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11 Facsimile: (310) 205-9638

12 Attorneys for Plaintiff

13  
14 UNITED STATES DISTRICT COURT  
15 CENTRAL DISTRICT OF CALIFORNIA  
16

17 PERFECT 10, a California corporation,

18 Plaintiff,

19 v.

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

21 Defendants.  
22  
23

CASE NO. CV 04-09484 AHM (SHx)

**DECLARATION OF JEFFREY N.  
MAUSNER IN SUPPORT OF  
MOTION OF PLAINTIFF  
PERFECT 10, INC. FOR  
PRELIMINARY INJUNCTION**

Date: September 19, 2005  
Time: 10:00 a.m.  
Ctrm: The Honorable A. Howard  
Matz



**EXHIBIT 118**

**FILE COPY**

1 WINSTON & STRAWN LLP  
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7 GOOGLE INC.

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

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

11 PERFECT 10, INC., a California  
corporation,

12 Plaintiff,

13 vs.

14 GOOGLE INC., a corporation; and  
15 DOES 1 through 100, inclusive,

16 Defendant.

Case No. CV04-9484 NM (CWx)

**DEFENDANT GOOGLE INC.'S  
RESPONSE TO PLAINTIFF'S  
CORRECTED FIRST SET OF  
REQUESTS FOR ADMISSION**

17  
18 GOOGLE INC., a corporation,

19 Counterclaimant,

20 vs.

21 PERFECT 10, INC., a California  
corporation,

22 Counter-defendant.

24 PROPOUNDING PARTY: PLAINTIFF PERFECT 10, INC.

25 RESPONDING PARTY: DEFENDANT GOOGLE INC.

26 SET NUMBER: ONE

27  
28 EXHIBIT 118 Page 2

1 calculated to lead to the discovery of admissible evidence. Google admits that it has  
2 not used image recognition software to determine the copyright ownership of images.  
3 Subject to and without waiving the foregoing objections and its General Objections,  
4 Google otherwise denies the request.

5 **REQUEST FOR ADMISSION NO. 22:**

6 Admit that Perfect 10 cannot prevent through technological means would-be  
7 infringers from scanning photographs from its magazine.

8 **RESPONSE TO REQUEST FOR ADMISSION NO. 22:**

9 Google objects to this request as vague and ambiguous. Subject to and without  
10 waiving its General Objections, Google denies this request.

11 **REQUEST FOR ADMISSION NO. 23:**

12 Admit that if Perfect 10 used robot exclusion headers on perfect10.com to  
13 prevent GOOGLE from copying images from perfect10.com, that would not prevent  
14 GOOGLE from copying Perfect 10 images from websites that misappropriated Perfect  
15 10 images.

16 **RESPONSE TO REQUEST FOR ADMISSION NO. 23:**

17 Google objects to this request as vague, ambiguous, hypothetical, and  
18 argumentative. Google admits that websites can make reproductions of Perfect 10  
19 images without assistance from Google and without Google copying images from  
20 perfect10.com. Subject to and without waiving the foregoing objections and its  
21 General Objections, Google otherwise denies the request.

22 **REQUEST FOR ADMISSION NO. 24:**

23 Admit that when a GOOGLE image search is conducted, the reduced-size  
24 images which appear reside on GOOGLE servers.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 24:**

26 Google objects to this request as vague, ambiguous and unintelligible. Google  
27 admits that its servers store reduced-size extracts of images. Subject to and without  
28

1 waiving the foregoing objections and its General Objections, Google otherwise denies  
2 the request.

3 **REQUEST FOR ADMISSION NO. 25:**

4 Admit that reduced-size images have been accessible to Internet users from  
5 GOOGLE servers when the site from which those images are purportedly derived is  
6 not accessible.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 25:**

8 Google objects to this request as vague and ambiguous. Subject to and without  
9 waiving the foregoing objections and its General Objections, Google admits the  
10 request.

