arkansas; Northern, Southern, Central, and Eastern Districts of California; U.S. Supreme Court
- Relevant Professional Experience:** Lead counsel in a variety of notable intellectual property cases across the country and worldwide in a variety of industries; has a broad understanding of global copyright, branding, and e-commerce issues with connections to an extensive global network of local counsel that can be called on to assist clients around the world
- Law clerk, Hon. Marvin H. Shoob, U.S. District Court, Northern District of Georgia, 1983-1985
- Significant Cases:**
- 
Bridges AP.pdf
- Click on the icon to view a list of this attorney's significant trials**
- Pro Bono / Professional / Community Activities:** International Trademark Association: Chair, Emerging Issues Committee, Fair Use and Other Boundaries Subcommittee (2004-present), Issues and Policy Committee, Emerging Issues Subcommittee (2000-present), President's Select Committee on the Federal Trademark Dilution Act, (2003), Brief Amicus Subcommittee (1996-1999), USPTO Committee (1992-1996)
- Board of Trustees Member, TheatreWorks, 2003-present; Early Neutral Evaluator, U.S. District Court, Northern District of California, 2001-present; Board Member (2001-present), Secretary (2003-present), Ronald McDonald House at Stanford; International Advisory Board, National Institute of Entertainment and Media Law, Southwestern Univ. School of Law, 2000-present; Arbitrator, Domain Name Disputes Panel, World Intellectual Property Organization, 1999-present; Judge, Ecclesiastical Court of the [Episcopal] Diocese of California, 1996-2000; Editorial Board, *Intellectual Property Strategist*, 1995-2001; Director, Hellenic Law Society of Northern California, 1989-1994; Co-chair, Federal Courts Committee, Bar Association of San Francisco, 1989-1991; Member: Computer Law Association, American Intellectual Property Law Association, Marques (Association of European Brand Owners), European Communities Trademark Association, and Copyright Society of the U.S.A.

Listed in *Chambers USA: America's Leading Business Lawyers and Chambers Global*; honored in lists of leading lawyers in e-commerce, trademark law, and in Silicon Valley; profiled in *American Lawyer* and *San Francisco Daily Journal*; numerous media appearances; invited participant for project on digital information law, American Law Institute, 2003

Has taught classes at Stanford Law School, Columbia Law School, Northwestern University School of Law, University of Chicago Business School, University of Michigan Law School, and other institutions

Publications and Speaking Engagements: Speaking Engagements: "Copyright and the Music Industry: Digital Dilemmas," Institute for Information Law, University of Amsterdam (the Netherlands), July 2003; featured speaker at Intellectual Property Federal Judicial Education Program, May 2003; "U.S. Developments in Internet Copyright Litigation," Fordham International Intellectual Property Law and Policy Conference, April 2003; featured speaker in debate over copyright, trademark, and entertainment law, Berkeley Center for Law and Technology, April 2003; "Fair Use in the Twenty-First Century," at Copyright Office Comes to California conference, March 2003; "What Is Dilution," Trademark Dilution Forum 2003, March 2003; panelist at "From Class Act to Class Action," Burst of the Bubble: Lessons and Opportunities from the Dot-com Collapse conference, October 2002; "Copyright Liabilities for New Technologies," Intellectual Property Retreat for Federal Judges, June 2002; panelist at "Legal Issues: Evolving Theories of Protection vs. Open Networks," Information, Technology, and Networks Institute, June 2002; keynote speaker at Digital Landscapes: Redrawing the Boundaries in Entertainment, Media, and the Law conference, April 2002; panelist at Digital Content-File-Sharing Technology in Napster's Wake: The Challenge for Copyright Law, April 2002; "Post-Napster Issues in Litigation," International Intellectual Property Law and Policy Conference, April 2002; panelist at "Copyright Law: The Last Ten Years and a Look at What Lies Ahead," International Intellectual Property Law and Policy Conference, April 2002; "Domain Names as Trademarks," Trademark Enforcement: Different Rules in Different Countries, December 2001; "2001 in Review," Trademarks in Cyberspace conference, October 2001; "Copyright Hot Topics," Thomson & Thomson, October 2001; panelist at Convergence: Mapping the Intersection of the Online and Offline Worlds, Harvard Journal of Law and Technology Symposium, April 2001; moderator at "Copyright and Related Rights," International Intellectual Property and Law Conference, April 2001; "Building Business Plans in an Uncertain Legal Environment: Aiming Plans at Moving Targets," eRisk Management conference, November 2000; "Marketing and the Law," Third Annual Marketing and Sales Conference for Start-up Internet and Software Companies, July 2000 (also presented at previous annual conferences in June 1999 and September 1998); "Litigation Issues for the e-Commerce Company - From the Firing Line: Critical IP Issues for the Start-up Company," State Bar of California Intellectual Property Section 2000 Spring Program, May 2000; "Digital Distribution of Music," American Conference Institute, February 2000; "Music and the Internet," Association Litteraire et Artistique Internationale Canadian Chapter, Toronto, December 1999; "Music and the Internet," IBC UK Conferences, London, December 1999; panelist at Recording Industry Association of

