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13
14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16 PERFECT 10, INC., a California
corporation,

17 Plaintiff,

18 v.

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

21 Defendants.

CASE NO. CV 04-9484 AHM (SHx)

**NOTICE OF MOTION AND
MOTION OF PLAINTIFF PERFECT
10, INC. FOR PRELIMINARY
INJUNCTION; MEMORANDUM OF
POINTS AND AUTHORITIES**

Date: September 19, 2005

Time: 10:00 a.m.

Ctrm: The Honorable A. Howard Matz

22
23 **TO DEFENDANT GOOGLE, INC. AND ITS ATTORNEYS OF**
24 **RECORD:**

25
26 **PLEASE TAKE NOTICE** that on September 19, 2005, at 10:00 a.m., or as
27 soon thereafter as the matter may be heard, in the courtroom of the Honorable A.
28 Howard Matz, located at 312 N. Spring Street, Los Angeles, California, plaintiff

1 Perfect 10, Inc. ("Perfect 10") will and hereby does move for a preliminary
2 injunction enjoining Google, Inc. ("Google") from engaging in continuing acts of
3 copyright infringement. Specifically, Perfect 10 seeks an order in the form of the
4 [Proposed] Preliminary Injunction lodged herewith and which provides in
5 substance that:

6
7 Google, its parents, subsidiaries, affiliates, officers, agents, servants,
8 employees, and any persons acting in concert or participation with them are
9 preliminarily enjoined from:

10
11 (a) Copying, reproducing, distributing, publicly displaying, adapting or
12 otherwise infringing, or contributing to the infringement of any copyrighted image
13 owned by Perfect 10 which has been or will be identified in notices to Google
14 ("PERFECT 10 COPYRIGHTED IMAGES"). Perfect 10 will provide to Google
15 notice of PERFECT 10 COPYRIGHTED IMAGES within ten (10) business days
16 of the issuance of this Order, and may supplement that notice once each month.
17 Within ten (10) business days of the receipt of notice of PERFECT 10
18 COPYRIGHTED IMAGES, Google shall delete and disable its display of all such
19 images, including without limitation, deletion from any database owned or
20 controlled by Google, and shall not display such images in the future.

21
22 (b) Linking to websites which display or make available PERFECT 10
23 COPYRIGHTED IMAGES, for which Google has received notice ("Infringing
24 Websites"). Infringing Websites are (i) websites which were linked to by Google
25 as identified in any notice of infringement from Perfect 10 to Google prior to June
26 20, 2005 (Exhs. 40-73 of the Declaration of Norman Zada filed herein) and which
27 as of July 11, 2005, continued to display or make available PERFECT 10
28 COPYRIGHTED IMAGES on any of their web pages, or (ii) websites that in the

1 future continue to display or make available PERFECT 10 COPYRIGHTED
2 IMAGES on any of their web pages three (3) weeks after notice of such
3 infringement to Google. Within ten (10) business days of the receipt of each notice
4 of Infringing Websites, Google shall delete and disable all links to such Infringing
5 Websites from any website owned or controlled by Google and shall not link to
6 such Infringing Websites in the future.

7
8 (c) Copying, reproducing, distributing or publishing any username/
9 password combinations to perfect10.com or linking to any websites that provide
10 username/password combinations to perfect10.com which have been or will be
11 identified in notices to Google. Within ten (10) business days of the receipt of
12 notice, Google shall delete all username/password combinations to perfect10.com
13 and disable all links to any website that provides username/password combinations
14 to perfect10.com from any website owned or controlled by Google and shall not
15 publish such username/password combinations or link to such websites in the
16 future.

17
18 This Motion is made on the grounds that Perfect 10 has a probability of
19 success on the merits of its copyright infringement claims and there is the
20 possibility of irreparable harm and, alternatively, that serious questions are raised
21 by this Motion and the balance of hardships tilt in Perfect 10's favor.

22
23 This Motion is based on this Notice of Motion and Motion, the
24 accompanying Memorandum of Points and Authorities, the declarations of
25 Norman Zada, Dave Moreau, Jeffrey Mausner, and Patrick Swart, the Request for
26 Judicial Notice and Declaration of Russell J. Frackman, all records presently on
27

1 file with the Court, any reply Perfect 10 may make, and any argument that may be
2 advanced at or prior to the hearing on this Motion.

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Dated: August 24, 2005

RUSSELL J. FRACKMAN
JEFFREY D. GOLDMAN
MITCHELL SILBERBERG & KNUPP LLP

By *Russell J. Frackman*
Russell J. Frackman
Attorneys for Plaintiff

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