11 **REQUEST FOR ADMISSION NO. 26:**

12 Admit that GOOGLE has copied onto its servers Perfect 10 copyrighted images  
13 that are at least 4" x 5" in size.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 26:**

15 Google objects to this request as vague, ambiguous, and argumentative.  
16 Subject to and without waiving the foregoing objections and its General Objections,  
17 Google denies the request.

18 **REQUEST FOR ADMISSION NO. 27:**

19 Admit that GOOGLE has displayed to consumers Perfect 10 copyrighted  
20 images that are at least 4" x 5" in size.

21 **RESPONSE TO REQUEST FOR ADMISSION NO. 27:**

22 Google objects to this request as vague and ambiguous. Subject to and without  
23 waiving the foregoing objections and its General Objections, Google denies the  
24 request.

25 **REQUEST FOR ADMISSION NO. 28:**

26 Admit that GOOGLE has made available for downloading by consumers  
27 Perfect 10 copyrighted images that are at least 4" x 5" in size.

28 **RESPONSE TO REQUEST FOR ADMISSION NO. 28:**

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San Francisco, CA 94111-5894

1 Google objects to the request as vague, ambiguous, and argumentative. Subject  
2 to and without waiving the foregoing objections and its General Objections, Google  
3 denies the request.

4 **REQUEST FOR ADMISSION NO. 213:**

5 Admit that full sized copies of Perfect 10's photographs are stored on Google's  
6 servers.

7 **RESPONSE TO REQUEST FOR ADMISSION NO. 213:**

8 Google objects to the request as vague, ambiguous, and argumentative. Subject  
9 to and without waiving the foregoing objections and its General Objections, Google  
10 denies the request.

11 **REQUEST FOR ADMISSION NO. 214:**

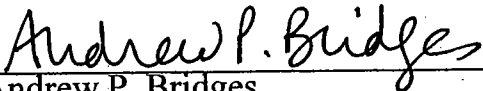
12 Admit that full sized copies of Perfect 10's photographs are delivered to Internet  
13 users from Google's servers.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 214:**

15 Google objects to the request as vague, ambiguous, and argumentative. Subject  
16 to and without waiving the foregoing objections and its General Objections, Google  
17 denies the request.

18 Dated: April 18, 2005

WINSTON & STRAWN LLP

19  
20   
21 Andrew P. Bridges  
22 Michael S. Brophy  
23 Jennifer A. Golinveaux  
24 Attorneys for Defendant and Counterclaimant  
25 Google, Inc.  
26  
27  
28

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11 GOOGLE INC.

12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA

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

16 Plaintiff,

17 vs.

18 GOOGLE INC., a corporation; and  
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20 Defendant.

21 GOOGLE INC., a corporation,

22 Counterclaimant,

23 vs.

24 PERFECT 10, INC., a California  
25 corporation,

26 Counter-defendant.

Case No. CV04-9484 NM (CWx)

**DEFENDANT GOOGLE INC.'S  
RESPONSE TO PLAINTIFF'S  
THIRD SET OF REQUESTS FOR  
ADMISSIONS**

27 PROPOUNDING PARTY:

PLAINTIFF PERFECT 10, INC.

28 RESPONDING PARTY:

DEFENDANT GOOGLE INC.

SET NUMBER:

THREE

1 Admit that Google has a method for preventing a URL from appearing in  
2 Google web search results.

3 **RESPONSE TO REQUEST FOR ADMISSION NO. 244:**

4 Google objects to the request as vague and ambiguous. Subject to and without  
5 waiving the General Objections and specific objections above, Google admits that it  
6 has a method for preventing a URL from appearing as a link in Google web search  
7 results but it does not have a method, within the normal operation of its search engine,  
8 that guarantees that a URL does not appear in Google web search results. Google  
9 denies the remainder, if any, of the request.  
10