America v. Diamond Multimedia Systems, Loyola Law School, April 1999; "Strategic Issues in Trademark Law," Strategic Intellectual Property Planning conference, April 1998; "Jurisdictional Issues and the Internet" at Practising Law Institute program on "Litigating Copyright, Trademark and Unfair Competition Cases for the Experienced Practitioner," December 1997; "Comparative Advertising under United States Law" at Marques (Association of European Trademark Proprietors) conference, September 1997; "Creative Strategies for Protection of Intellectual Property," American Bar Association annual convention, August 1997; "The European Community Trade Mark," American Bar Association Intellectual Property Law conference, June 1997; "International Considerations in Licensing," Practising Law Institute seminar on "Drafting Licensing Agreements," January 1997; "Discovery of Electronic Data in Litigation," International Trademark Association mid-year meeting, November 1995; "Alternative Theories and Defenses," Practising Law Institute seminar on "Advanced Seminar on Trademark Law," April 1995; "Recent Developments in Trademark Law," Practising Law Institute seminar on "Intellectual Property Update," January 1994; "Basic Federal Practice" programs of California Continuing Education of the Bar, San Francisco and Monterey, November 1992 and November 1990

Publications: "Cyber-Branding Holds Allure, Danger," Intellectual Property Supp. to *S.F. Daily Journal*, September 29, 1998; "Expert Advice," *California State Bar Journal*, October 1996; co-author, "Insurance Coverage for Trademark Litigation," *Intellectual Property Strategist*, October 1995

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Exhibit B

Practice Concentration: Intellectual property, with an emphasis on domestic and foreign trademark, advertising, unfair competition, consumer protection, copyright, and Internet law counseling and transactional matters

Year Joined W&S: 2004, as a Partner

Education and Honors: Yale University, B.A. in Philosophy, *cum laude*, 1977; University of Southern California, Master of Music, Clarinet Performance, 1980; University of Chicago Law School, J.D., 1993, Associate Articles Editor, *University of Chicago Legal Forum*

Admitted to Practice: California, Illinois; U.S. District Court, Northern District of California, Northern District of Illinois; U.S. Court of Appeals, Ninth Circuit

Relevant Professional Experience: Has counseled over 300 clients in trademark, advertising, copyright, and Internet matters, and has managed international trademark portfolios; experience includes developing an innovative brand ownership structure for a leading global consumer electronics company; directing the worldwide trademark filing program for a client's \$100 million campaign to establish and build its key brands; negotiating trademark aspects of a \$117.5 million purchase from bankruptcy of the assets of an internationally known athletic shoe company; supervising the acquisition by a leading toy company of a portfolio of classic computer game trademarks and developing strategies to minimize the vulnerability of the acquired rights; has developed and administered trademark and advertising law training programs and materials

