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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

CASE NO. CV 04-09484 AHM (SHx)

**DECLARATION OF NORMAN  
ZADA IN SUPPORT OF MOTION  
OF PLAINTIFF PERFECT 10, INC.,  
FOR PRELIMINARY INJUNCTION**

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

23  
24 I, Norman Zada, declare as follows:

25 1. I make this declaration in support of the motion of Perfect 10, Inc.  
26 ("Perfect 10") for preliminary injunction. Except where otherwise stated, I have  
27 direct and personal knowledge of the facts set forth herein and, if called as a witness,  
28 could and would competently testify thereto.

1 **Structure of Declaration.**

2 This declaration initially provides background information and then details  
3 Google's ongoing infringement of Perfect 10's copyrighted images, as summarized  
4 below:

- 5 • Google's Image Search copies and displays infringing Perfect 10  
6 copyrighted images (§§ 27 to 47).
- 7 • Google's cache is a "snapshot" of infringing images that Google  
8 continues to display even after the images have been removed from the  
9 original websites (§§ 49 to 51).
- 10 • Google promotes and instructs users on the downloading of Perfect 10  
11 images onto cell phones and reformats those images to fit the cell  
12 phone screen (§§ 55 to 58).
- 13 • Many of the infringing websites to which Google links Perfect 10  
14 images are advertising partners of Google, and Google derives revenue  
15 from the traffic it directs to these infringing websites (§§ 61 to 75 and  
16 116 to 118).
- 17 • Google has failed to respond to 34 specific notices of infringement  
18 (§§ 77 to 108).
- 19 • Google continues to display over 1,000 of the best Perfect 10  
20 copyrighted images (§§ 91 to 115, 150 to 151).
- 21 • Google also links the infringing Perfect 10 images that it copies and  
22 displays to infringing websites that themselves display hundreds of  
23 additional Perfect 10 copyrighted images (§§ 110 to 115).
- 24 • Google continues to publish unique and confidential passwords which  
25 provide unauthorized access to Perfect 10's website, perfect10.com,  
26 and to Perfect 10's copyrighted images (§§ 119 to 126).

1           **General Background**

2           2.     I formed Perfect 10 in 1996, and have continuously since that time  
3     functioned as its Chief Executive Officer. I am in charge of the day to day  
4     operations of Perfect 10. I have personal knowledge of all aspects of Perfect 10's  
5     business.

6           3.     I received my Ph.D. in Operations Research from the University of  
7     California at Berkeley in 1972. From 1972 to 1973, I worked in the main computer  
8     science research department of IBM. While I was at IBM, I did research on search  
9     algorithms and studied various aspects of computer science. Since that time, I have  
10    written thousands of lines of computer code to solve a variety of applied  
11    mathematical problems.

12          4.     I have also taught applied mathematics as a visiting professor at  
13    Stanford University, UCLA, U.C. Irvine, and Columbia University.

14           **Work and Support for this Declaration**

15          5.     In the course of my duties as Chief Executive Officer of Perfect 10, I  
16    routinely explore the Internet, in part to detect infringements of Perfect 10's  
17    intellectual property. In the course of this process, I have spent well over 800 hours  
18    reviewing images and text links displayed by Google. Based on this review, I have  
19    become very familiar with the Perfect 10 copyrighted images that have been made  
20    available by Google for viewing and downloading without authorization from  
21    Perfect 10.

22          6.     During my review, I either printed out copies of the Internet pages  
23    containing Perfect 10 infringements I observed, or downloaded them using Adobe 6.0  
24    Professional, and maintained them in Perfect 10's files. The Exhibits attached hereto,  
25    except where otherwise noted, fall into one of two categories: (a) true and correct  
26    copies of documents that have been printed by me, in many cases *reduced* to leave  
27    space to bind the exhibits; or (b) true and correct copies of documents that I have  
28    downloaded and archived from the Internet using Adobe 6.0 Professional which I

1 then had printed and which were, in many cases, reduced to put into exhibit form. In  
2 some cases, as described below, the images I downloaded using Adobe were broken  
3 into two pages when they were printed, even though they appeared as being on one  
4 page on my computer screen. When this happened, the image was the same, it was  
5 just printed on two pages.

6 7. Exhibits attached hereto, unless stated otherwise, were printed or  
7 downloaded by me using an Internet browser or Adobe 6.0 that was set to record: (a)  
8 the URL (*i.e.*, the Internet address) of the webpage that was viewed and printed; and  
9 (b) the date and time the page was printed or downloaded. In a number of instances,  
10 I have highlighted sections of exhibits in yellow for the convenience of the Court.

11 *Exhibits were typically reduced by about 25% to leave a 1 ½ to 2 inch space for the*  
12 *binding at the top and a 1 inch space at the bottom, except for Exhibits 9, 26, 78,*  
13 *80, 85, pages 542, 549, 550, 551, and Exhibits 87-90, which were not reduced.*

14 8. In this declaration, I will use the term “website” to refer to a collection  
15 of web pages, each sharing the same base URL. A base URL typically corresponds  
16 to a website’s home page—e.g., perfect10.com or google.com. Each web page  
17 within a website also has a URL that uniquely describes it, consisting of the home  
18 page or base URL followed by additional characters to describe the particular web  
19 page—e.g., perfect10.com/join.html, which uniquely identifies the join page within  
20 the perfect10.com website.

21 **Perfect 10’s Business and Intellectual Property Documentation**

22 9. Perfect 10 is the publisher of the magazine “PERFECT 10” and owner  
23 of the subscription website perfect10.com. Perfect 10 is the owner of registered  
24 trademarks in “Perfect 10” and “Perfect10.com” and the domain name  
25 “perfect10.com.”

26 10. Perfect 10 was formed in 1996 in an effort to create the highest quality  
27 men’s magazine. To differentiate itself from other men’s magazines, Perfect 10  
28 made special efforts to offer less nudity and to photograph the world’s most

1 beautiful "natural" models, which required paying substantial rates equivalent to  
2 what is paid for models obtained through the best model agencies (typically in the  
3 range of \$4,800 - \$9,600 a day). (In contrast, Playboy has paid models \$700 a day  
4 in many cases.) As a result of its effort and investment, Perfect 10 owns the only  
5 topless images of which I am aware of more than one hundred top natural models,  
6 including Victoria Secret and Sports Illustrated Swimwear model Marisa Miller,  
7 Madison Model Isabelle Funaro, Nataskia Maren, former Miss Michigan Natasha  
8 Bell, Masha Vasileva, Monika Zsibrita, Sasha Brinkova, Emmanuelle Teixidor,  
9 Karolina Runosson and others.

10 11. During the last 9 years, in an attempt to become the world's highest  
11 quality men's magazine, Perfect 10 has invested over \$36 million to develop a  
12 respected brand and international goodwill in its magazine, website, and video  
13 products. Perfect 10's \$36 million investment includes approximately \$12 million  
14 to photograph over 800 models and create approximately 2,700 high quality images  
15 that have appeared in Perfect 10 Magazine along with an additional approximately  
16 3,300 images that have appeared on perfect10.com. The \$12 million expenditure  
17 included modeling fees, styling, makeup, photographer fees, video, support fees,  
18 film and film developing, insurance, location fees, transportation, and other costs.  
19 Additionally, Perfect 10 has spent millions of dollars on promotions and marketing  
20 to develop its brand. Perfect 10 has carefully selected its best images to appear in  
21 Perfect 10 Magazine and it is primarily these images that have been  
22 misappropriated. Perfect 10 has developed a unique niche in the adult industry.  
23 There is no comparable magazine featuring models of the same quality.

24 12. Perfect 10 has been asked by motion picture studios and television  
25 shows for permission to use Perfect 10 Magazine in films such as "The Longest  
26 Yard," "American Pie," "Spiderman," "Men in Black II," "Spiderman II," "Hollow  
27 Man," and "The Way of the Gun," and in television shows such as "The Sopranos,"  
28 "Dawson's Creek," and "Entourage," among others.

1           13. Perfect 10 has also produced and sold video presentations featuring  
2 Perfect 10 models to In-Demand and Showtime.

3           14. Perfect 10 Magazine and its models have been featured on more than  
4 100 TV and/or radio show segments, including "Extra," "Entertainment Tonight,"  
5 "Hard Copy," "Talk Soup," "Monday Night Football," "Penn and Teller," "Dog Eat  
6 Dog," "The View," "Wild On," "Battle Dome," "Shipmates," "Temptation Island,"  
7 "The Dating Game," "Blind Date," "Living Large," and "The Howard Stern Show."

8           15. Perfect 10 has registered copyrights for its photographs with the United  
9 States Copyright Office. Attached hereto as Exhibit 1 are Perfect 10's copyright  
10 registration certificates in the collective work embodied in each issue of Perfect 10  
11 Magazine and the Perfect 10 website, perfect10.com, as well as each individual  
12 photograph that appears in these compilations. As a regular part of its business,  
13 Perfect 10 obtains work for hire/assignments of copyright from the photographers it  
14 hires. Attached hereto as Exhibit 2 are several such examples.

15           16. Perfect 10 derives virtually all of its revenue from the sale of its  
16 copyrighted works. First, it sells magazines, which consist predominantly of  
17 photographs, at both newsstands and via subscriptions. A copy of Perfect 10  
18 Magazine costs \$7.99. Second, it sells memberships to its password protected  
19 website, perfect10.com, for \$25.50 per month. Only members of perfect10.com  
20 may view images of Perfect 10 models in the perfect10.com "members' area."  
21 Third, in early 2005, Perfect 10 entered into a licensing agreement with Fonestarz  
22 Media Limited for the worldwide sale and distribution of Perfect 10 reduced size  
23 copyrighted images on cell phones. These reduced size images are sold individually  
24 for downloading to cell phones. Since this arrangement began, Perfect 10 has sold  
25 an average of approximately 6,000 reduced size Perfect 10 images per month, in the  
26 United Kingdom alone. These images are comparable in size and quality to the  
27 reduced size Perfect 10 images that are being offered for free by Google for

1 downloading onto cell phones. *See* Declaration of Dave Moreau and Exhibits 23  
2 and 24 of this declaration.

3 17. Aside from its agreement with Fonestarz Media Limited for the  
4 downloading and display of reduced size images via cell phones, Perfect 10 has not  
5 authorized any third party website to copy, display, or distribute any of the  
6 copyrighted images which Perfect 10 has created.

7 **The Business of Google**

8 **A. Google's Web Search, Image Search, and Cache Link**

9 18. Google describes itself as a "software, technology, Internet,  
10 advertising, and media company, all rolled into one." Google, Inc., Annual Report  
11 (Form 10-K) [Request for Judicial Notice, Exh. A] ("Google 10-K"), page 9.  
12 Google operates a search engine from the base URL google.com. From the traffic it  
13 obtains from consumers visiting its website and the websites of its advertising  
14 partners, Google generates advertising revenue (through its AdSense program  
15 described in ¶¶ 24-26). Google.com is one of the most widely visited websites in  
16 the world. Attached hereto as Exhibit 3 is a page that I printed on July 6, 2005,  
17 from the website alexa.com, reflecting that google.com is the third most visited  
18 website on the Internet.

19 19. Attached hereto as Exhibit 4 is a print-out of the homepage of Google's  
20 website. As the homepage indicates, Google permits users to search the Internet  
21 through "Web Search" and "Image Search."

22 20. Google Web Search returns to users text listings from web pages that  
23 Google determines are related to the search terms used. For most text listings,  
24 Google also provides a "cached" link described as a "snapshot" of the identified  
25 web page, taken in the past and stored by Google. In almost all cases, when an  
26 infringing third party website displays a full size infringing Perfect 10 image,  
27 Google also displays that full size image via its "cache link." *See*, ¶ 49, Exhibit 19.

21. Google Image Search returns pages of reduced sized images, displayed by Google, that Google determines are related to the search terms used. These images are gathered and copied from third party websites throughout the Internet, but are displayed on google.com. (See paragraphs 109 and 144). In addition to displaying the images, Google also links the images to the websites where Google obtained those images. Attached hereto as Exhibit 5 is a printout of the FAQ ("Frequently Asked Questions") section from google.com regarding Image Search which I printed out on July 17, 2005:

(a) In answer to the question, "How do I use image search?" Google replies: "To use image search, simply type your query in the image search box and click the 'Search' button or hit 'Enter' on your keyboard. When you see the results page, click on the thumbnail version of the picture you want to view. *This displays a larger version of the image*, as well as the page on which the original image is located." (emphasis added).

(b) In response to the question, "Are there any copyright restrictions associated with the images?" Google's FAQ section replies: "The images identified by the Google Image Search service may be protected by copyrights. .... we cannot grant you any rights to use them for any purpose other than viewing them on the web."

(c) In response to the question, "How does Image Search work?" Google replies: "Google analyzes the text on the page adjacent to the image, the image caption and dozens of other factors to determine the image content. Google also uses sophisticated algorithms to remove duplicates and ensure that the highest quality images are presented first in your results."

22. For a visual demonstration of how Image Search and the Google "cache link" work, including a sample of infringing Perfect 10 images displayed by Google, *see*, Exhibit 8, which is a CD. Please turn on the sound on your computer when viewing this CD. **The CD may take 30 seconds to load.** This CD is



described later in this declaration under the heading "The Experience of a Google User," ¶¶ 27-35 infra.

23. As discussed in detail in ¶¶ 38-41, 95-101, 104-108, 55-56, Google retrieves from the internet and then displays over 1,000 different reduced size Perfect 10 copyrighted images through Image Search, and reformats them for display on cell phones. Most of these reduced size images displayed by Google may be viewed full size without the user ever having to leave google.com. See, ¶¶ 38-41, 45-47, 114, Exhibits 10-12, 16-18, 96. The images displayed by Google include many of the best images from Perfect 10 Magazine.

**B. Google's AdSense Advertising Program.**

24. Google does not charge users to use either Web Search or Image Search. It receives some of its revenues by providing image search and web search results to other companies who provide image search and web search results. (Google 10-K, pages 21-23.) The vast preponderance of Google's income is derived through advertisements. Attached hereto as Exhibit 6 is a Google press release that I printed on August 4, 2005, that describes Google's income and revenues, and shows that for the quarter ending June 30, 2005, Google had revenues of \$1.384 billion. The press release states that "The Google Network – Revenues generated on Google's partner sites, through AdSense programs, contributed \$630 million, or 46% of total revenues...TAC – Traffic Acquisition Costs, the portion of revenues shared with Google's partners, increased to \$494 million...." Also attached as part of Exhibit 6 is a page that I printed on July 4, 2005 from google.com which states "We make most of our money from the sale of advertising, which appears adjacent to our own search results and on sites maintained by a large network of publishers across the web who participate in our AdSense program."

25. Attached hereto as Exhibit 7 are documents that I printed from Google on September 14, 2004, and April 11, 2005, that describe Google's advertising program it calls AdSense:

1 (a) Page 100 states, "Google AdSense is a fast and easy way for  
2 website publishers of all sizes to display relevant, unobtrusive Google ads on their  
3 website's content pages and earn money. ... The program is free, and Google pays  
4 you for valid clicks on the ads on your site or search results pages... You'll receive a  
5 portion of the amount paid for clicks on Google ads on your website. Although we  
6 don't disclose the exact revenue share, our goal is to enable publishers to make as  
7 much or more than they could with other advertising networks."

8 (b) Page 101 states, "Place a Google search box on your site, and  
9 you can start monetizing the results from web searches.... When people search the  
10 web from your site, the search results pages show up with ads. And you get paid  
11 when people click on those ads."