11 **REQUEST FOR ADMISSION NO. 245:**

12 Admit that Google has a method for preventing an image from appearing in  
13 Google image search results.

14 **RESPONSE TO REQUEST FOR ADMISSION NO. 245:**

15 Google objects to the request as vague and ambiguous. Subject to and without  
16 waiving the General Objections and specific objections above, Google admits that it  
17 has a method for preventing a thumbnail image associated with a specific URL from  
18 appearing as a linked image in Google image search results but it does not have a  
19 method, within the normal operation of its search engine, that guarantees that an  
20 image does not appear in Google image search results. Google denies the remainder,  
21 if any, of the request.  
22

23 **REQUEST FOR ADMISSION NO. 246:**

24 Admit that as of June 30, 2004, Google had a technological method for  
25 preventing a URL from appearing in Google web search results without shutting down  
26 Google's servers.

27 **RESPONSE TO REQUEST FOR ADMISSION NO. 246:**  
28

1 Google objects to the request as vague and ambiguous. Subject to and without  
2 waiving the General Objections and specific objections above, Google admits that, as  
3 of June 30, 2004, it had a method for preventing a URL from appearing as a link in  
4 Google web search results without shutting down Google's servers but it did not have  
5 a method, within the normal operation of its search engine, that guaranteed that a URL  
6 did not appear in Google web search results. Google denies the remainder, if any, of  
7 the request.

8  
9 **REQUEST FOR ADMISSION NO. 247:**

10 Admit that as of June 30, 2004, Google had a technological method for  
11 preventing an image from appearing in Google image search results without shutting  
12 down Google's servers.

13 **RESPONSE TO REQUEST FOR ADMISSION NO. 247:**

14 Google objects to the request as vague and ambiguous. Subject to and without  
15 waiving the General Objections and specific objections above, Google admits that, as  
16 of June 30, 2004, it had a technological method for preventing a thumbnail image  
17 associated with a specific URL from appearing as a linked image in Google image  
18 search results but it did not have a method, within the normal operation of its search  
19 engine, that guaranteed that an image did not appear in Google image search results.  
20 Google denies the remainder, if any, of the request.

21  
22 **REQUEST FOR ADMISSION NO. 248:**

23 Admit that as of June 30, 2001, Google had a technological method for  
24 preventing a URL from appearing in Google web search results without shutting down  
25 Google's servers.

26 **RESPONSE TO REQUEST FOR ADMISSION NO. 248:**

27 Google objects to the request as vague and ambiguous. Google further objects  
28 on the ground that the request is irrelevant and not reasonably calculated to lead to the

1 discovery of admissible evidence. Subject to and without waiving the General  
2 Objections and specific objections above, Google admits that, as of June 30, 2001, it  
3 had a technological method for preventing a URL from appearing as a link in Google  
4 web search results without shutting down Google's servers but it did not have a  
5 method, within the normal operation of its search engine, that guaranteed that a URL  
6 did not appear in Google web search results. Google denies the remainder, if any, of  
7 the request.

8  
9 **REQUEST FOR ADMISSION NO. 249:**

10 Admit that as of June 30, 2003, Google had a technological method for  
11 preventing an image from appearing in Google image search results without shutting  
12 down Google's servers.

13 **RESPONSE TO REQUEST FOR ADMISSION NO. 249:**

14 Google objects to the request as vague and ambiguous. Subject to and without  
15 waiving the General Objections and specific objections above, Google admits that, as  
16 of June 30, 2003, it had a technological method for preventing a thumbnail image  
17 associated with a specific URL from appearing as a linked image in Google image  
18 search results but it did not have a method, within the normal operation of its search  
19 engine, that guaranteed that an image did not appear in Google image search results.  
20 Google denies the remainder, if any, of the request.

21  
22 **REQUEST FOR ADMISSION NO. 250:**

23 Admit that as of June 30, 2004, Google had a method for readily preventing a  
24 URL from appearing in Google web search results.

25 **RESPONSE TO REQUEST FOR ADMISSION NO. 250:**

26 Google objects to the request as vague, ambiguous, and argumentative.  
27 Google also objects to the request as redundant and improperly burdensome. Subject  
28 to and without waiving the General Objections and specific objections above, Google