Pro Bono / Professional / Community Activities: Emerging Issues Committee (Fair Use and Other Boundaries Subcommittee), International Trademark Association (INTA), 2004-present; Special Committee for the Internet, INTA, 1999-2000; Editorial Board, *The Trademark Reporter*, INTA, 1996-1999; American Bar Association

Presentations: Has given presentations on trademark and advertising issues at the INTA annual meeting and other continuing education forums

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Exhibit C

Practice Concentration: Intellectual property litigation and counseling

Year Joined W&S: 2004, as an Associate

Education and Honors: Columbia University, Barnard College, B.A. in English, 1995;
University of San Francisco of Law, J.D., *cum laude*, 1999,
Articles Editor, *University of San Francisco Law Review*

Admitted to Practice: California; U.S. District Court, Northern and Central Districts of
California; U.S. Court of Appeals, Ninth Circuit

Relevant Professional Experience: Has represented clients in copyright, Lanham Act, trade secret,
and Internet law matters in federal and state courts

Pro Bono / Professional / Community Activities: Member, International Trademark Association, U.S. Legislation
Committee, 2001-Present; American Intellectual Property Law
Association

Publications: "Is Cybersquatting Trademark Dilution?," *University of San
Francisco Law Review*, 1999

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Exhibit D

Practice Concentration: Complex business litigation; intellectual property; employment; entertainment

Year Joined W&S: 2003, as an Associate

Education and Honors: The American University, B.A. in interdisciplinary studies, *magna cum laude*, 1995; Harvard Law School, J.D., *cum laude*, 1998; Managing Editor, *Harvard Negotiation Law Review*

Admitted to Practice: California; U.S. District Court, Central and Southern Districts of California

Pro Bono / Professional / Community Activities: Los Angeles County Bar Association

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Exhibit E

Practice Concentration: Bankruptcy

Year Joined W&S: 2003, as an Associate

Education and Honors: University of Michigan, B.A., 1993; University of California, Hastings College of the Law, J.D., 2002

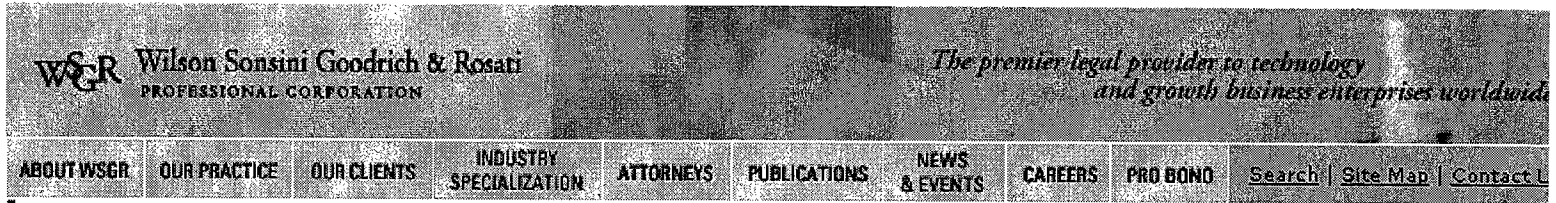
Admitted to Practice: California; U.S. District Court, Northern District of California

Relevant Professional Experience: Has handled various aspects of representing unsecured creditors' committees in chapter 11 cases; has experience defending vendors in state preference actions

Judicial Extern, Hon. Dennis Montali, U.S. Bankruptcy Court, Northern District of California

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Exhibit F



[Home](#) > [Attorneys](#) > Attorneys

Jack Lerner

Intellectual Property-Litigation

Juris Doctor, Harvard Law School, 1999

Bachelor of Arts in English, University of Kansas, 1995

Law Clerk to the Honorable Fred I. Parker, United States Court of Appeals for the Second Circuit, 2000-2001

Law Clerk to the Honorable G.T. VanBebber, United States District Court for the District of Kansas, 1999-2000

Phi Beta Kappa

Admitted to California Bar

Jack can be reached at jlerner@wsgr.com.