12 (c) Page 102 states, "the web from your site. Through AdSense, ads  
13 targeted to search terms are shown next to results.... We'll host the search results  
14 for you."

15 (d) Page 103, which comes from a document entitled, "Google  
16 AdSense Program Policies" states, "To uphold the quality and reputation of Google  
17 AdSense, all publishers who apply are reviewed according to these program  
18 policies. We also monitor sites after they begin running Google ads under this  
19 program. If a site is found to be in violation of our policies at any time, we will  
20 warn the publisher or suspend or terminate the account."

21 (e) Page 104 states, "In order to avoid associations with copyright  
22 claims, website publishers may not display Google ads on web pages with MP3,  
23 Video, News Groups, and Image Results."

24 (f) Page 105 states, under a heading entitled "Site Content," "Site  
25 may not include: ... Hacking/cracking content.... Pornography, adult, or mature  
26 content ... Any other content that promotes illegal activity or infringes on the legal  
27 rights of others."

1           26. In March of 2005, Perfect 10 asked Google in discovery to identify  
2 AdSense websites that contain images of mainstream celebrities (because these are  
3 the websites that typically display Perfect 10 images). Google has refused to do so.  
4 It appears that any website which displays Google ads or contains a Google search  
5 box is a Google AdSense website for two reasons: First, if a website is displaying  
6 Google ads, Google is receiving the benefit from clicks on those ads. Secondly, if a  
7 website is displaying a Google search box, Google is receiving the benefit from any  
8 searches done from that search box which result in clicks on Google ads. In the  
9 following, I will use the term "AdSense Website" to refer to any website that  
10 displays Google ads or contains a Google search box.

11 **The Experience of A Google User**

12           27. Attached hereto as Exhibit 8 is a CD which can be played in most  
13 computers that have a drive for reading CDs or DVDs. **(It may take up to 30**  
14 **seconds for the computer to load the content of this CD once it is inserted into**  
15 **the CD drive.)** The CD was created under my direction by Trial Graphix on July  
16 18-19, 2005, (see Declaration of Patrick Swart) and shows exactly what I have  
17 experienced myself when I have used Google to view Perfect 10 images, except that  
18 the visual display on the CD is substantially reduced in size from what I have seen  
19 when I have viewed images displayed by Google on my computer screen. The CD  
20 demonstrates (with narration) how visitors to google.com can view large numbers of  
21 Perfect 10 copyrighted images for free. It can be played by inserting it into a CD or  
22 DVD drive and clicking on "The Google Experience." The CD will start playing  
23 after about a **thirty second** delay. **The sound on the computer should be turned**  
24 **on.** The copyrights to all of the large images that are displayed in this CD are  
25 owned by Perfect 10 as reflected by Exhibits 1, 77, and 83.

26           28. The CD begins by going to the homepage of google.com. The  
27 preferences are set so that the "safe search" filter is off. This can be done by  
28 clicking on "preferences" on the right side of the Google search box, and then

1 clicking on the "Do not filter my search results" circle. (If the safe search filter is  
2 not off, images of an adult nature are typically partially or completely filtered out.)  
3 The "Images" option has been selected to view images.

4       29. The user then types the name Vibe Sorenson, a Perfect 10 model, into  
5 the Google search box and presses "enter." Within a few seconds, twenty reduced  
6 size images of Vibe Sorenson appear on images.google.com, which is a portion of  
7 the google.com website. Perfect 10 owns the copyrights to ten of the twenty images  
8 displayed. One of the reduced size images owned by Perfect 10 is then clicked on --  
9 the one which has below it in green,  
10 [www.3thehardway.nl/.../vibe\\_sorenson002.html](http://www.3thehardway.nl/.../vibe_sorenson002.html). This is the URL that identifies the  
11 webpage from the website 3thehardway.nl which contains this specific image of  
12 Vibe Sorenson. A second page then is displayed, which has a similar reduced size  
13 image of Vibe Sorenson at the top. At the left, it states, "Google Images." At the  
14 right, there is a link, "See full-size image." Below that link it states, "Image may be  
15 scaled down and subject to copyright." Below the reduced size image, in what is  
16 called a window, is a full size image of Vibe Sorenson. The browser address bar at  
17 the top of the page contains the term "images.google.com." I know from my  
18 experience on the Internet that this means that the user is at a web page of  
19 google.com.

20       30. The "See full-size image" link is clicked on. A full size image of Vibe  
21 Sorenson appears. The user then clicks on the "back" button.

22       31. Next the user clicks on the left arrow near the top of the full size image  
23 and a different full size Perfect 10 copyrighted image of Vibe Sorenson is displayed.  
24 The user clicks on the right arrow twice and a third full size Perfect 10 copyrighted  
25 image of Vibe Sorenson is displayed. All the while, the browser address bar  
26 indicates that the user is at images.google.com. Finally, the user clicks on the up  
27 arrow. A page of reduced size images is displayed in the window. The user clicks  
28 on a reduced size Perfect 10 copyrighted image and it expands to full size. *The*

1 *browser address bar, which reads images.google.com, shows that the user is*  
2 *viewing this full-size Perfect 10 image without ever having to leave google.com.*

3 32. The user next clicks on the “back” button until he returns to the original  
4 page of reduced size images of Vibe Sorenson. The name of another Perfect 10  
5 model, Monika Zsibrita, is entered into the Google search bar. Again, twenty  
6 reduced size images appear, nineteen of which are copyrighted by Perfect 10. The  
7 user clicks on “next” at the bottom of the page and additional images of Monika  
8 Zsibrita are displayed. The user then clicks on a link entitled “More results from  
9 www.celebstation.org.” This enables the user to view six images of Monika Zsibrita  
10 from the website celebstation.org. A reduced size Perfect 10 image is clicked on,  
11 and several additional reduced size Perfect 10 copyrighted images of Monika  
12 Zsibrita appear in a window below the reduced size image of Monika Zsibrita at the  
13 top of the page. Near the reduced size images, in the window, it states, “Ads by  
14 Goooooogle.” Based on Exhibit 7, this signifies that celebstation.org is a Google  
15 AdSense website.

16 33. The user next types in the name of another Perfect 10 model, Alena  
17 Drazna. Again, a page of reduced size images appears, sixteen of which are  
18 copyrighted by Perfect 10. The browser bar indicates that the user is still at  
19 images.google.com. The user clicks on one of the Perfect 10 copyrighted images of  
20 Alena Drazna, below which is a partial URL in green which contains the term  
21 “modellvilag.hu.” A second page appears, with another copy of the reduced size  
22 image of Alena Drazna at the top of the page. “Google Images” appears to the left  
23 of that reduced size image. In the window below the reduced size image there are  
24 over one hundred reduced size images of various models. Thirty seven of those  
25 images are copyrighted by Perfect 10.

26 34. To demonstrate that modellvilag.hu has an affiliation with Google, and  
27 provide an example of the types of searches for which Google accepts advertising,  
28 the user types into a Google search box “pirated Perfect 10 movies.” A page

1 appears with the logo modellvilag.hu at the top, above a Google search box. *The*  
2 *browser window indicates that this page is on google.com.* On the right are  
3 sponsored ads which Google has displayed in response to the search “pirated Perfect  
4 10 movies.” The user clicks on one of the sponsored Google ads. The result is a  
5 larger ad, which states: “Download and share anything you want anytime you  
6 want... Get access to the largest downloading network on the planet. With over 240  
7 million users and over 5 million people on the network at any time.”

8 35. The final demonstration illustrates how Google displays full size  
9 Perfect 10 images via its “cache link,” even after those images have been deleted  
10 from the third party website from which Google originally obtained them. The user  
11 returns to the google.com homepage and sets the search for “web” instead of  
12 “images,” and types in site:mg.danboss.com “Shannon Hobbs.” Based on my  
13 experience, this search will only return listings for web pages from the website  
14 mg.danboss.com which contain the name of Shannon Hobbs, a Perfect 10 model. A  
15 number of text listings appear. The user clicks on a link in one of the text listings  
16 called a “cached link.” A full size copyrighted image of Shannon Hobbs appears.  
17 Above that image it says, “Ads by Goooooogle.” At the top of the page it says,  
18 “Google’s cache is the snapshot that we took of the page as we crawled the web.  
19 The page may have changed since that time. Click here for the current page.” The  
20 user clicks on the “current page” link. The current page does not contain an image  
21 of Shannon Hobbs.

22 36. Finally, the CD has an option entitled “The Perfect 10 Experience”  
23 which shows how perfect10.com displays to paying customers the same Perfect 10  
24 images displayed for free by Google. As shown on the CD, perfect10.com provides  
25 both reduced size and full size images to its subscribers.

#### 26 **Printouts of Perfect 10 Infringements from Google Using Image Search**

27 37. The following describes how I personally was able to view and copy  
28 Perfect 10 copyrighted images displayed on google.com. I will first describe how I

1 viewed thousands of Perfect 10 copyrighted images using Google Image Search. To  
2 view images using Google Image Search, the user clicks on "Images," which I have  
3 highlighted in Exhibit 4, and then enters a term. Based on my experience, if the user  
4 enters a model name, Google will display images of that model. If the user enters  
5 the URL of a website, Google will display images from that website. If the user  
6 enters a model name and the URL of a website, Google will display images of that  
7 model from that website. To see all the images that Google provides for that search  
8 term, the user clicks on a link entitled, "repeat the search with the omitted results  
9 included." Attached hereto as Exhibit 9 are the first one hundred images of Perfect  
10 10 model Vibe Sorenson that I viewed on July 19, 2005, after I removed the safe  
11 search filter and clicked as described above to see all the images of Vibe Sorenson.  
12 At the top left of page 111 of Exhibit 9 is the heading, "Google Images." Of the 100  
13 images displayed by Google in Exhibit 9, 50 are copyrighted by Perfect 10. Below  
14 each image is a URL in green which identifies, among other things, the URL of the  
15 website from which Google copied the image. Under each Perfect 10 copyrighted  
16 image on page 111 of Exhibit 9, I have highlighted the website from which Google  
17 copied that image. For example, Google copied the three Perfect 10 images on page  
18 111 from vamp.dk, 3thehardway.nl, and index.hr, respectively, three websites that  
19 do not have authority to copy or display those images.

20 38. By clicking on the reduced sized images of Vibe Sorenson displayed by  
21 Google in Exhibit 9, I was able to see all of Perfect 10's best images of Vibe  
22 Sorenson, full size for free, *without ever taking any action to leave Google's*  
23 *website*. Attached hereto as Exhibit 10 is the full size image of Vibe Sorenson that  
24 appeared on July 19, 2005, when I clicked on a Perfect 10 copyrighted reduced size  
25 image of Vibe Sorenson on page 115 of Exhibit 9, which had written below it in  
26 green, "www.3thehardway.nl/.../vibe\_sorenson002.html." On top of page 124 of  
27 Exhibit 10, at the left it says, "Google Images." Near the reduced size image near  
28 the top of the page, there is a highlighted link which says, "See full-size image."

1 Below that link it says, "Image may be scaled down and subject to copyright,"  
2 which I have also highlighted. At the bottom of Exhibit 10, the URL contains the  
3 term google.com, which is highlighted, showing that the user is still on Google's  
4 website.

5 39. Attached hereto as Exhibit 11 is the image displayed on July 19, 2005,  
6 when I clicked on the link in Exhibit 10 entitled, "*See full-size image.*"

7 40. Google allows users to scroll through and view pages of infringing  
8 websites containing Perfect 10 copyrighted images while they are at google.com. In  
9 this way, the user can view thousands of infringing Perfect 10 images without  
10 leaving Google. Attached hereto as Exhibit 12 are web pages, all of which contain  
11 additional infringing images of Vibe Sorenson, which I viewed on July 19, 2005, by  
12 clicking on the arrows above the image of Vibe Sorenson in Exhibit 10. I obtained  
13 page 127 of Exhibit 12 by clicking on the left arrow above Vibe Sorenson's head in  
14 Exhibit 10. (This was also demonstrated in Exhibit 8.) In order to print this image  
15 as it appeared on my computer screen (printing it in the normal fashion causes the  
16 image to be split onto two pages), I had to do what is called a "print screen." I  
17 obtained page 128 of Exhibit 12 by clicking on the right arrow in Exhibit 10. I  
18 obtained page 129 of Exhibit 12 by clicking on the middle arrow in Exhibit 10. I  
19 obtained the last page of Exhibit 12 (page 130) by clicking on a reduced size image  
20 of Vibe Sorenson at the bottom of page 129 of Exhibit 12. On all of these print-  
21 outs, the browser bar shows that I was on images.google.com when I viewed and  
22 printed these Perfect 10 copyrighted images.

23 41. In other instances, Google permits users to view full size Perfect 10  
24 images by transporting them to the infringing third party website from which  
25 Google has copied the Perfect 10 image found through Image Search. Attached  
26 hereto as Exhibit 13 is the web page that I viewed on July 19, 2005, when I clicked  
27 on the link in blue near the top of the page in Exhibit 10 which reads, "Below is the  
28 image in its original context on the page:



1 [http://www.3thehardway.nl/.../vibe\\_sorenson002.html](http://www.3thehardway.nl/.../vibe_sorenson002.html).” The URL of the webpage  
2 in Exhibit 13 which I have highlighted is a complete version of the URL in blue that  
3 I clicked on in Exhibit 10. In other words, by clicking on the URL in blue in Exhibit  
4 10, I was transported to the specific webpage of the website 3thehardway.nl from  
5 which the large image of Vibe Sorenson was obtained by Google.

6 42. By clicking on the arrows at the top of Exhibit 13, I was able to access  
7 other web pages of 3thehardway.nl and view many other full size Perfect 10  
8 copyrighted images of Vibe Sorenson.

9 43. Attached hereto as Exhibit 14 is a page from Perfect 10 Magazine  
10 corresponding to the infringing image of Vibe Sorenson in Exhibit 10. The  
11 copyright in this photograph is owned by Perfect 10 as reflected by the copyright  
12 registration number at the bottom of Exhibit 14 and the copyright certificate on  
13 pages 17-18 of Exhibit 1.

14 44. By “right clicking” on the infringing image of Vibe Sorenson in  
15 Exhibit 10, and by choosing “Save Picture As” from the resulting menu options, I  
16 was able to save a copy of that image in my computer and later view it and print it.  
17 Attached hereto as Exhibit 15 is the image of Vibe Sorenson that I downloaded from  
18 google.com in that fashion and later printed.

19 45. On August 4, 2005, by doing a Google image search on “Vibe  
20 Sorenson,” I was able to view on google.com 160 reduced size Perfect 10  
21 copyrighted images of Vibe Sorenson, which I have placed in a folder called “Vibe  
22 Sorenson” in Exhibit 83 L-Z, which is a CD with folders for Perfect 10 models  
23 whose names start with L through Z. By clicking on some of these reduced size  
24 images while on google.com, I was able to view 21 different full size Perfect 10  
25 copyrighted images of Vibe Sorenson – essentially the entirety of the best pictures  
26 of Vibe Sorenson that Perfect 10 owns. Attached hereto as Exhibit 16 are 5  
27 additional examples of full size Perfect 10 copyrighted images of Vibe Sorenson  
28 that I was able to view and download for free from google.com on July 7, 2005.

1 Although a number of the images in Exhibit 16 appear on two pages when printed,  
2 when I viewed them on my computer monitor, they appeared on one page (as shown  
3 in the CD that is Exhibit 8). Following each full-size image I printed from  
4 google.com is the page from Perfect 10 Magazine containing that image, along with  
5 the volume, issue, page number and corresponding copyright registration number, or  
6 the web page from perfect10.com from which the image originated. By right  
7 clicking on each full size image shown in Exhibit 16, I have been able to download  
8 that image into my computer and print it out or view it at a later date.

9 **Additional Examples Of The Unauthorized Display Of Full Size Perfect 10**  
10 **Copyrighted Images**

11 46. I have been able to view over one thousand full size Perfect 10  
12 copyrighted images without leaving google.com. Attached hereto as Exhibit 17 are  
13 examples of full size Perfect 10 copyrighted images that I viewed on July 2, 2005,  
14 by clicking on reduced size Perfect 10 images displayed by Google. Besides  
15 displaying to users full size Perfect 10 copyrighted images as shown in this Exhibit,  
16 Google also linked users to the website eroticaland.net, which displays Google ads  
17 (see pages 211-212 of Exhibit 28). The model's name appears either in, or next to,  
18 each image. Included in Exhibits 77 and 83 A-K and 83 L-Z is a printout or folder  
19 for each model in Exhibit 17 which contains the Perfect 10 Magazine page  
20 corresponding to that image, along with the volume, issue, and copyright  
21 registration number.

22 47. Attached hereto as Exhibit 18 are some of the full size Perfect 10  
23 copyrighted images that I viewed on July 3, 2005, by clicking on a reduced size  
24 Perfect 10 copyrighted image displayed by Google from the website kobiety.com,  
25 and then by scrolling through that website as described in ¶ 40. I viewed the large  
26 Perfect 10 copyrighted images in this exhibit while remaining at google.com. The  
27 models pictured in this exhibit are, in order, Zoya Konyieva, Leslie Ann Heaton,  
28 Sofia Ovezova, Stayce Dickey, and Lorrie Stewart. The Perfect 10 Magazine pages

1 from which these images originated are contained in Exhibit 83 A-K and Exhibit 83  
2 L-Z, along with their copyright registration numbers.

3 **Google Displays Full Size Perfect 10 Copyrighted Images Via Its "Cache Link"**

4 48. As explained earlier, with its Web Search results, Google also includes  
5 in most cases what it calls a "cache link," an example of which is shown in Exhibit  
6 8. In a number of cases, Google has displayed a full size Perfect 10 copyrighted  
7 image via its "cache link" even after the underlying website from which Google  
8 obtained that image no longer displays it.

9 49. Attached hereto as Exhibit 19 is a page I printed from google.com on  
10 July 29, 2005 which explains Google's "cache link." It states, "Google takes a  
11 snapshot of each page it examines and caches (stores) that version as a back-up.  
12 The cached version is what Google uses to judge if a page is a good match for your  
13 query. Practically every search result includes a Cached link. Clicking on that link  
14 takes you to the Google cached version of that web page, instead of the current  
15 version. This is useful if the original page is unavailable because of Internet  
16 congestion; a down, overloaded, or just slow website; the owner's recently  
17 removing the page from the Web. *Sometimes you can access the cached version*  
18 *from a site that otherwise require[s] registration or a subscription.* Note: Since  
19 Google's servers are typically faster than many web servers, you can often access a  
20 page's cached version faster than the page itself." (Emphasis added.)

21 50. Attached hereto as Exhibit 20 are web pages that I printed on either  
22 March 4, 2005, or March 6, 2005, after doing Google web searches involving the  
23 names of Perfect 10 models Emmanuelle Teixidor, Maya Rubin, Ksenia Linkova,  
24 and Alexa Latona. The first two pages of Exhibit 20 were obtained by clicking on  
25 the Google cache link. At the top of page 162 it says, "This is Google's cache of  
26 [http://pix.alronix.net/Photo\\_Scans/Tits/Emmanuelle\\_Teixidor/pic00034.htm?lang=r](http://pix.alronix.net/Photo_Scans/Tits/Emmanuelle_Teixidor/pic00034.htm?lang=r)  
27 u as retrieved on *March 3, 2004*," which *was approximately one year prior* to the  
28 date I printed that page. However, when I clicked on the regular link to see what

1 was on that URL at that time, I viewed page 164 of Exhibit 20, which has “nothing”  
2 in the center of the page. The URL at the bottom of page 164 of Exhibit 20 matches  
3 the URL at the top of page 162 of Exhibit 20. Pages 165 through 173 of Exhibit 20  
4 are other examples of the same phenomenon: In each case the page Google  
5 displayed in March of 2005, it had copied approximately one year earlier, and the  
6 image Google was continuing to display no longer existed on the web page from  
7 which Google had obtained the image. Pages 162-163, 165-166, 168-169, 171-172  
8 each contain 66.102.7.104 as part of the URL for that web page. Attached as page  
9 174 of Exhibit 20 is a printout dated July 21, 2005 from Network Solutions which  
10 shows that Google is the registered owner of that numerical web address.

11 51. As another example of Google’s display of images via its cached link  
12 that are no longer displayed on the underlying website, attached hereto as Exhibit 21  
13 are web pages that I downloaded after doing a Google web search on Perfect 10  
14 model Shannon Hobbs on June 15, 2005. I obtained the first two pages of Exhibit  
15 21 by clicking on the Google cache link. Pages 177-178 of Exhibit 21 are what I  
16 viewed by clicking on the regular link, which does not show an image of Shannon  
17 Hobbs. The URL at the bottom of page 177 of Exhibit 21 matches the URL at the  
18 top of page 175.

19 **Google Offers For Free The Same Images Perfect 10 Sells**

20 52. In order to view Perfect 10 copyrighted images on perfect10.com, a  
21 consumer must pay a subscription fee to become a member and receive a unique  
22 username and password. Images of models on perfect10.com are found by (a)  
23 clicking on the first letter of a model’s first name, (b) scrolling through the faces of  
24 various models whose first name starts with that letter until the desired model’s face  
25 is found, and then (c) clicking on the face of that model, which returns a page of  
26 reduced size images of that model. Any one of the reduced size images may then be  
27 clicked on to expand it to full size.

53. Attached hereto as Exhibit 22 is a page of reduced size Perfect 10 copyrighted images of Vibe Sorenson from perfect10.com that members view before being able to view full size images. These images may be compared to those displayed by Google on pages 111-123 of Exhibit 9. The infringing reduced size Perfect 10 images displayed by Google are generally larger. For example, the reduced size Perfect 10 image of Vibe Sorenson displayed by Google that is clicked on in the demonstration CD in Exhibit 8 is 96 x 140 pixels, whereas the same image on perfect10.com is 79 x 120 pixels. (Each pixel corresponds to a colored dot, so that an image that is 96 x 140 pixels has 96 x 140 or 13,440 dots of different colors which make up the image – more than an image which is 79 x 120 pixels.) *Seven of the eight images from perfect10.com in Exhibit 22 are displayed on google.com as shown by Exhibit 9.*

54. Perfect 10 sells its reduced size images for viewing and downloading on cell phones through an exclusive licensing deal it has entered into with Fonestarz. See, Declaration of Dave Moreau. However, it is not necessary for cell phone users to purchase reduced size images from Perfect 10 since they can get the same images for free for downloading onto their cell phones from Google.

55. The program that Google has established to enable users to download Google Image Search results onto their cell phones is called “Google Mobile,” and is explained at mobile.google.com. Attached hereto as Exhibit 23 is material that I printed from mobile.google.com on July 1, 2005. Exhibit 23, page 180 states, “Want to get Google Image Search results on your phone or mobile device? Here’s how.” At the bottom of page 180 it says, “Once you have selected a link *Google will reformat the selected webpage to fit your phone screen.*” (Emphasis added.)

56. I personally supervised the downloading of Perfect 10 images via Google Image Search using the instructions given at mobile.google.com. Attached hereto as Exhibit 24 are photographs which were taken after we downloaded Perfect 10 copyrighted images of Isabelle Funaro, Sasha Brinkova, Michelle Marsh, and

1 Vibe Sorenson from google.com as described at mobile.google.com. Pages 182-185  
2 of Exhibit 24 show small images of Isabelle Funaro below the legend, "Google  
3 Images," as well as the larger images of Isabelle Funaro obtained by clicking on the  
4 smaller images. Page 186 shows a smaller image of Sasha Brinkova below the  
5 legend, "Google Images." The images of Michelle Marsh on pages 187-8 of Exhibit  
6 24 are sold by Perfect 10 for downloading onto cell phones.

7 57. The market for adult content downloads onto cell phones is potentially  
8 very lucrative. Attached hereto as Exhibit 25 is an article from Forbes Magazine,  
9 dated May 23, 2005. This article, which discusses the market for downloading adult  
10 content onto mobile devices, states, "The global market for mobile adult content  
11 exceeded half a billion dollars last year, says Juniper Research. It could hit \$5  
12 billion in five years, Strategy Analytics forecasts."

13 58. Many of the Perfect 10 images that Google displays and makes  
14 available for downloading onto cell phones are identical to the reduced size images  
15 that Perfect 10 has licensed to Fonestarz for sale via cell phone downloads.  
16 Attached hereto as Exhibit 26 is a web page I viewed on July 19, 2005, when I typed  
17 "imagevenue.com" and "Michelle Marsh" (a Perfect 10 model) into the Google  
18 Image search box and pressed "enter." All of the images in Exhibit 26 display  
19 Perfect 10 trademark and copyright notices when enlarged. Google is offering all  
20 the images in Exhibit 26 for free and *reformats them to fit cell phone displays* as  
21 demonstrated by pages 187 and 188 of Exhibit 24. Seven of the images in Exhibit  
22 26 are currently being sold for downloading onto cell phones by Perfect 10.

23 59. It is also possible to email full size Perfect 10 copyrighted images while  
24 at google.com. When I "right clicked" on the full size image of Vibe Sorenson that  
25 Google displayed in Exhibit 10, a menu appeared with an option entitled "Email  
26 Picture." When I selected that option, an email template appeared that allowed me  
27 to directly email that image. Attached hereto as Exhibit 27 is a full size image of  
28 Vibe Sorenson that I emailed to myself in this fashion on August 1, 2005.

1       60. By using google.com, I was able to view, print, copy, download, and  
2 email full size Perfect 10 copyrighted images of Vibe Sorenson and other Perfect 10  
3 models that are the same as those provided for \$25.50 a month through a  
4 membership to perfect10.com.

5       **Google Displays Perfect 10 Images Which When Clicked On, Lead To**  
6 **Google Advertisements**

7       61. In hundreds of instances, when Perfect 10 images displayed by Google  
8 are clicked on, the user is transported to websites that infringe Perfect 10's  
9 copyrights and that also contain Google advertisements. These advertisements often  
10 appear next to full size Perfect 10 images. Attached hereto as Exhibit 28 are web  
11 pages displayed on my screen after I clicked on twenty-five Perfect 10 copyrighted  
12 reduced size images displayed by Google on July 2, 2005. The pages in Exhibit 28  
13 are reduced as described in ¶ 7. To save each page of Exhibit 28, I did what is  
14 known as a "print screen," which is obtained by holding the shift key and hitting the  
15 "Prt Scr" button on my keyboard. For pages 193-209 of Exhibit 28, the initial page  
16 that appeared displayed Google ads. For pages 210-217 of Exhibit 28, the initial  
17 page that appeared did not display obvious Google ads, so while remaining at  
18 google.com, I scrolled to a page of the infringing website that did display Google  
19 ads and then did a "print screen." On each page of Exhibit 28 is text that reads  
20 either "Ads by Goooooogle," "Annonces Goooooogle," or other foreign language  
21 versions of "Ads by Goooooogle." As can be seen from the browser bar, both the  
22 infringing Perfect 10 images and the Google ads can be viewed while on  
23 google.com.

24       62. Exhibit 28 shows that Google uses Perfect 10 copyrighted images to  
25 send traffic to the following infringing websites, among others, which display  
26 Google advertisements: celebstation.org, celebwallpapers.com,  
27 celebwallpapers.org, clarence.supereva.com, coolwallpapers.org, desktopia.it,  
28 eroticland.net, freeweb.supereva.com, jolisetmignonnes.free.fr, kmls.blogspot.com,

1 lavieparisienne.sitesled.com, lingeriedreams.blogspot.com, mg.danboss.com,  
2 neboo.com, sneak.datavibe.net, tout-telecharger.com,  
3 truthliesandcommonsense.blogspot.com, xevaa.com, 2-free.net, and 4eyes.free.fr.  
4 Google also uses Perfect 10 copyrighted images to send traffic to the following  
5 infringing websites which display Perfect 10 copyrighted images and Google  
6 advertisements: alibabaweb.com, averlo.com, megapolis.com.ar, postalesmix.com,  
7 soloevas.com, wallpaperbase.com, and wallpapers.cl. I have placed examples of  
8 Google ads on these websites in a folder in Exhibit 83 L-Z entitled "More AdSense  
9 Websites." The folder "More AdSense Websites" also contains examples of  
10 websites containing google search boxes to which Google links Perfect 10  
11 copyrighted images displayed via Google image search. In total, Google links more  
12 than 600 Perfect 10 copyrighted images displayed via Google image search to  
13 websites which either display Google ads or contain Google search boxes. I have  
14 placed over 600 such examples in a folder in Exhibit 83 L-Z entitled "More Adsense  
15 Infringements."

16 **Google Displays Numerous Google Ads Next To Full Size Perfect 10 Images Via**  
17 **Google Web Search**

18 63. In addition to displaying reduced size Perfect 10 copyrighted images  
19 which when clicked on lead to full size Perfect 10 copyrighted images next to  
20 Google's ads, Google also displays Google ads next to full size Perfect 10  
21 copyrighted images on infringing web pages which appear in Google web search  
22 results. Attached hereto as Exhibit 29 are web pages that I downloaded on or after  
23 July 6, 2005, after doing Google web searches on Perfect 10 model names, from the  
24 websites anycities.com, bluesktops.com, e-femalestars.com, fond-ecran-  
25 photo.com, game-wallpapers.de, moredesktop.com, serialgamer.com, topwalls.com,  
26 tty2.com, wallpaper-area.de, and wallpapers-zone.com. Google also places ads on  
27 the following websites which infringe Perfect 10 copyrights: allpics.org,  
28 alldesktopentertainment.com, by-z.com, down-fr.com, etapet.net, inthewall.com,



1 rapidshare.de, superedo.it, toptthemes.com, and wallpaperstx.com. I have placed  
2 examples of Google ads on those websites in the file in Exhibit 83 L-Z entitled  
3 "More AdSense Websites."

4 64. Google web search results also display medium or full size Perfect 10  
5 copyrighted images alongside Google ads via Google's "cache link." Attached  
6 hereto as Exhibit 30 are web pages that I viewed on or after July 11, 2005 by doing  
7 Google web searches on the names of Perfect 10 models and then clicking on the  
8 Google "Cache Link." Perfect 10 owns the copyrights in each of the larger images.  
9 I have highlighted the "Ads by Google" which appears in different languages.

10 **Websites On Which Google Places Advertisements Often Appear At The Top**  
11 **Of Google Web Search Results**

12 65. Google claims that advertising with Google does not affect the ranking  
13 of a website in Google's search results. Attached hereto as Exhibit 31 are web  
14 pages that I viewed on google.com on July 12, 2005. Exhibit 31, page 245 states,  
15 "Please note that advertising with Google neither helps nor hurts your site's ranking  
16 in our search results."