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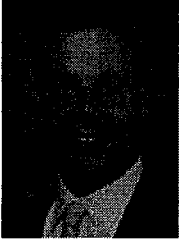
Exhibit G

WSGR Wilson Sonsini Goodrich & Rosati
PROFESSIONAL CORPORATION

*The premier legal provider to technology
and growth business enterprises worldwide*

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David H. Kramer

David H. Kramer is a member of the firm specializing in Internet-related litigation and counseling with emphasis on privacy and intellectual property matters. He provides daily counseling to Internet pioneers and startups on cutting edge strategies and novel theories of liability.

*Mr. Kramer represented RealNetworks in the first ever case brought under the anti-circumvention provisions of the Digital Millennium Copyright Act and secured a preliminary injunction prohibiting the abuse of RealNetworks' ubiquitous technology.

*On behalf of XO Communications, Inc. Mr. Kramer successfully defended a putative class action seeking between \$50 and \$150 million in statutory damages under the junk fax provisions of the Telephone Consumer Protection Act. Mr. Kramer obtained rulings in both the trial and appellate courts barring class certification in the case.

*On behalf of online greeting card leader Blue Mountain Arts, Mr. Kramer obtained orders prohibiting Microsoft from including a filter in its Outlook email program that Blue Mountain claimed was anti-competitive.

*As counsel for CyberMedia, Inc., Mr. Kramer secured a preliminary injunction requiring Symantec Corp. to institute a nationwide recall of software that CyberMedia charged was infringing its copyright.

*Mr. Kramer also represented CompuServe in litigation against the nation's leading sender of unsolicited commercial email or "spam" and obtained a sweeping injunction prohibiting spamming under a novel trespass to chattels theory. He later drafted legislation at both the state and federal levels concerning email abuse and fraud.

Mr. Kramer received his law degree, *magna cum laude*, in 1993 from Georgetown University Law Center and holds a Bachelor of Arts degree, *cum laude*, from Dartmouth College. He joined Wilson Sonsini Goodrich & Rosati in March 1996 after spending three years at the Palo Alto office of Brown & Bain, a firm specializing in intellectual property litigation. He is presently admitted to practice before all California state and

federal courts.

Author: "Who Can Use Yesterday's News: Video Monitoring & The Fair Use Doctrine," 81 Georgetown Law Journal 2345 (1994).

Co-Author: "Not As Clean As They Wanna Be: Intermediate Copying in Campbell v. Acuff Rose," 16 Hastings Communications & Entertainment Law Journal 607 (1994); "A Reversal of Fortune: Recent Developments in Copyright Law," 19 Computer Law Reporter 416 (1994), 10 Tolley's Computer Law & Practice 159 (1994).

Articles written by Dave Kramer
Federal "CAN-SPAM" Act

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Exhibit H

**MasterCard International
Perfect 10 v. VISA et al
Total Legal Time and Fees**

Name	Hours	Value
<i>Bridges, Andrew - Wilson Sonsini</i>	35.50	\$19,880.00
<i>Bridges, Andrew - Winston & Strawn</i>	192.70	\$107,912.00
<i>Brophy, Michael</i>	63.70	\$17,836.00
<i>Franko, Eva</i>	109.70	\$23,037.00
<i>Golinveaux, Jennifer</i>	60.00	\$18,000.00
<i>Kramer, David</i>	0.80	\$344.00
<i>Lerner, Jack</i>	12.00	\$3,720.00
<i>Nishi, John</i>	82.80	\$35,105.00
<i>Stevenson, John</i>	10.10	\$2,222.00
Totals	567.30	\$228,056.00

Exhibit I

**MasterCard International
Perfect 10 v. VISA et al
Costs by Type**

<i>Cost Description</i>	<i>Charges</i>
Air Courier Services total	\$16.54
Computer Docket System PACER total	\$46.13
Computerized Legal Research / LEXIS/WESTLAW total	\$3,713.20
Late Night Attorney Meals total	\$49.13
Local Travel Expense total	\$31.25
Messenger Services total	\$275.18
Overtime Transportation total	\$35.00
Postage total	\$1.06
Printing/Reproduction Services total	\$200.60
Secretarial Overtime total	\$278.25
Transcript Fees total	\$51.06
GRAND TOTAL	\$4,498.70

Exhibit J

AO 133 (Rev. 9/89) Bill of Costs

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PERFECT 10, INC.