17 66. However, when I have performed Google Web Searches on the names  
18 of Perfect 10 models, the websites that appeared at the top of the listings provided  
19 by Google often contain Google ads. Attached hereto as Exhibit 32 are the first  
20 three web pages that I viewed on July 7, 2005, when I performed a Google Web  
21 Search on Perfect 10 model Carla Alapont and clicked on "repeat the search with the  
22 omitted results included." The *first eighteen listings* on pages 246 through 248 of  
23 Exhibit 32 are all for the website anycities.com, which displays Perfect 10  
24 copyrighted images of Carla Alapont without authorization.

25 67. As shown on pages 218-219 of Exhibit 29, anycities.com displays  
26 images of Carla Alapont with Perfect 10 trademark and copyright notices *alongside*  
27 *Google advertisements*. Google was first given notice from Perfect 10 that the  
28 website anycities.com contained infringing Perfect 10 copyrighted images of Carla

1 Alapont on December 1, 2004 (Exhibit 53, PG\_DMCA0411\_A\_05 in Exhibits 47-  
2 73).

3 68. Exhibit 33 contains additional examples of listings for infringing  
4 Google AdSense affiliates that appeared at the very top of Google search results  
5 when I searched on Perfect 10 model names. To obtain the pages in Exhibit 33, I  
6 did Google web searches on July 11, 2005 on the names of Perfect 10 models  
7 Nataskia Maren, Lisa Fuxler, and Oksana Konakova, and then clicked "repeat the  
8 search with omitted results included." Pages 249-254 of Exhibit 33 contain only  
9 listings for the website serialgamer.com, which contains Perfect 10 copyrighted  
10 images right alongside Google advertisements as shown in Exhibit 29. In almost  
11 every text listing, the name of the Perfect 10 model appears in bold. Pages 255-257  
12 of Exhibit 33 contain only listings for eroticaland.net and serialgamer.com, both of  
13 which contain Perfect 10 copyrighted images alongside Google advertisements (see  
14 Exhibit 28, pages 211-212 and Exhibit 29, pages 233, 235, 237).

15 **Other Search Engines Do Not Give Google AdSense Websites The Same**  
16 **Rankings In Their Search Results**

17 69. Although Google listed its AdSense affiliates serialgamer.com and  
18 eroticaland.net first when I did searches on Nataskia Maren, Lisa Fuxler, and  
19 Oksana Konakova, on July 12, 2005, when I did the same searches on competing  
20 search engines MSN and Yahoo!, *neither serialgamer.com nor eroticaland.net*  
21 *appeared in the top thirty results for any of the three models.* Exhibit 83 L-Z  
22 contains a file entitled "MSN and Yahoo! search results" which has the files that I  
23 downloaded from Yahoo.com and MSN.com on July 12 to support this statement.

24 70. In addition to appearing at the top or near the top in numerous Google  
25 search results, I have observed that the number of listings that Google returns for its  
26 AdSense affiliates are in many cases far greater than the number of listings returned  
27 by other search engines. Attached hereto as Exhibit 34 is an Excel spreadsheet that I  
28 created on July 12, 2005, which shows the number of listings returned by Google,

1 MSN, and Yahoo! for a selected set of Google AdSense websites. The search I did  
2 was site:URL for each of the URLs listed in the left column. Based on my  
3 experience, this will restrict the search results to web pages from that website.  
4 Exhibit 34 shows that for the infringing Google AdSense affiliate serialgamer.com  
5 (See Exhibit 29, page 231), as of July 12, 2005, Google had 383,000 listings,  
6 whereas MSN had only 553 listings and Yahoo had only 1. Similarly, for the  
7 infringing Google AdSense affiliate mg.danboss.com, Google had 25,900 listings,  
8 whereas MSN had 29 listings and Yahoo! had 0. Overall, Google had more than  
9 100 times as many listings, on average, for the infringing Google AdSense websites  
10 listed in Exhibit 34 as did MSN or Yahoo!

11 **Large Numbers Of Google Web Search Results Promote Infringing Websites**  
12 **From Which Google Earns Ad Revenue**

13 71. In addition to the fact that Google AdSense websites tend to come up  
14 first on searches performed on the names of Perfect 10 models, they also tend to  
15 come up in vast numbers. When I have done Google web searches on the names of  
16 Perfect 10 models, thousands of listings have appeared for infringing websites that  
17 display Google advertisements and for which Google has been sent notice of  
18 infringement from Perfect 10. In some cases, *almost all* of the listings that Google  
19 returns in its Web Search results *are for infringing websites from which Google*  
20 *earns revenues.*

21 72. Attached hereto as Exhibit 35 are the first five pages that I viewed after  
22 doing a Google Web Search on Perfect 10 model "Alena Drazna" on July 7, 2005,  
23 and then clicked to see all results. By putting the quotes around her name, I  
24 restricted the results to just web pages containing "Alena" followed by "Drazna."  
25 The first five pages in Exhibit 35 contain only listings for the website  
26 serialgamer.com. This website displays Google advertisements and infringing  
27 images of Perfect 10 model Alena Drazna (as shown on page 226 of Exhibit 29).  
28 Perfect 10 first notified Google of infringements of Alena Drazna images on

1 serialgamer.com on May 1, 2005 (see Exhibit 70, page PG\_DMCA0674 in Exhibits  
2 47-73) but had notified Google about infringements of other Perfect 10 models on  
3 serial-gamer.com (a similar looking website registered to the same webmaster) as  
4 early as July 19, 2004 (see Exhibit 46, page 410). Of the 988 Google Web Search  
5 listings for Alena Drazna that I was readily able to view on June 16, 2005, 940  
6 linked to serialgamer.com, and 13 linked to other websites on which Google places  
7 ads (desktopia.it, desktopia.org, tout-telecharger.com, and wallpapers-zone.com)  
8 which also infringe Perfect 10 copyrights. That means that 953 of 988, or 96.5% of  
9 the Google search results on Perfect 10 model Alena Drazna linked to the infringing  
10 website serialgamer.com or other infringing websites on which Google places ads,  
11 and for which Google has received notice (see Exhibits 66, 70, and 73). None  
12 linked to perfect10.com, even though Perfect 10 is the only entity that I am aware of  
13 which owns the copyrights for nude or partially nude images of Alena Drazna. (To  
14 support the above statement, I have included an electronic file showing all of the  
15 Google Web search results on "Alena Drazna" that I viewed on June 16, 2005, in  
16 the Alena Drazna folder in Exhibit 83 A-K in a file entitled "web search listings  
17 616.")

18 73. As a further example of a Google web search on a Perfect 10 model  
19 name which leads almost exclusively to infringing websites from which Google  
20 earns advertising revenue, I have included in Exhibit 83 L-Z in the file for Perfect  
21 10 model Nathalie de Nostuejouis, a file entitled "Web Search Results 727" which I  
22 viewed on July 27, 2005. This file shows that for a Google web search on "Nathalie  
23 de Nostuejouis," 966 of 994, or 97%, of the results link either to the websites  
24 serialgamer.com, wallpapers-zone.com, or desktopia.it, all of which are infringing,  
25 display Google ads, and are websites for which Google has received notice.

26 **Google Virtually Never Links Perfect 10 Copyrighted Images To perfect10.com**

27 74. In spite of repeated notices of infringement to Google as shown in  
28 Exhibits 40 through 73, Google is continuing to link virtually all reduced size

1 Perfect 10 copyrighted images it displays via its Image Search to websites that  
2 misappropriated those images rather than to perfect10.com. The same is true for  
3 Google Web Search results on Perfect 10 model names – virtually none of those  
4 results link to perfect10.com, even though in many cases, perfect10.com is the only  
5 website that owns rights to nude or partially nude images of those models.

6 75. The fact that Google virtually never links Perfect 10 copyrighted  
7 images or web search results on perfect 10 model names to perfect10.com is  
8 demonstrated by Exhibit 36. Exhibit 36 is an Excel spreadsheet I created on July 1,  
9 2005, based on Web Searches that I conducted between June 11 and July 1 to show  
10 the number of Google Image Search and Web Search results for some of the most  
11 popular Perfect 10 models. The model name that was used in the search is in the left  
12 column. The second and third columns are the total number of Google Web Search  
13 and Image Search results provided when that model name was typed into the Google  
14 search box. The fourth and fifth columns give the number of Web Search and  
15 Image Search results that linked to perfect10.com. ***Out of 1,528,479 Google Web***  
16 ***Search results, 8 linked to perfect10.com. Out of 25,069 Image Search results, 2***  
17 ***linked to perfect10.com.*** The Adobe files which confirm the numbers in Exhibit 36  
18 are contained in Exhibit 83 L-Z in a file entitled “Support for Exhibit 36.”

19 **Perfect 10’s Notices To Google of Copyright Infringements**

20 76. Perfect 10 first began to send to Google notices of infringement in May  
21 of 2001. I directed John Ancell, a Perfect 10 employee, to send those notices.  
22 These notices not only identified the infringing URLs where Perfect 10 copyrighted  
23 images could be found, they also included, in a number of cases, photos of the actual  
24 infringing images on the actual infringing web pages. These notices concerned only  
25 infringements found on third party websites located through Google Web Search, as  
26 Perfect 10 was not aware of Google Image Search until May of 2004.

27 77. On June 27, 2001, after Perfect 10 had sent Google at least 16 notices,  
28 Perfect 10 received an email from Google, which is attached hereto as Exhibit 37.

1 This email states, *“there is nothing that Google can do to remove the offending*  
2 *content without the cooperation of the site administrator.... If the site is still*  
3 *available on the web when we crawl, we will likely pick it up and add it to our*  
4 *index again.* Only an administrator can, by including code that blocks our robots or  
5 placing a request with us, prevent his/her page from being listed. Without  
6 administrator cooperation we cannot exclude material available on the Internet from  
7 our index.”

8 78. Upon receiving this email, and after a few more emails back and forth,  
9 it appeared Google was either incapable or unwilling to do anything.

10 79. In May of 2004, Perfect 10 discovered for the first time that Google  
11 was displaying thousands of Perfect 10 copyrighted images via Google’s Image  
12 Search. In response, I began sending notices of infringement to Google on May 31,  
13 2004. Between May 31, 2004, and June 19, 2005, I sent Google 34 notices of  
14 infringement, which identified to Google over 6,500 URLs of infringing web pages  
15 containing Perfect 10 copyrighted images being displayed by Google. (I also sent  
16 Google a 35<sup>th</sup> notice on July 26, 2005 which I have not included in this declaration.)  
17 Despite all of Perfect 10’s notices, and the notices Perfect 10 sent to Amazon which  
18 Amazon claims were forwarded to Google, as of August 12, 2005, Google was  
19 continuing to copy and display over 3,000 copies of more than 1,000 different  
20 Perfect 10 copyrighted images. Over 500 of these copies currently contain Perfect  
21 10 copyright notices, or text such as “P10 Fall 1999,” indicating that they are from  
22 Perfect 10 Magazine (Exhibit 16, page 147; Exhibit 85, page 554; Exhibit 91, pages  
23 602-607).

24 80. What follows is the history of notices sent to Google. Following that,  
25 and detailed in Exhibit 81, are examples of over 1,040 Perfect 10 copyrighted  
26 images that Google has continued to display despite specific notice.

27 81. When I first started sending notices to Google on May 31, 2004, I used  
28 the fax address I obtained by going to the website of the U.S. Copyright Office,

1 copyright.gov, which contains the contact information for Google's copyright agent.  
2 Attached hereto as Exhibit 38 is the document I printed from copyright.gov showing  
3 the email address for copyright notifications to Google as legal@google.com and  
4 the fax number for such notifications as 650-618-1499.

5 82. In May of 2005, I noticed that Google changed its listing with the  
6 Copyright Office. Attached hereto as Exhibit 39 is the document I printed in May of  
7 2005 from copyright.gov showing Google's new listing.

8 83. Attached hereto as Exhibit 40 is the first notice I sent to Google in  
9 2004, which I emailed to legal@google.com and faxed to 650-618-1499 on May 31,  
10 2004.

11 84. Attached hereto as Exhibit 41 is the second notice I sent to Google in  
12 2004, which I emailed to legal@google.com and also faxed to 650-618-1499 on  
13 June 4, 2004.

14 85. Attached hereto as Exhibit 42 is the third notice I sent to Google in  
15 2004, which I emailed to legal@google.com and faxed to 650-618-1499 on June  
16 16<sup>th</sup>, 2004.

17 86. On June 28, 2004, I began to include Excel spreadsheets in my notices.  
18 Attached hereto as Exhibit 43 is the fourth notice I sent to Google in 2004, which I  
19 faxed to 650-618-1499 on June 28th, 2004. This notice included, among other  
20 things, an Excel spreadsheet which contained (a) the exact URL for a web page of  
21 the infringing website (with the starting www. and/or http:// removed) which in  
22 almost all cases contained either 1) the Perfect 10 copyrighted image at issue or 2)  
23 the name of the Perfect 10 model at issue which when clicked on yielded an  
24 infringing image of that model, (b) the search term—typically the name of a Perfect  
25 10 model—which was inputted into the Google search box, and (c) the location of  
26 the original copyrighted work infringed—i.e., the volume, issue, and page numbers  
27 of Perfect 10 Magazine from which the photograph was taken, or perfect10.com, if  
28 the image was originally on Perfect 10's website rather than in the magazine.

1 Subsequent notices, attached as Exhibits 44 through 73, were organized in a similar  
2 fashion. Exhibits 44, 45, and 46 contain the same infringing URLs as Exhibit 43,  
3 plus in the case of Exhibits 45 and 46, additional infringing URLs. Thus, Google  
4 has received in some cases at least four separate notices from Perfect 10 regarding  
5 the same infringing URL, but has still in a number of cases not disabled access to  
6 infringing material at that URL (see Exhibit 84). Exhibits 47 through 73 are  
7 contained on a CD to reduce the size of the filing and make it easier to find and  
8 search the exhibits.

9 87. Exhibits 47 through 71, which are contained on a CD entitled "Exhibits  
10 47 – 73" are notices that were sent by me to Google by email to [legal@google.com](mailto:legal@google.com),  
11 fax to 650-618-1499, or both, on the dates shown in those documents. Exhibits 72  
12 and 73 on the same CD are notices that were faxed by me to Google's new fax  
13 number for such notices, 650-618-1806, on June 12, 2005 and June 19, 2005.  
14 Accompanying each such notice are fax receipts showing the number of pages  
15 successfully sent. Each of these notices was prepared in substantially the same  
16 format as Exhibit 43.

17 88. Additionally, each notice from the ninth notice (sent on November 2,  
18 2004) through the thirty-fourth notice, identified over 100 websites from which  
19 Google displays images that expressly disclaim ownership of their content. I have  
20 visited each such website and listed its URL in each of the ninth through thirty-  
21 fourth notices to Google. Attached hereto as Exhibit 74 is an example of such a  
22 disclaimer from the website jerkengine.com. It states, "Jerkengine.com contains  
23 photographic images that have been collected from various public domain internet  
24 resources. Copyright ownership is not claimed, implied, or guaranteed, and remains  
25 that of the author(s)." *In every one of my notices to Google from the thirteenth*  
26 *through the thirty-fourth*, I quoted that disclaimer language and also stated that  
27 "Jerkengine has thousands of Perfect 10 infringements ..." Nevertheless, Google  
28 continues to list jerkengine.com thousands of times in its Web Search results and



1 has copied images from jerkengine.com which it displays. Attached hereto as  
2 Exhibit 75 are web pages that I printed on July 7, 2005, after doing a Google Web  
3 Search and a Google Image Search on "site:jerkengine.com." It shows that despite  
4 all of Perfect 10's notices, Google still has approximately 16,200 Web Search links  
5 to jerkengine.com and 51 images that Google displays from, and links to,  
6 jerkengine.com.

7 89. In addition to sending notices directly to Google, Perfect 10 has also  
8 sent seven notices to Amazon, between November 15, 2005 and April 3, 2005.  
9 Amazon claims that it gets some or all of the images it displays from Google.  
10 Attached hereto as Exhibit 76 is a letter which Perfect 10 received from Amazon  
11 dated April 8th, 2005, which states "we have discussed the matter with Google and  
12 forwarded your correspondence to them for appropriate handling."

13 **Examples Of Google's Failure To Remove Infringements After Notice**

14 90. Despite the thirty four notices just described, plus seven additional  
15 notices sent to Amazon which Amazon claims it forwarded to Google, Google has  
16 continued to display and distribute more than 3,000 copies of more than 1,000  
17 different Perfect 10 copyrighted images. Additionally, Google continues to provide  
18 millions of web search results for Google AdSense websites even though it has  
19 received notice that those website infringe Perfect 10 copyrights. (See Exhibit 100.)  
20 I will first describe Google's failure to remove images of Perfect 10 model Monika  
21 Zsibrita, despite repeated notice. Then I will describe Google's failure to remove  
22 Perfect 10 copyrighted images of other Perfect 10 models, and Google's continued  
23 placement of ads on websites for which it has received notice of infringement.

24 91. Perfect 10 first notified Google of Google's unauthorized display of  
25 Perfect 10 copyrighted images of Monika Zsibrita on May 31, 2004. (Exhibit 40,  
26 page 270.) On June 28, 2004, Perfect 10 changed the format of the notices it sent to  
27 Google to include an Excel spreadsheet in every notice which referred Google to the  
28 specific original source of Perfect 10 copyrighted images. For Monika Zsibrita, this

1 was pages 22 – 28 of Perfect 10 Magazine Vol 2, No 2; pages 64 – 67 of Perfect 10  
2 Magazine Vol 3, No. 6, and perfect10.com. Attached hereto as Exhibit 77 are the  
3 relevant pages from Perfect 10 Magazine referred to in Perfect 10's notices to  
4 Google containing the Monika Zsibrita images, as well as the relevant page from  
5 perfect10.com. On each page in Exhibit 77, I have included where appropriate, the  
6 volume number, issue number, page number, and corresponding copyright  
7 certificate number.

8       92. Since Perfect 10 first gave Google notice of infringements of Monika  
9 Zsibrita images on May 31, 2004, Google has actually *increased* the number of  
10 Perfect 10 copyrighted images of Monika Zsibrita it displays. Attached hereto as  
11 Exhibit 78 are the pages I viewed on June 11, 2004, that contained Perfect 10  
12 copyrighted images of Monika Zsibrita when I did a Google image search on  
13 Monika Zsibrita. There are fifteen Perfect 10 copyrighted images of Monika  
14 Zsibrita in Exhibit 78, of which five are different. (I did not include two of the  
15 pages because there were no images of Monika Zsibrita on those pages.) All of  
16 these images are found in pages 22-28 of Vol. 2 No. 2 or pages 64 – 67 of Vol. 3  
17 No. 6 of Perfect 10 Magazine, to which I referred Google in Perfect 10's notices of  
18 infringement. In the URL at the bottom of each page of Exhibit 78 is the term  
19 images.google.com, showing that these images are displayed from a portion of  
20 google.com. (Adobe reproduces URLs in very small type and the whole page has  
21 been reduced somewhat to provide adequate margins.)

22       93. Below each Perfect 10 copyrighted image of Monika Zsibrita in Exhibit  
23 78 is a URL in green. For example, below the top image on the left in page 474 is  
24 the URL modelmanix.com/ scanmaster/ dyd666/01/018.html, which I have  
25 highlighted. Based on my experience, the URL below each image displayed by  
26 Google usually contains enough information to determine the exact web page from  
27 the website (in this case modelmanix.com) from which the image was copied.

1        94. Attached hereto as Exhibit 79 are some of the web pages that I viewed  
2 on June 11, 2004, after I clicked on some of the reduced size Perfect 10 copyrighted  
3 images of Monika Zsibrita in Exhibit 78. On page 478 of Exhibit 79, there is a  
4 "Google" near the reduced size Perfect 10 copyrighted image. That has since been  
5 changed to "Google Images." To the right of the image it says, "See full-size  
6 image." Below that, "This image may be subject to copyright." The link in blue  
7 *modelmanix.com/scanmaster/dyd666/01/018.html* matches the URL in green that  
8 was below the image on page 474 of Exhibit 78. Pages 480-481 of Exhibit 79  
9 contain twenty Perfect 10 copyrighted images below the reduced size image of  
10 Monika Zsibrita at the top of page 480. By clicking on any one of those images, I  
11 was able to view them full size.

12        95. Despite 34 notices of infringement from Perfect 10 in 2004 and 2005,  
13 and 7 notices to Amazon which were, according to Amazon, referred to Google, *the*  
14 *same five distinct Perfect 10 copyrighted images of Monika Zsibrita in Exhibit 78*  
15 *are still being displayed by Google over a year later, and the number of images*  
16 *displayed by Google as a result of searches on her name has increased from 15 to*  
17 *50.* Attached hereto as Exhibit 80 are the results of a Google image search on  
18 Monika Zsibrita that I did on July 20, 2005. There are 50 Perfect 10 copyrighted  
19 images of Monika Zsibrita in Exhibit 80 consisting of copies of 10 different images,  
20 all of which were specifically identified in Perfect 10's notices to Google. In other  
21 words, despite Perfect 10's repeated notice, Google actually increased the number of  
22 Perfect 10 copyrighted images of Monika Zsibrita it displayed from 15 to 50 over a  
23 one year period, and increased the number of different images of Monika Zsibrita it  
24 displays from 5 to 10.

25 **Google Continues To Display Images From, And Link Images To, Infringing**  
26 **Web Pages For Which It Has Received Actual Notice**

27        96. In addition to displaying the same Perfect 10 copyrighted images of  
28 Monika Zsibrita for which it has received notice, Google, via its Image Search, is

1 continuing to display at least 1,043 Perfect 10 images from, and link at least 1,043  
2 Perfect 10 images to, web pages that Perfect 10 specifically notified Google were  
3 infringing Perfect 10 copyrights. Exhibit 81 is an Excel spreadsheet I constructed  
4 from the notices to Google in Exhibits 40 through 73. It identifies some of the  
5 URLs of web pages from which Google continues to display infringing images of  
6 Monika Zsibrita and other Perfect 10 models, after notice.

7 97. I have arranged Exhibit 81 so that the URLs relating to infringements  
8 of Monika Zsibrita appear first, with the infringing URLs thereafter listed  
9 alphabetically by model name. The first column in Exhibit 81 contains the  
10 infringing URL that was identified in Perfect 10's notice (with the starting "www."  
11 and/or "http://" removed.) This URL was obtained in one of three ways. When I  
12 did Google web searches and found an infringing web page, I cut and pasted the  
13 URL in green at the bottom of the Google text listing for that web page into the  
14 Excel spreadsheet. An example of such a URL is highlighted in yellow at the very  
15 bottom of page 689 of Exhibit 112. When I did Google Image Searches and found  
16 an infringing Perfect 10 image, I often cut and pasted the URL in green below the  
17 image into the Excel spreadsheet. An example of such a URL is highlighted in  
18 yellow on page 485 of Exhibit 80. The URLs that Google lists in green below the  
19 images it displays are often incomplete. In some cases, to get the full URL, I had to  
20 click on the image and then a second page appeared, with the statement "Below is  
21 the image in its original context on the page:" followed by a URL in blue. When  
22 that URL was complete, I cut and pasted it onto my Excel spreadsheet, but when it  
23 was incomplete, I clicked on it to get the complete URL. An example of such a  
24 URL is highlighted in yellow on page 513 of Exhibit 82. The URLs listed in the left  
25 column of Exhibit 81 are either complete URLs for infringing web pages containing  
26 the images in question that were obtained as described above or were URLs that  
27 appeared just under infringing images displayed by Google.

1           98. The second column of Exhibit 81 contains the search term that was  
2 inputted into the Google search box. The third column contains the earliest date of  
3 notice to Google of this infringement. The fourth column contains the exhibit  
4 number to my declaration corresponding to the notice. The fifth column shows the  
5 number of different Perfect 10 copyrighted images still displayed by Google from  
6 that URL as of July 11, 2005, or later. The total number of infringing images, as  
7 shown by the total at the bottom of this column, is 1043. (I have not included the  
8 volume, issue and page numbers of the original copyrighted works. As discussed in  
9 paragraph 86, these were included in Perfect 10's notices to Google.)

10           99. As of July 11, 2005 or later, Google was continuing to display  
11 infringing Perfect 10 copyrighted images from, and linking those images to, web  
12 pages corresponding to *every one* of the URLs listed in Exhibit 81.

13           100. In order to demonstrate the accuracy of paragraph 99 with respect to  
14 images of Monika Zsibrita, I have attached as Exhibit 82 the web pages I obtained  
15 on July 20, 2005, by clicking on a number of reduced size Perfect 10 copyrighted  
16 images of Monika Zsibrita displayed by Google in Exhibit 80. When the URL in  
17 Perfect 10's notice, as shown in the left column of Exhibit 81, was complete but the  
18 URL in blue after I clicked on the image was incomplete, I clicked on that  
19 incomplete URL to get the complete URL of the infringing web page to which  
20 Google linked, and added that page behind the prior page in Exhibit 82. For  
21 example, the URL in blue on page 511 has a "..." at the end, meaning that it is not  
22 the full URL, so I clicked on that link to obtain the full URL which is shown on  
23 page 513 of Exhibit 82 and is *celebritypicturesarchive.com/pgs/m/monika-*  
24 *zsibrita/monika-zsibrita-picture.htm* which I have highlighted and which matches  
25 the URL that Perfect 10 identified in its notice to Google on July 19, 2004 (Exhibit  
26 46, page 410). For every URL in Exhibit 81 concerning Monika Zsibrita, which  
27 Perfect 10 had identified in a notice to Google months earlier, that same URL is  
28 either under a Perfect 10 copyrighted image of Monika Zsibrita in Exhibit 80 or is

1 the URL of a web page in Exhibit 82 to which Google transports a user if he or she  
2 clicks on that image. The pages in Exhibit 82 are arranged to match the alphabetical  
3 order of the URLs listed in Exhibit 81. Thus the first URL in Exhibit 82 is  
4 *akty.cz/DalsiFotky.asp*, and the first URL in blue on page 490 of Exhibit 81 is the  
5 same: namely, *akty.cz/DalsiFotky.asp* which was sent to Google on January 25,  
6 2005 (Exhibit 62, page DMCA0552). As noted previously, the URL in blue is,  
7 according to Google, the page which contained the image “in its original context.”  
8 When a user clicks on that link, the user is taken directly to that page. ***Thus, Google***  
9 ***is continuing to display Perfect 10 copyrighted images from the precise web pages***  
10 ***for which Google has received specific notice, and is continuing to link users to***  
11 ***those infringing web pages.***

12 101. In order to demonstrate the accuracy of paragraph 99 with respect to  
13 models other than Monika Zsibrita without attaching hundreds of pages of  
14 additional exhibits, I have attached two CDs labeled Exhibit 83 A-K (which  
15 contains folders starting with the letters A-K), and Exhibit 83 L-Z (which contains  
16 folders starting with the letters L-Z), which were created under my supervision and  
17 which I have personally checked for accuracy. These CDs contain, for other models  
18 and in electronic format, the same material that I provided for Monika Zsibrita.  
19 Each model’s folder contains, in addition to the relevant Perfect 10 Magazine pages  
20 in which her image appeared, a collection of reduced size images that were  
21 downloaded from google.com on or after July 11, 2005. ***(When opening a file in***  
22 ***either CD, the computer must be set for “all files.” Otherwise, it will not see the***  
23 ***adobe files.)*** Every URL for a particular model in Exhibit 81 is matched by a  
24 reduced size image of that model in her folder that has been clicked on when  
25 necessary to provide a second page, and sometimes when that second page has an  
26 incomplete URL in blue, a third page, which contains the complete URL to which  
27 that reduced size image links. Exhibits 83 A-K and L-Z show that Google continues

1 to display and link Perfect 10 copyrighted images of each model in Exhibit 81 to  
2 web pages for which Google has been given specific notice from Perfect 10.

3 102. In the rare instances when Google has stopped displaying Perfect 10  
4 copyrighted images from a specified infringing web page, in many cases it has taken  
5 more than six months to do so. Attached hereto as Exhibit 84 is a spreadsheet that I  
6 created from notices that I sent to Google (Exhibits 40 through 73). The leftmost  
7 column gives the infringing URL identified in Perfect 10's notice. The next column  
8 gives the name of the model being infringed. In some of Perfect 10's notices, the  
9 model name was not given but it appeared in the URL that was provided (in which  
10 case an (\*) appears after the model name in the second column), or the URL that  
11 was provided uniquely identified the infringing image (in which case a (\*\*)) appears  
12 after the model name in the second column). The third column gives the date of the  
13 first notice of infringement to Google. The fourth column from the left gives the  
14 number of notices of infringement to Google regarding that URL. For example,  
15 Google received two notices regarding the first URL listed in Exhibit 84, *stoff-*  
16 *fr.com/galerie.php3?gal=120*, the first one on June 4, 2004 (Exhibit 41, page 282),  
17 and the second on June 16, 2004 (Exhibit 42, page 292). Google received four  
18 notices regarding the seventh URL listed,  
19 *russiancelebrities.org/rciGallery.asp?GID=4*, the first one on June 28, 2004, (Exhibit  
20 43, page 300). As of August 6, 2005, Google had not taken action to disable access  
21 to Perfect 10 copyrighted images at either URL as it was continuing to display those  
22 images itself. The fifth column gives an underestimate of the number of days that  
23 Google continued to display infringing Perfect 10 copyrighted images from, and link  
24 those images to, the infringing web pages identified in Perfect 10's notices. The  
25 "minimum number of days up" was calculated from the first date Google was given  
26 notice to the last date that Perfect 10 downloaded the infringing image from  
27 google.com. Attached hereto as Exhibit 85 are fifteen examples of Google's failure  
28 to respond to Perfect 10's notices for over 350 days. In each example, which I

1 printed on July 12, 2005 or later from either google.com or Google's cache link, the  
2 URL of the infringing web page or the URL under the infringing image exactly  
3 matches a URL in a Perfect 10 notice to Google sent at least 350 days earlier. For  
4 example, the first notice listed in Exhibit 84 identifies infringing images of Lisa  
5 Bordeaux at the URL stoff-fr.com/galerie.php3?gal=120. Page 542 of Exhibit 85  
6 shows that as of July 15, 2005, Google was continuing to display images of Lisa  
7 Bordeaux, listing the URL stoff-fr.com/galerie.php3?gal=120 beneath them, the  
8 same URL for which Google received notice from Perfect 10 on June 4, 2004.  
9 Similarly, page 549 of Exhibit 85 shows that as of July 13, 2005, Google was  
10 continuing to display an image of Sasha Brinkova, listing beneath it the URL  
11 russiancelebrities.org/rclGallery.asp?GID=4, the same URL for which Google  
12 received notice from Perfect 10 *four times* beginning on June 28, 2004 (Exhibit 43,  
13 page 300; Exhibit 44, page 332; Exhibit 45, page 357; and Exhibit 46, page 407).  
14 Pages 554, 556, 558, 560, and 562 of Exhibit 85 contain references to Perfect 10  
15 Magazine in the lower left corner, for example, Page 554 refers to, "Alessandra  
16 Correa, P10 Fall 2002." I have listed the first fifteen infringing URLs in Exhibit 84  
17 to match the order of the infringements in Exhibit 85. The balance of the files  
18 which support Exhibit 84 are contained in Exhibit 83 L-Z in a folder entitled  
19 "Support for Exhibit 84."