BILL OF COSTS

V.

VISA INTERNATIONAL SERVICE
ASSOCIATION et al

Case Number: Case No. C 04 0371 JW

Judgment having been entered in the above entitled action on Dec. 3, 2004 against PERFECT 10, INC.,
Date
 the Clerk is requested to tax the following as costs:

Fees of the Clerk	\$ 0.00
Fees for service of summons and subpoena	0.00
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case	0.00
Fees and disbursements for printing	0.00
Fees for witnesses (itemize on reverse side)	0.00
Fees for exemplification and copies of papers necessarily obtained for use in the case	0.00
Docket fees under 28 U.S.C. 1923	0.00
Costs as shown on Mandate of Court of Appeals	0.00
Compensation of court-appointed experts	0.00
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828	0.00
Other costs (please itemize)	232,554.70
Please see Exhibit 1	
TOTAL \$ 232,554.70	

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

DECLARATION

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill was mailed today with postage prepaid to: to Court

Signature of Attorney: _____

Name of Attorney: Andrew P. Bridges

For: MasterCard International Incorporated Date: December 17, 2004
Name of Claiming Party

Costs are taxed in the amount of _____ and included in the judgment.

RICHARD W. WIEKING
 Clerk of Court

By: _____
 Deputy Clerk

 Date

Exhibit 1

to

**Bill of Costs
for MasterCard International Incorporated**

**MasterCard International
Perfect 10 v. VISA et al
Itemized Costs by Type**

Legal Fees	\$228,056.00
Air Courier Services	\$16.54
Computer Docket System PACER	\$46.13
Computerized Legal Research / LEXIS/WESTLAW	\$3,713.20
Late Night Attorney Meals total	\$49.13
Local Travel Expense total	\$31.25
Messenger Services total	\$275.18
Overtime Transportation total	\$35.00
Postage total	\$1.06
Printing/Reproduction Services total	\$200.60
Secretarial Overtime total	\$278.25
Transcript Fees total	\$51.06
GRAND TOTAL	\$232,554.70

**MasterCard International
Perfect 10 v. VISA et al
Total Legal Time and Fees**

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<i>Kramer, David</i>	0.80	\$344.00
<i>Lerner, Jack</i>	12.00	\$3,720.00
<i>Nishi, John</i>	82.80	\$35,105.00
<i>Stevenson, John</i>	10.10	\$2,222.00
Totals	567.30	\$228,056.00