20 **Google Continues To Display Perfect 10 Copyrighted Images From, And Link**  
21 **Those Images To, Web Pages With Substantially Identical URLs For Which It**  
22 **Has Received Notice**

23 103. In addition to continuing to display Perfect 10 copyrighted images from  
24 hundreds of the exact URLs for which it was given notice (as shown in Exhibits 81,  
25 82, 83, 84, and 85), Google also continues to display Perfect 10 copyrighted images  
26 from web pages with URLs that are substantially identical to those for which  
27 Google was given notice. Attached hereto as Exhibit 86 are web pages that I viewed  
28 on July 4, 2005, which contain Perfect 10 infringements on web pages with URLs



1 that are only very slightly different from the URLs for which Google was given  
2 notice. To obtain the web pages in Exhibit 86, I clicked on the Google “cache link.”  
3 I have highlighted that portion of the URL which is different from the URL in  
4 Perfect 10’s notice to Google. Page 563 shows that the only difference in the URL  
5 describing the web page from which Google continues to display a copyrighted  
6 Perfect 10 image is an added “?lang=ru” at the end. (The original notice appears in  
7 Exhibit 58, page DMCA0468 and was sent to Google on December 31, 2004). The  
8 only difference in the URL on page 565 is an added “?lang=en” at the end. The  
9 only differences between page 563 and page 565 that I can see is that the pages are  
10 translated into different languages – the infringing Perfect 10 images on pages 564  
11 and 566 are the same. Both pages were “cached” by Google on February 19, 2005.  
12 Page 567 provides a third example. The only difference between that URL on that  
13 page and the one identified to Google by Perfect 10 on June 28, 2004 (Exhibit 43,  
14 page 299) and three times thereafter is the “&img=” at the end of the URL.

15 **Google Is Continuing To Display The Same Infringing Perfect 10 Images From**  
16 **The Same Infringing Websites**

17 104. Even when Google has more noticeably changed its URL description of  
18 a web page in a particular website from where it obtained a Perfect 10 image,  
19 Google continues to *itself display* the same infringing image and *to link that same*  
20 *image to the same infringing website*. Attached hereto as Exhibit 87 are two sets  
21 of infringing images of Natalia Sirocka displayed by Google from the website  
22 ottoperuna.com. The first set of 14 images shown on pages 568-569, all copyrighted  
23 by Perfect 10, was displayed by Google on April 7, 2005, approximately two  
24 months after Google was given two notices from Perfect 10 *exactly specifying* the  
25 location of infringing images of Natalia Sirocka on the website ottoperuna.com  
26 (Exhibit 65, page DMCA0601). The second set of 28 images shown on pages 570-  
27 572 (Google added 14 larger images) of Natalia Sirocka were displayed by Google  
28 from the same website, ottoperuna.com, on July 13, 2005. A comparison of the

1 smaller images displayed by Google on April 7 on pages 568-569 and those  
2 displayed by Google on July 13 on pages 571-572 shows that they are *the exact*  
3 *same images with the exact same descriptions (tn\_Natalia\_Sirocka\_001 through*  
4 *014) and pixel sizes*. In other words, Google continues to display the exact same  
5 Perfect 10 images, it is just linking those images to a purportedly different web page  
6 of the same infringing website.

7 105. As a second example, attached hereto as Exhibit 88 are two sets of  
8 Perfect 10 copyrighted images of Monika Zsibrita that Google displayed from the  
9 Google AdSense website [eroticsland.net](http://eroticsland.net), which I downloaded from [google.com](http://google.com) on  
10 May 8 and July 13, 2005, respectively. Google displayed the first set of Monika  
11 Zsibrita images shown on page 573 of Exhibit 88 on May 8, 2005, after receiving  
12 specific notice from Perfect 10 on April 11, 2005 (Exhibit 69, page DMCA0665).  
13 Page 574 of Exhibit 88 shows that on July 13, Google continued to display the same  
14 images of Monika Zsibrita obtained from the same infringing website. However,  
15 the pixel sizes of the images and the web page of the infringing website to which  
16 Google linked those images changed.

17 106. As final examples, attached hereto as Exhibit 89 are web pages that I  
18 viewed on July 13, 2005, on [google.com](http://google.com). In each case, I typed into the Google  
19 search box a web site URL and a model name corresponding to a notice that Perfect  
20 10 had sent to Google. Perfect 10 owns the copyrights to all of the images in  
21 Exhibit 89. Exhibit 89 shows that, despite the fact that Perfect 10 has sent Google  
22 notices specifying infringements of Aline Matos images on the website [all-nude-](http://all-nude-celebrities-free.com)  
23 [celebrities-free.com](http://celebrities-free.com); Heather Fussner images on the website [all-nude-celebrities-](http://all-nude-celebrities-free.com)  
24 [free.com](http://free.com); Inna Shevchenko images on the website [eroticsland.net](http://eroticsland.net); Jana Mikusova  
25 images on the website [eroticsland.net](http://eroticsland.net); Lisa Bordeaux images on the website  
26 [eroticsland.net](http://eroticsland.net); Sasha Brinkova images on the website [eroticsland.net](http://eroticsland.net); Zoya  
27 Konyieva images on the website [soloevas.com](http://soloevas.com); Olga Kobrina images on the website  
28 [robbscelebs.co.uk](http://robbscelebs.co.uk); Irina Voronina images on the website [lesplaymates.free.fr](http://lesplaymates.free.fr); and

1 Ildiko Fronte images on the website index.hr, as of July 13, 2005, Google continued  
2 to display infringing copies of Perfect 10 images of those models taken from those  
3 websites and was continuing to link those images back to those infringing websites.

4 **Even When Google Displays Perfect 10 Images From A Different Infringing**  
5 **Website, In Many Cases It Is The Same Website With A Different URL**

6 107. In a number of cases when Google has displayed Perfect 10 images  
7 from what appears to be a new infringing website, it is obvious that this "new"  
8 infringing website is simply the same infringing website for which Google has  
9 received notice with a different URL. Attached hereto as Exhibit 90 are Perfect 10  
10 copyrighted images which I viewed on google.com on May 24, 2005, and on July 9,  
11 2005. Following each page of Perfect 10 images displayed by Google on May 24,  
12 2005, I have placed a page of Perfect 10 images of the same model displayed by  
13 Google on July 9, 2005. Below each image displayed by Google on May 24, is a  
14 URL in green from the website averlo.com. Below each image displayed by Google  
15 on July 9 is a URL in green from the website soloevas.com. A comparison of the  
16 images on pages 590 and 591, for example, shows that the images are identical with  
17 the same pixel measurements (75 x 120 pixels) and descriptions (tn01.jpg –  
18 tn04.jpg). I have highlighted one such example. In other words, Google is  
19 continuing to display the same exact Perfect 10 copyrighted images but just with a  
20 different URL below each image.

21 108. As another example, attached hereto as Exhibit 91 are Perfect 10  
22 copyrighted images that I viewed on google.com on May 29, 2005, and July 9,  
23 2005. The images on pages 602-607 have beneath them descriptions similar to  
24 "P10\_Vol\_3\_4" which stands for Perfect 10 Magazine, Volume 3, Number 4.  
25 Following each page of Perfect 10 images displayed by Google on May 29, 2005, I  
26 have placed a page of Perfect 10 images of the same model displayed by Google on  
27 July 9, 2005. Below each image displayed by Google on May 29 is either a URL  
28 containing the term swod1.free.fr or the term dreamworld.free.fr. Below each image

1 displayed by Google on July 9 is either a URL containing the term taygete.free.fr or  
2 the term dimworld.free.fr. A comparison of the images, pixel sizes, and descriptions  
3 shows that the images displayed by Google on May 29 were also displayed by  
4 Google on July 9, the only difference is that Google sometimes added a few  
5 additional images to its display on July 9. In other words, the only thing that  
6 changed was the URL appearing below the images.

7 109. In some cases when users click on a Perfect 10 copyrighted reduced  
8 size image displayed by Google, nothing appears below the reduced size image,  
9 indicating that the underlying web site is not functioning. Nonetheless, the  
10 infringing image continues to be displayed from google.com. Furthermore, right  
11 clicking on the image and clicking "properties" shows the location of the image to  
12 be images.google.com. This indicates that Google copied the reduced size Perfect  
13 10 image. Attached hereto as Exhibit 92 is an example of this occurrence that I  
14 printed from google.com on July 4, 2005, where I verified that the underlying  
15 website was not functioning. Google has admitted that its servers store "extracts of  
16 images" and that images with URLs containing "http:images.google.com" reside on  
17 Google's servers. Google's Responses to Requests for Admissions, Requests 24,  
18 263, attached as Exhibit 118 to the Declaration of Jeffrey Mausner.

19 **Despite Notice, Google Is Continuing To Link Perfect 10 Copyrighted Images**  
20 **To Websites Containing Hundreds Of Additional Perfect 10 Infringements**

21 110. Despite notice, Google continues to display and link hundreds of  
22 Perfect 10 copyrighted images to infringing websites which each contain hundreds  
23 of additional Perfect 10 infringements. Two examples follow:

24 111. Exhibit 93 is a spreadsheet I created by extracting from Exhibits 40-73  
25 a number of notices involving the website modellvilag.hu. Modellvilag.hu contains  
26 at least 597 different Perfect 10 infringements and is a Google AdSense website  
27 (Exhibit 8 and Exhibit 98, page 632). The "DATE" column gives the date of first  
28 notice, which on this chart was as early as January 16, 2005. As of August 6, 2005,

1 Google was not only continuing to display Perfect 10 copyrighted images of each of  
2 the sixteen models listed in Exhibit 93 from the *exact* URLs identified in Perfect  
3 10's notices, but was also linking each such image directly to the website  
4 modellvilag.hu with its 597 different Perfect 10 infringing images. I have placed in  
5 Exhibit 83 L-Z a folder entitled "modellvilag.hu" which contains Perfect 10  
6 copyrighted images of the 16 models listed in Exhibit 93 that I downloaded from  
7 google.com on August 6, 2005. Google has also not responded to the notices  
8 Perfect 10 sent to Amazon regarding modellvilag.hu (which Amazon claims to have  
9 forwarded to Google). I have also included in Exhibit 83 L-Z in the file entitled  
10 'modellvilag.hu' a folder entitled "Amazon modellvilag.hu notices" which provides  
11 the notices I gave to Amazon regarding modellvilag.hu and shows that as of July 28,  
12 2005, Google was continuing to display Perfect 10 copyrighted images of 16 of the  
13 17 models from the *exact* URLs identified by Perfect 10 to Amazon and link those  
14 images to modellvilag.hu as well.

15 112. Exhibit 94 is an Excel spreadsheet I created on May 28, 2005, which  
16 breaks down (by model name) the 597 Perfect 10 copyrighted images displayed by  
17 modellvilag.hu. Exhibit 94 is supported by a folder entitled "Perfect 10  
18 infringements" inside the "modellvilag.hu" folder in Exhibit 83 L-Z. This file  
19 contains 597 Perfect 10 copyrighted images that I downloaded from modellvilag.hu  
20 on May 27, 2005. (I have not noticed any change in modellvilag.hu as it relates to  
21 Perfect 10 images since that time.) For each of the 157 models identified in Exhibit  
22 94, I have included in the file "perfect 10 infringements" at least one full size image  
23 that shows that when the reduced size images of each model in modellvilag.hu are  
24 clicked on, they are displayed full size. Most of the full size Perfect 10 images have  
25 Perfect 10 copyright notices. Attached hereto as Exhibit 95 are five such full size  
26 images that I printed from modellvilag.hu on July 8, 2005, each of which displays a  
27 Perfect 10 copyright notice.

113. As another example of Google continuing to link hundreds of Perfect 10 copyrighted images to infringing websites that themselves have hundreds of Perfect 10 infringements, included in Exhibit 83 A-K is a file entitled "dimworld." This file contains 408 reduced size Perfect 10 copyrighted images that I viewed and downloaded from google.com on August 12, 2005. Most of the Perfect 10 images in this file have a notation "p10" just below the image. By clicking on the "See full-size image" link, I was able to view and download from google.com full size Perfect 10 images, most which display copyright notices or the term "p10," with a volume and issue number, e.g., "p10 v2.6," standing for Perfect 10, volume 2, issue 6.

114. Attached hereto as Exhibit 96 are five full size Perfect 10 copyrighted images that I downloaded from google.com in the above fashion on July 8, 2005. The pages of Exhibit 96 are arranged so that the first page shows the reduced size Perfect 10 copyrighted image displayed on google.com and the following page shows the full size image that was displayed when I clicked on the google.com link entitled "See full-size image." The first three full size images in this exhibit have Perfect 10 copyright notices in the lower left corner. The last two reduced size images have a highlighted term in their URL that includes a "P10" reference, such as "P10\_Vol4\_4," which stands for Perfect 10 Magazine Volume 4, Number 4, where the original of that image is found. All of the reduced size images in Exhibit 96, except two on the bottom row of page 627, are copyrighted by Perfect 10.

115. Perfect 10 sent Google specific notices identifying infringements on the website dreamworld.free.fr and the website dimworld.free.fr, which is the same website with a slightly different name but the same misappropriated Perfect 10 copyrighted images. Attached hereto as Exhibit 97 is an Excel spreadsheet I created by combining some of the notices regarding dreamworld.free.fr and dimworld.free.fr contained in Exhibits 40 through 73. The column on the left gives the infringing URL identified in the notice. The next column gives the search term. The third column contains the date of first notice. The fourth column contains the

1 exhibit number to this declaration of the first notice given to Google for each URL  
2 in the leftmost column.

3 **Despite Notice, Google Continues To Provide Millions Of Links To Infringing**  
4 **Websites From Which Google Earns Revenue**

5 116. Exhibits 28, 29, and Exhibit 83 M-L have provided over forty-five  
6 examples of websites that display Google ads and infringe Perfect 10 copyrights.  
7 Attached hereto as Exhibit 98 are web pages I printed on or after July 9, 2005,  
8 which show that the websites hebus.com and averlo.com also display Google ads,  
9 and that the website modellvilag.hu appears to have an advertising relationship with  
10 Google as well. The file "More Adsense Websites" in Exhibit 83 L-Z contains more  
11 examples of Websites that display Google ads or Google search boxes.

12 117. Modellvilag.hu is an example of a Google AdSense website which  
13 contains large numbers of Perfect 10 copyrighted images. Despite considerable  
14 notice from Perfect 10 beginning as early as January 16, 2005 (Exhibit 93), Google  
15 continues to promote modellvilag.hu in thousands of search results. Attached hereto  
16 as Exhibit 99 are the first pages of the Google Web Search and Image Search results  
17 I obtained on July 21, 2005, by doing a search on "site:modellvilag.hu." My  
18 experience is that placing "site:" in front of a URL restricts the search results to just  
19 web pages from that website. I have highlighted the number of web search results  
20 (25,500) and image search results (4,090).

21 118. Despite repeated notice from Perfect 10, Google continues to generate  
22 millions of search results for infringing AdSense affiliates. Attached hereto as  
23 Exhibit 100 is an Excel spreadsheet I created using printouts I generated on  
24 August 7, 2005, which shows the number of web search and image search results  
25 that Google returned when I put "site:" in front of the URLs listed in the left  
26 column, as I did for modellvilag.hu as described above. Exhibit 100 shows that as  
27 of August 7, 2005, Google was returning on average tens of thousands of web  
28 search and image search results for the websites in the left column, which contain

1 either Google ads or search boxes as demonstrated by Exhibits 28, 29, 83 L-Z, and  
2 98. Perfect 10 has given Google multiple notices of infringement for most of the  
3 URLs listed in the leftmost column. I have included in Exhibit 83 A-K a folder  
4 entitled "AdSense Notices" which lists most of the notices which Perfect 10 sent to  
5 Google regarding each of the websites listed in the leftmost column. The DATE  
6 column gives the date of first notice to Google, which for the websites averlo.com,  
7 celebstation.org, eracle.it, and index.hr, was in June of 2004. Exhibit 100 may be  
8 summarized by saying that despite repeated notice from Perfect 10, Google  
9 continues to list over 1.6 million web search results and over 400,000 image search  
10 results for websites which infringe Perfect 10 copyrights and which contain Google  
11 ads and/or Google search boxes. Support for the web search and image search  
12 numbers described in Exhibit 100 is contained in a file in Exhibit 83 A-K entitled  
13 "AdSense Links."

14 **Despite Repeated Notice, Google Continues To Display Hundreds Of**  
15 **Perfect10.com Passwords**

16 119. Members who pay to join perfect10.com receive a unique username  
17 and password necessary to gain access to and view images in the member's area of  
18 perfect10.com, which contains most of the images which Perfect 10 owns.  
19 Perfect10.com's terms and conditions prohibit the posting of perfect10.com  
20 passwords on the Internet or the distribution of perfect10.com passwords to others.  
21 When perfect10.com username/passwords have been distributed without  
22 authorization on the Internet, in a number of cases perfect10.com has become so  
23 overloaded by unauthorized users that its servers have failed. Perfect 10 uses anti-  
24 password-hacking software to deal with these problems, but I do not know of any  
25 anti-password-hacking software that is 100% effective, for a variety of technical  
26 reasons. My experience has been that when collections of perfect10.com  
27 username/passwords are posted on the internet, two things will happen, regardless of  
28 what settings we use for our anti-password-hacking software: a) hundreds of



1 thousands of Perfect 10 images will be viewed and/or downloaded without  
2 authorization, and b) all the username/password combinations that are posted will  
3 have to be killed, resulting in the loss of a significant number of paying customers.  
4 Perfect 10 has been the victim of massive, unauthorized distribution of Perfect 10  
5 passwords, and has been forced to permanently disable large numbers of passwords.  
6 When Perfect 10 has "killed" passwords, the legitimate customers to whom those  
7 passwords were assigned have often become angry and not re-subscribed.

8       120. Perfect 10 first noticed that Google was displaying usernames and  
9 passwords to perfect10.com in early October, 2004 and began complaining to  
10 Google about its unauthorized display of perfect10.com usernames and passwords  
11 on October 11, 2004. Attached hereto as Exhibit 101 is an Excel spreadsheet that I  
12 created from the notices in Exhibits 40 – 73 which lists notices that Perfect 10 sent  
13 to Google regarding its unauthorized display of Perfect 10 usernames and  
14 passwords. The leftmost column lists URLs of web pages from which Google was  
15 displaying Perfect 10 usernames and passwords. The next column under "Google  
16 Search" contains the search term, which was either perfect10.com or perfect10.com  
17 passwords. The DATE column gives the date of first notice.

18       121. Despite Perfect 10's notices, Google continues to display hundreds of  
19 usernames and passwords to perfect10.com without authorization. Attached hereto  
20 as Exhibit 102 are web pages that I viewed on July 24, 2005 from google.com. Page  
21 638 of Exhibit 102 displays, among others, the perfect10.com username/password  
22 combination bshanner:natoma from the website forodivx.com, which as shown by  
23 page 641 of Exhibit 103 is a username password combination assigned to a current  
24 perfect10.com member. Page 639 of Exhibit 102 displays, among others, the  
25 perfect10.com username/password combination caperuci:camaleun, which Page 642  
26 of Exhibit 103 shows is another username password combination assigned to a  
27 current perfect10.com member. Page 640 of Exhibit 102 displays, among others,  
28 the perfect10.com username/password combination wjsjr:marykay, which Page 643

1 of Exhibit 103 shows is another username password combination assigned to a  
2 current perfect10.com member.

3 122. Attached hereto as Exhibit 103 are redacted search results that I  
4 obtained from Perfect 10's credit card processor, paycom.net, which shows the  
5 passwords associated with the usernames bshannon, caperuci, and wjsjr to be,  
6 respectively, natoma, camaleun, and marykay, which I have highlighted. It also  
7 shows that those username/password combinations are assigned to current members  
8 of perfect10.com.

9 123. Google continues to display perfect10.com passwords from most of the  
10 websites shown in Exhibit 101. Exhibit 83 L-Z contains a folder entitled  
11 "Passwords Displayed Despite Notice." It shows that, as of July 24, 2005 or later,  
12 Google continued to display perfect10.com passwords from the websites  
13 adultforum.co.uk, fighterschat.com (which when I clicked on it, was down),  
14 ilikeseex.net, lionel.ru, lonieserver.de, losena.ru, lostcoders.net, pass.nejcpass.com,  
15 and pornosaur.com.

16 124. Google also displays usernames and passwords to perfect10.com from  
17 its "Cache Link," even when the underlying website is down. Attached hereto as  
18 Exhibit 104 are web pages that I viewed on or after July 24, 2005, by clicking on  
19 Google cache links for the websites rs-pix.com, break.fdp.com, raprezent.com,  
20 fighterschat.com, smackcentral.net, and creator-terrorzone.de. Pages 644-648 of  
21 Exhibit 104 show that Google displayed at least 50 perfect10.com  
22 username/password combinations since at least March 8, 2005 (the date it cached  
23 the page) just from the website rs-pix.com. The usernames and passwords precede  
24 the highlighted perfect10.com. Thus the first perfect10.com username/password  
25 combination displayed by Google on page 645 is airmail7:sunil007. Pages 649-650  
26 of Exhibit 104 show that Google displayed at least 10 perfect10.com  
27 username/password combinations from the website break.fdp.com. Again, the  
28 usernames and passwords just precede the highlighted perfect10.com. Thus the first

1 perfect10.com username/password displayed on page 650 is msmoran:trixie. Pages  
2 651-653 of Exhibit 104 indicate that Google displayed at least 30 perfect10.com  
3 username/password combinations since at least February 19, 2005 when it cached  
4 the page, from the website raprezent.com, even though when I clicked on  
5 raprezent.com on July 24, 2005, the website was not functioning. In this case the  
6 usernames and passwords are to the right of the highlighted perfect10.com; the first  
7 perfect10.com username/password combination displayed on page 652 is ghlas:aolt.  
8 Pages 654-656 of Exhibit 104 show that Google displayed at least 28 perfect10.com  
9 username/password combinations from the website fighterschat.com since at least  
10 November 2, 2004, even though when I clicked on fighterschat.com on July 24,  
11 2005, the website was down. The passwords and usernames are to the left of each  
12 highlighted perfect10.com. Pages 657-662 of Exhibit 104 contain another 60  
13 perfect10.com username/password combinations displayed by Google since at least  
14 March, 2005.

15 **Google Places Ads On Websites That Display Perfect10.com Passwords.**

16 125. Attached hereto as Exhibit 105 are web pages that I viewed on July 24,  
17 2005, from the websites lostcoders.net, forodivx.com, and break.fdp.com. I have  
18 highlighted on each page the "Ads by Google." When I clicked on a Google link for  
19 the website indicedivx.com, which Perfect 10 identified in a notice to Google (See  
20 Exhibit 101, page 636), it took me to the website forodivx.com.

21 126. Despite notice from Perfect 10, Google continues to return thousands of  
22 web search results for websites displaying perfect10.com passwords on which  
23 Google places ads. Attached hereto as Exhibit 106 are web pages that I viewed on  
24 July 24 which show that Google has 78,000 Web Search results for the Google  
25 AdSense website lostcoders.com and 36,200 web search results for the Google  
26 AdSense website forodivx.com.

1 **Navigating Through Infringing Websites To Which Google Links**

2 127. One of the aspects of injunctive relief requested by Perfect 10 would  
3 require Google to remove all links to infringing websites that are identified in  
4 Perfect 10's notices and from which Google displays Perfect 10 copyrighted images.  
5 I will illustrate why this is absolutely necessary in order to stop the continuing  
6 unauthorized display and copying of Perfect 10 images.

7 128. My experience with websites containing Perfect 10 infringements is  
8 that they typically allow the user to readily find Perfect 10 images in one of four  
9 ways: (a) The website has a search box on all or almost all web pages in the  
10 website. In such cases, to locate Perfect 10 images the user must simply input a  
11 Perfect 10 model name into the search box and press "enter." Examples of  
12 infringing websites with search boxes include Clarence.supereva.com (page 204 of  
13 Exhibit 28), and Google.com, among others; (b) The website has a list of model  
14 names arranged in alphabetical order and the user must simply click on a model  
15 name to see images of that model. An example of this type of infringing website is  
16 eroticaland.net (Exhibit 108, page 676); (c) The website has the letters of the  
17 alphabet (A, B, C, D, E, ...) listed on most if not all web pages, and by clicking on a  
18 letter, say "A," the user is transported to a page that lists the names of all the models  
19 whose first names start with "A," or that displays small photos of the faces of all  
20 models whose first names start with A, or both. An example of an infringing  
21 website that uses this type of navigation (which is similar to that used legitimately  
22 by perfect10.com) is modellvilag.hu (Exhibit 107, page 670); or (d) The website has  
23 a "Home" link on most, if not all, web pages. In such cases, clicking on the "Home"  
24 link takes the user to a home page which typically has a list of model names  
25 arranged in alphabetical order. An example of an infringing website with this type  
26 of navigation is averlo.com (Exhibit 98, page 631).

27 129. Exhibit 107 is an example of a website that allows the user to navigate  
28 through it by clicking on the first letter of a model's first name. It is a page that

1 appeared on my computer screen when I clicked on a reduced size Perfect 10  
2 copyrighted image of Alena Drazna that was displayed on google.com on July 8,  
3 2005. There are six pages in Exhibit 107, containing images of approximately 180  
4 models displayed on the website modellvilag.hu, all of which appeared on my  
5 screen as one large web page. All of the models in Exhibit 107 have first names  
6 which start with the letter "A," as does Alena Drazna, who appears on page 671 of  
7 Exhibit 107. The model names are arranged in alphabetical order, along with small  
8 images of their faces. There are 37 infringing Perfect 10 copyrighted images in  
9 Exhibit 107. Clicking on any one of those images allows the user to see all images  
10 of that model. *With one click*, by clicking on the letters "A," "B," "C," "D," etc., I  
11 was able to see similar pages on modellvilag.hu corresponding to models whose first  
12 names start with these letters. With an additional click on the face of any of the  
13 Perfect 10 models on those pages, I was able to see all images of that model. In  
14 other words, *within two clicks*, I was able to see any one of 597 infringing Perfect  
15 10 copyrighted images. As long as Google has *any* links to any pages of  
16 modellvilag.hu containing the A, B, C, D .... menu, the user is only two clicks away  
17 from viewing any one of 597 infringing Perfect 10 copyrighted images.

18 130. Exhibit 108 is an example of a portion of an infringing website,  
19 eroticaland.net, that contains an alphabetical list of model names. I viewed Exhibit  
20 108 on my computer screen on July 21, 2005, by clicking on a reduced size Perfect  
21 10 copyrighted image of Monika Zsibrita on google.com and scrolling down the  
22 page. Exhibit 108 contains a list of models, including some of Perfect 10's most  
23 popular models: Adele Stephens, Caroline Stark, Inna Shevchenko, Isabelle Funaro,  
24 Jana Mikusova, Jill Blake, Lisa Bordeaux, Natalia Sirocka, Sasha Brinkova, Talia  
25 Harvalik, Tara King, Veronika Zemanova, and Zoya Konyieva, among others. With  
26 one click, namely, by clicking on the name of any Perfect 10 model shown in  
27 Exhibit 108, I was able to view any one of over fifty infringing Perfect 10  
28 copyrighted images.

131. As described above, Exhibits 86-91, and 107-108 illustrate why it is necessary that *all* Google links to an identified infringing website be removed. Any link to an infringing website by Google provides the user easy and quick access to infringing Perfect 10 copyrighted images on that website. If, for example, Google is only required to remove images whose precise URL is specified, it is a simple process to change the URL slightly (Exhibit 86), which would allow Google to continue to display the same infringing Perfect 10 image from the same infringing website indefinitely.

**Google's Unauthorized Display Of Thousands Of Perfect 10 Copyrighted Images And Hundreds Of Perfect 10 Passwords Is Causing Irreparable Harm.**

132. Perfect 10's unique copyrighted images are the foundation of its business. Google is making available, for free, thousands of copies of Perfect 10's highest quality images, the exact same products that Perfect 10 sells to consumers. Additionally, Google continues to virtually always link Perfect 10 copyrighted images which Google displays to infringing websites which frequently offer hundreds of additional infringing Perfect 10 images. Finally, Google's continued unauthorized dissemination of hundreds of username/password combinations to perfect10.com is forcing Perfect 10 to lose many sorely needed customers by killing hundreds of their passwords while at the same time resulting in the unauthorized viewing and downloading of thousands of Perfect 10 images.

133. Google's unauthorized display of Perfect 10's copyrighted images and perfect10.com passwords is much more damaging to Perfect 10 than would be the distribution of Perfect 10 images and passwords by a typical infringing website for the following reasons: (a) Google is displaying thousands of copies of Perfect 10 copyrighted images and hundreds of passwords, whereas the typical infringing website typically displays far fewer Perfect 10 copyrighted images or passwords; (b) Google has many times more visitors; in fact, it is the third most frequently visited website in the world; (c) Google is making Perfect 10 copyrighted images and

1 passwords available for free, so that anyone can see them, as opposed to those  
2 infringing websites which charge visitors to view Perfect 10 images or passwords;  
3 (d) Google links Perfect 10 copyrighted images in virtually all cases back to a  
4 website which misappropriated them, and which typically has additional infringing  
5 images; and (e) Google instructs users how to download Perfect 10 copyrighted  
6 images to cell phones, a new and important market for Perfect 10.

7 134. If websites are permitted, under the guise of providing a “search  
8 function,” to collect and display thousands of infringing Perfect 10 copyrighted  
9 images for free, and to link to websites with hundreds of other infringing Perfect 10  
10 images after notice, and/or to provide an ongoing stream of passwords to Perfect  
11 10’s website, Perfect 10’s entire business will be jeopardized and it will almost  
12 certainly have to cease publishing Perfect 10 Magazine. Our inventory of images  
13 will be devalued, our brand will be nearly worthless, and Perfect 10 will lose the  
14 goodwill that it has painstakingly created.