MasterCard International
Perfect 10 v. VISA et al
Costs by Type

	Cost Description	Charges
09/22/04	Air Courier Services	\$16.54
	Air Courier Services total	\$16.54
05/04/04	Computer Docket System PACER	\$23.10
05/04/04	Computer Docket System PACER	\$1.75
07/09/04	Computer Docket System PACER	\$0.28
09/27/04	Computer Docket System PACER	\$1.40
10/08/04	Computer Docket System PACER	\$19.60
	Computer Docket System PACER total	\$46.13
03/30/04	Computerized Legal Research / LEXIS/WESTLAW	\$82.16
03/30/04	Computerized Legal Research / LEXIS/WESTLAW	\$165.35
04/02/04	Computerized Legal Research / LEXIS/WESTLAW	\$82.50
04/02/04	Computerized Legal Research / LEXIS/WESTLAW	\$259.39
04/02/04	Computerized Legal Research / LEXIS/WESTLAW	\$12.93
04/04/04	Computerized Legal Research / LEXIS/WESTLAW	\$187.08
04/09/04	Computerized Legal Research / LEXIS/WESTLAW	\$232.67
04/19/04	Computerized Legal Research / LEXIS/WESTLAW	\$451.02
04/23/04	Computerized Legal Research / LEXIS/WESTLAW	\$168.91
04/25/04	Computerized Legal Research / LEXIS/WESTLAW	\$26.00
04/26/04	Computerized Legal Research / LEXIS/WESTLAW	\$431.30
04/28/04	Computerized Legal Research / LEXIS/WESTLAW	\$95.38
05/20/04	Computerized Legal Research / LEXIS/WESTLAW	\$108.79
05/20/04	Computerized Legal Research / LEXIS/WESTLAW	\$7.20
05/20/04	Computerized Legal Research / LEXIS/WESTLAW	\$0.01
05/20/04	Computerized Legal Research / LEXIS/WESTLAW	\$6.15
05/20/04	Computerized Legal Research / LEXIS/WESTLAW	\$0.01
05/23/04	Computerized Legal Research / LEXIS/WESTLAW	\$19.22
05/23/04	Computerized Legal Research / LEXIS/WESTLAW	\$0.04
05/23/04	Computerized Legal Research / LEXIS/WESTLAW	\$16.38
05/23/04	Computerized Legal Research / LEXIS/WESTLAW	\$0.02
05/23/04	Computerized Legal Research / LEXIS/WESTLAW	\$4.74
05/24/04	Computerized Legal Research / LEXIS/WESTLAW	\$110.18
05/24/04	Computerized Legal Research / LEXIS/WESTLAW	\$7.20
05/24/04	Computerized Legal Research / LEXIS/WESTLAW	\$6.14
05/24/04	Computerized Legal Research / LEXIS/WESTLAW	\$2.41
05/24/04	Computerized Legal Research / LEXIS/WESTLAW	\$55.46
05/25/04	Computerized Legal Research / LEXIS/WESTLAW	\$42.64
05/26/04	Computerized Legal Research / LEXIS/WESTLAW	\$93.99

**MasterCard International
Perfect 10 v. VISA et al
Costs by Type**

	Cost Description	Charges
05/27/04	Computerized Legal Research / LEXIS/WESTLAW	\$4.80
05/27/04	Computerized Legal Research / LEXIS/WESTLAW	\$12.28
05/27/04	Computerized Legal Research / LEXIS/WESTLAW	\$1.58
05/28/04	Computerized Legal Research / LEXIS/WESTLAW	\$451.99
05/28/04	Computerized Legal Research / LEXIS/WESTLAW	\$2.93
05/28/04	Computerized Legal Research / LEXIS/WESTLAW	\$4.80
05/28/04	Computerized Legal Research / LEXIS/WESTLAW	\$2.04
05/28/04	Computerized Legal Research / LEXIS/WESTLAW	\$0.01
05/28/04	Computerized Legal Research / LEXIS/WESTLAW	\$1.59
05/28/04	Computerized Legal Research / LEXIS/WESTLAW	\$16.38
05/28/04	Computerized Legal Research / LEXIS/WESTLAW	\$0.02
05/28/04	Computerized Legal Research / LEXIS/WESTLAW	\$8.77
05/28/04	Computerized Legal Research / LEXIS/WESTLAW	\$1.58
06/01/04	Computerized Legal Research / LEXIS/WESTLAW	\$27.11
07/07/04	Computerized Legal Research / LEXIS/WESTLAW	\$156.26
07/08/04	Computerized Legal Research / LEXIS/WESTLAW	\$5.96
07/09/04	Computerized Legal Research / LEXIS/WESTLAW	\$4.26
09/14/04	Computerized Legal Research / LEXIS/WESTLAW	\$3.47
09/17/04	Computerized Legal Research / LEXIS/WESTLAW	\$116.15
09/17/04	Computerized Legal Research / LEXIS/WESTLAW	\$72.24
09/20/04	Computerized Legal Research / LEXIS/WESTLAW	\$1.96
09/22/04	Computerized Legal Research / LEXIS/WESTLAW	\$16.41
09/23/04	Computerized Legal Research / LEXIS/WESTLAW	\$11.64
10/12/04	Computerized Legal Research / LEXIS/WESTLAW	\$0.22
10/22/04	Computerized Legal Research / LEXIS/WESTLAW	\$47.50
10/27/04	Computerized Legal Research / LEXIS/WESTLAW	\$7.73
11/12/04	Computerized Legal Research / LEXIS/WESTLAW	\$46.15
11/12/04	Computerized Legal Research / LEXIS/WESTLAW	\$12.10
	Computerized Legal Research / LEXIS/WESTLAW total	\$3,713.20
09/09/04	Late Night Attorney Meals	\$25.00
09/20/04	Late Night Attorney Meals	\$24.13
	Late Night Attorney Meals total	\$49.13
07/09/04	Local Travel Expense	\$31.25
	Local Travel Expense total	\$31.25
09/24/04	Messenger Services	\$171.99
09/27/04	Messenger Services	\$103.19
	Messenger Services total	\$275.18

~~MasterCard International~~
Perfect 10 v. VISA et al
Costs by Type

	Cost Description	Charges
06/30/04	Overtime Transportation	\$35.00
	Overtime Transportation total	\$35.00
11/02/04	Postage	\$1.06
	Postage total	\$1.06
03/17/04	Printing/Reproduction Services	\$2.40
04/02/04	Printing/Reproduction Services	\$10.20
05/24/04	Printing/Reproduction Services	\$6.10
05/24/04	Printing/Reproduction Services	\$3.90
05/24/04	Printing/Reproduction Services	\$1.40
05/24/04	Printing/Reproduction Services	\$2.10
05/26/04	Printing/Reproduction Services	\$5.50
05/26/04	Printing/Reproduction Services	\$3.70
05/26/04	Printing/Reproduction Services	\$5.80
05/26/04	Printing/Reproduction Services	\$16.50
06/02/04	Printing/Reproduction Services	\$7.60
06/02/04	Printing/Reproduction Services	\$0.30
06/02/04	Printing/Reproduction Services	\$4.90
06/02/04	Printing/Reproduction Services	\$13.50
07/07/04	Printing/Reproduction Services	\$8.60
07/08/04	Printing/Reproduction Services	\$46.40
09/16/04	Printing/Reproduction Services	\$2.20
09/17/04	Printing/Reproduction Services	\$21.20
09/17/04	Printing/Reproduction Services	\$2.90
09/17/04	Printing/Reproduction Services	\$1.50
09/24/04	Printing/Reproduction Services	\$2.40
09/24/04	Printing/Reproduction Services	\$0.80
09/27/04	Printing/Reproduction Services	\$8.10
10/25/04	Printing/Reproduction Services	\$2.30
10/25/04	Printing/Reproduction Services	\$7.40
10/25/04	Printing/Reproduction Services	\$5.20
11/02/04	Printing/Reproduction Services	\$1.90
11/24/04	Printing/Reproduction Services	\$1.60
11/24/04	Printing/Reproduction Services	\$4.20
	Printing/Reproduction Services total	\$200.60
09/13/04	Secretarial Overtime	\$106.00
09/14/04	Secretarial Overtime	\$26.50
09/20/04	Secretarial Overtime	\$66.25

MasterCard International
Perfect 10 v. VISA et al
Costs by Type

	Cost Description	Charges
09/24/04	Secretarial Overtime	\$66.25
10/01/04	Secretarial Overtime	\$13.25
	Secretarial Overtime total	\$278.25
07/20/04	Transcript Fees	\$51.06
	Transcript Fees total	\$51.06
	GRAND TOTAL	\$4,498.70