15 135. Even if Perfect 10 is ultimately able to recover monetary damages at a  
16 later date, the harm that would occur from the shutdown of Perfect 10 Magazine  
17 would be irreparable, both for Perfect 10 and for its employees. Perfect 10  
18 Magazine is the mainstay of the Perfect 10 brand. If publication of Perfect 10  
19 Magazine were to cease, it would signal to consumers and potential strategic  
20 partners alike the failing of the brand, which in addition to depriving Perfect 10 of  
21 the revenue associated with its magazine, would require Perfect 10 to return  
22 subscription fees and terminate all subscribers, and would damage Perfect 10’s  
23 credibility with wholesalers, distributors, and others. Furthermore, it would  
24 negatively impact Perfect 10’s ancillary revenue streams—i.e., its Internet business  
25 and its cell phone download business.

26 136. Perfect 10 is currently in the process of trying to sell a reality television  
27 show that it has developed and produced to television networks throughout the

1 world. In large part, the show is premised on the continued publication of Perfect  
2 10 Magazine.

### 3 **The Balance of Hardships**

4 137. Filing lawsuits against the hundreds of individual owners of websites  
5 located in different countries from which Google copies and displays its images is  
6 entirely impractical, if not impossible. There are a number of reasons for this. There  
7 are close to one thousand infringing websites spread over at least thirty different  
8 foreign countries. For example, Exhibit 81 indicates that Perfect 10 has notified  
9 Google about infringing images Google displayed from, among others, the websites  
10 mysaar24.de, desktopia.it, zerkalos.ru, kobiety.website.pl, simplemodels.com.ar,  
11 modellvilag.hu, akty.cz, robbscelebs.co.uk, dimworld.free.fr, erotikpool.at,  
12 home.tiscali.be, and vusti.dk, among others. The URLs for these websites end with  
13 “de” (Germany), “it” (Italy), “ru” (Russia), “pl” (Poland), “ar” (Argentina), “hu”  
14 (Hungary), “cz” (Czech), “uk” (United Kingdom), “fr” (France), “be” (Belgium),  
15 and “dk” (Denmark). There are many more infringing URLs listed in Perfect 10’s  
16 notices to Google in Exhibits 40 – 73, including websites whose URLs end with  
17 “nl” (Netherlands), “br” (Brazil), as well as URLs ending with “.hr,” “.yu,” “.st,”  
18 “.au,” “.ch,” “.cl,” “.cn,” “.fi,” “.tv,” “.sk,” “.tk,” “.mk,” “.ca,” “.pt,” and “.ua”.  
19 Proceeding against individual webmasters would therefore require hiring lawyers in  
20 at least thirty different countries.

21 138. Even if Perfect 10 could file lawsuits in these foreign countries, in  
22 many cases the webmaster has registered the website using false registration  
23 information, making it virtually impossible to locate that webmaster. For example,  
24 attached hereto as Exhibit 109 is a true and correct copy of the registration  
25 information for the website trillianfakes.com, an AdSense website (see the folder  
26 entitled “More Adsense Websites” in Exhibit 93 L-Z) from which Google has  
27 displayed Perfect 10 copyrighted images, and to which Google links. This website  
28 contains over 200 Perfect 10 infringements. Exhibit 109 shows the registrant to be



1 “Neverhereneverthere,” with an address of “Allmostbelievable 321, Zwolle, NH  
2 1001 XU, NL,” and an administrative contact of “Dude, Mr. Big.”

3 139. Even if Perfect 10 could find the webmasters and successfully litigate  
4 against them, it is extremely unlikely that Perfect 10 could collect any damages or  
5 prevent such webmasters from simply starting new infringing websites with  
6 different registrations and URLs.

7 140. The impossibility of suing individual webmasters is best illustrated by  
8 the case Perfect 10 filed in 2001 against FTV Corp (213 F. Supp. 2d 114 (C.D.Cal.  
9 2002)). Even though Perfect 10 obtained an injunction against FTV Corp., and even  
10 though Perfect 10 obtained a contempt of court order against its webmaster and a  
11 judgment against the webmaster and FTV Corp. for a total of over \$750,000, Perfect  
12 10 was never able to collect on that judgment and I believe the same webmaster is  
13 still infringing hundreds of Perfect 10 copyrights.

14 141. On the other hand, there is absolutely no reason why requiring Google  
15 to stop displaying infringing Perfect 10 copyrighted images and to stop linking to  
16 websites with infringing Perfect 10 copyrighted images or perfect10.com passwords  
17 should be considered a “hardship.” It is not difficult for a search engine to simply  
18 program its computers to stop “crawling” particular websites. For example, Perfect  
19 10 has notified Yahoo about linking to websites with misappropriated Perfect 10  
20 images, and Yahoo has removed *all* of the web search links and image search links  
21 to a few of the websites identified in Perfect 10’s notices. Attached hereto as  
22 Exhibit 110 are the pages I viewed on June 2, 2005, after conducting Yahoo web  
23 and image searches on three URLs that were specifically identified by Perfect 10 to  
24 Yahoo in Perfect 10’s notices of infringement. The searches in Exhibit 110 are  
25 preceded by the term “site,” which based on my experience, restricts search results  
26 to web pages from that website. Exhibit 110 shows that Yahoo has deleted from its  
27 image search and web search results all web pages with URLs containing greh.ru,  
28 ragazzesexy.tv, and annasayfa.host.sk, which were websites about which Perfect 10

1 provided notice of infringement. I have also included as pages 684-686 of Exhibit  
2 110 web pages I viewed on July 31, 2005 when I did Yahoo searches for three  
3 password hacking websites that I had complained to Yahoo about. Pages 684-686  
4 of Exhibit 110 demonstrate that Yahoo deleted *all* links to those websites.

5 142. From a computer programming standpoint, it is very easy to program a  
6 computer to **not** link to a particular website or display images from a particular  
7 website, by using what are called “**If ... Then ...**” instructions. For example, to  
8 prevent Google.com from displaying text links or images from web pages in the  
9 website greh.ru, the instruction, conceptually speaking, would be “**If** (URL contains  
10 “greh.ru”) **Then** (do not display image in image search results or text in web search  
11 results).  
12

13 143. It is also straightforward to program a computer to stop displaying  
14 username/password combinations to perfect10.com. As shown by Exhibits 102 and  
15 104, the typical format for the display of a perfect10 username/password  
16 combination is username:password@www.perfect10.com. This type of string, or  
17 any other type of text containing perfect10.com along with offerings of hacked  
18 passwords would be very easy to find and block.

19 144. Google admits that it programs Googlebot, the crawler that Google  
20 uses, to determine whether a particular web page should be retrieved. In particular,  
21 Google suggests that it has developed the ability to spot duplicate web pages and  
22 presumably, duplicate images. Attached as Exhibit 111 are copies of web pages that  
23 I viewed on google.com on July 29, 2005. Google describes Googlebot, Google’s  
24 web crawler, as follows: “Googlebot is Google’s web crawling robot, which finds  
25 and retrieves pages on the web and hands them off to the Google indexer. It’s easy  
26 to imagine Googlebot as a little spider scurrying across the strands of cyberspace,  
27 but in reality Googlebot doesn’t traverse the web at all. It functions much like your  
28 web browser, by sending a request to a web server for a web page, downloading the  
entire page, and then handing it off to Google’s indexer.... Although its function is

1 simple, Googlebot must be programmed to handle several challenges...*Duplicates*  
2 *in the queue must be eliminated to prevent Googlebot from fetching the same page*  
3 *again...*(emphasis added).

4 145. Google could also operate its search function without showing any  
5 images at all, by simply describing websites with text rather than showing images.  
6 For adult images of the type Perfect 10 owns, this should be more than sufficient to  
7 fulfill any "search function." Google does this now. For example, attached as  
8 Exhibit 112 is a copy of a web page that I viewed on July 28, 2005, by doing a  
9 Google web search on "Kristina Kovari," a Perfect 10 model. In the fourth listing it  
10 says, "Kristina Kovari, Girls, Photo Scans... Sections offers for girls lovers, several  
11 subjects, bikini, lingerie, nude, girls, e[tc]. result of collect and high quality scans  
12 from the best magazines..." The sixth listing from the top is entitled "kristina  
13 kovari nudes." The availability and location of images of Kristina Kovari could  
14 easily be described in words in this way without showing the actual images.

15 146. Google also could operate a viable image search engine by populating  
16 its image database with submissions from copyright holders who have the rights to  
17 the works at issue. In fact, this is how Google says it operates its newly launched  
18 video based search engine called "Google Video." Attached hereto as Exhibit 113 is  
19 Google's new program for displaying videos. Page 690 of this exhibit states, "The  
20 upload program lets you submit videos electronically to Google Video, as long as  
21 you own the necessary rights (including copyrights, trademarks, rights of publicity,  
22 and other relevant rights for your content). Pages 691-692 state, "as the content  
23 owner, you decide whether you'd like to give away your video for free or charge a  
24 price you set for it. If you do charge a price, Google will take a small revenue share  
25 to cover some of our costs." Page 692 states, "Once your video is available on  
26 Google video, users will be able to click your URL to visit your website. We realize  
27 that traffic to your website is valuable..." In response to the question, "What are  
28 you doing to prevent content that violates your policies from appearing on Google

1 video?" Page 696 states, "We do a preliminary review on uploaded videos through  
2 both a manual and automated process....our review process is primarily focused on  
3 removing adult content or obvious copyright violations..."

4 147. Although Google claims to operate Google Video in a fashion to  
5 protect copyright holders' interests, a recent article by the Wall Street Journal  
6 indicates that major copyright holders, including owners of copyrights in  
7 audiovisual works and books, have complained to Google about Google's apparent  
8 plans to copy and make available large quantities of copyrighted works without  
9 express permission from the copyright holders. The article also discusses the  
10 Agence France Presse suit against Google for copyright violations relating to the  
11 alleged unauthorized use by Google of Agence France Presse pictures and news  
12 clips. Attached hereto as Exhibit 114 is the article dated June 30, 2005 from the  
13 online version of the Wall Street Journal. On page 698, the Wall St. Journal  
14 reports, "In a May letter, the Association of American University Presses, a trade  
15 group of 125 publishers, warned Google that its plan to digitize millions of books in  
16 university libraries ... represents 'fundamental, broad-sweeping violation of the  
17 Copyright Act.'"

18 148. In response, Google has given book publishers the option of excluding  
19 their books from copying by Google. Attached as Exhibit 115 is an article dated  
20 August 11, 2005 posted by the "Google Print Product Manager" which I printed  
21 from googleblog.blogspot.com on August 15, 2005. The article states, "So now, any  
22 and all copyright holders – both Google print partners and non-partners – can tell us  
23 which books they'd prefer that we not scan if we find them in a library." It also  
24 states, "... but those publishers who don't want to take advantage of this service can  
25 now simply tell us which books they'd like us to exclude."

26 149. Neither Google nor the infringing websites from which it obtains its  
27 Perfect 10 copyrighted images has received any consent or authorization from  
28 Perfect 10. Google has never requested permission from Perfect 10 to display its

1 copyrighted images or offered Perfect 10 compensation for doing so. Nor has it  
2 ever made any effort to ensure that the display of Perfect 10 copyrighted images is  
3 linked to websites owned by Perfect 10. Instead, Google is continuing, despite  
4 repeated notice of infringement, to display and distribute thousands of copies of  
5 infringing Perfect 10 copyrighted images and to link those images in virtually all  
6 cases to websites which misappropriated them and which display additional Perfect  
7 10 copyrighted images without authorization.

8 **On Or About August 12, 2005, Google Added A Large Number Of Perfect 10**  
9 **Images To Its Image Display**

10 150. On August 12, 2005, as I was completing this declaration, I noticed that  
11 Google had more than doubled the number of Perfect 10 copyrighted images it  
12 displayed in response to searches on a significant number of Perfect 10 model  
13 names. For example, on July 20, 2005, Google was displaying 50 Perfect 10  
14 copyrighted images in response to an image search on Monika Zsibrita (Exhibit 80).  
15 On August 12, that number had increased to 130. For Isabelle Funaro, it increased  
16 from 26 on July 12, 2005, to 79 on August 12, 2005; for Nataskia Maren, from 12  
17 on July 14, 2005 to 45 on August 12, 2005; and for Zoya Konyieva, from 25 on July  
18 14, 2005 to 74 on August 12, 2005. Exhibit 116 contains the pages displayed on  
19 google.com on August 12, 2005 after I did Google image searches on Perfect 10  
20 models Monika Zsibrita, Isabelle Funaro, Nataskia Maren, and Zoya Konyieva. It  
21 contains 130 Perfect 10 copyrighted images of Monika Zsibrita, 79 Perfect 10  
22 copyrighted images of Isabelle Funaro, 45 Perfect 10 copyrighted images of  
23 Nataskia Maren, and 74 Perfect 10 copyrighted images of Zoya Konyieva. I have  
24 placed in Exhibits 83 A-K and 83 L-Z images of other models in files dated August  
25 12, 2005 or later, showing that Google has begun to display substantially more  
26 images of other models as well. For example, the number of images displayed by  
27 Google of Sasha Brinkova has increased from 58 to 125; for Talia Harvalik, from 13  
28 to 55; and for Simone Burkhard, from 7 to 28. Exhibits 83 A-K and 83 L-Z also

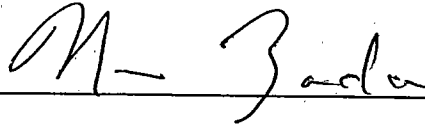
1 show that, as of August 12, 2005, Google has, by and large, continued to display the  
2 same images identified in the notices summarized in Exhibit 81. For example,  
3 Exhibit 116 also shows that as of August 12, 2005, Google was continuing to  
4 display Perfect 10 copyrighted images of Monika Zsibrita, Isabelle Funaro, Nataskia  
5 Maren, and Zoya Konyieva from *every one* of the URLs listed in Exhibit 81 relating  
6 to those models.

7 151. On or about August 12, 2005, Google also added a significant number  
8 of Perfect 10 copyrighted images to its image search results from URLs identified in  
9 earlier notices. Attached as Exhibit 117 is an Excel spreadsheet I created for  
10 Monika Zsibrita, Isabelle Funaro, Nataskia Maren, and Zoya Konyieva. The URLs  
11 in the left column identify infringing web pages from which Google began to  
12 display Perfect 10 copyrighted images on or about August 12, 2005 despite specific  
13 notice from Perfect 10 on the date listed in the DATE column. For example, the  
14 first row of Exhibit 117 indicates that on or about August 12, 2005, Google  
15 displayed a Perfect 10 copyrighted image of Monika Zsibrita obtained from the  
16 website alibabaweb.com at the URL  
17 *alibabaweb.com?WWWX.php?T=playmates\_photos&D=monika\_zsibrita*, despite  
18 receiving a notice from Perfect 10 on June 28, 2004 identifying that exact URL. I  
19 have highlighted that URL on page 303 of Exhibit 43, as well as the partial URL on  
20 page 709 of Exhibit 116 which I have verified it is the complete URL for. Perfect  
21 10 provided Google three other notices identifying infringements of Monika Zsibrita  
22  
23  
24  
25  
26  
27

1 images at that URL (Exhibit 44 page 334, Exhibit 45, page 359, and Exhibit 46,  
2 page 410). As shown in Exhibit 83 L-Z, alibabaweb.com is a Google AdSense  
3 website.

4 I declare under penalty of perjury under the laws of the United States of  
5 America that the foregoing is true and correct to the best of my knowledge.

6 Executed on August 19, 2005, at Los Angeles, California.

7  
8 

9 Norman Zada, Ph.D.