

1 Jeffrey N. Mausner (State Bar No. 122385)
2 Law Offices of Jeffrey N. Mausner
3 Warner Center Towers
4 21800 Oxnard Street, Suite 910
5 Woodland Hills, California 91367-3640
6 Email: Jeff@mausnerlaw.com
7 Telephone: (310) 617-8100, (818) 992-7500
8 Facsimile: (818) 716-2773

9 Attorneys for Plaintiff Perfect 10, Inc.

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

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

14 Plaintiff,

15 v.

16 GOOGLE, INC., a corporation, and
17 DOES 1 through 100, inclusive,

18 Defendant.

19 AND CONSOLIDATED CASE,

20 Case No. CV 04-9484 AHM (SHx)
21 Consolidated with Case No. CV05-4753
22 AHM (SHx)

23 **DECLARATION OF SEAN CHUMURA**
24 **SUBMITTED IN OPPOSITION TO**
25 **GOOGLE'S THREE MOTIONS FOR**
26 **SUMMARY JUDGMENT RE DMCA**
27 **SAFE HARBOR FOR ITS WEB AND**
28 **IMAGE SEARCH, BLOGGER**
SERVICE, AND CACHING FEATURE
(DOCKET NOS. 428, 427, AND 426)

BEFORE JUDGE A. HOWARD MATZ

Date: October 5, 2009

Time: 10:00 a.m.

Place: Courtroom 14, Courtroom of the
Honorable A. Howard Matz

Discovery Cut-Off Date: None Set

Pretrial Conference Date: None Set

Trial Date: None Set

1 I, Sean Chumura, declare as follows:

2 1. I am a professional programmer with over 15 years of experience in
3 Computer Security and Computer Forensics. I was a student and protégé of
4 Michael R. Anderson, a pioneer in the Science of Computer Forensics. I have
5 testified as an expert in court proceedings in the field of Computer Forensics. I
6 have an issued patent in which I am a co-inventor, in the field of computer
7 security. I have worked with the federal, state, and local governments, as well as
8 foreign governments and private industry, in the field of computer security and
9 computer forensics. I have been certified by NTI, one of the most knowledgeable
10 and respected firms for forensic computer science, for governmental and private
11 sector computer forensics. I was admitted into the prestigious Washington, D.C.
12 Law Enforcement Association HTCC (High Tech Crime Consortium group) by
13 confirmation from the FBI, and I am a member of numerous task forces and
14 associations. The following are some of the entities I have done work for over
15 the past four years: Baseline Control, Biche, City of Beverly Hills, Computer
16 Sciences Corporation, D.I.S.A. (Defense Information Systems Agency), D.H.S.
17 (Department of Homeland Security), F.B.I. (Federal Bureau of Investigation),
18 JFCOMM (Joint Forces Command), LGB Associates Inc., Lockheed Martin,
19 NOW Solutions, Oasis Network LLC, Northrup Grummen, Perfect 10, Inc., Sun
20 Microsystems, Transaction Solutions, VCSY (Vertical Computer Systems),
21 Westinghouse, as well as other government agencies. For some of the projects
22 that I have worked on, I have had a Top Secret security clearance.

23 2. I have consulted for the FBI in the areas of cyberterrorism, forensic
24 computer investigation, and white collar crime. I have extensive experience
25 writing computer programs, including programs to protect computers from
26 viruses, denial of service attacks, and other malicious acts. I have also written
27 programs to investigate piracy, to detect financial fraud, and to allow computer
28

1 networks to identify computers that are no longer functioning properly due to
2 software issues and correct those problems in an automated fashion. I also
3 cofounded the first private cyber warfare/terrorism defense center and helped
4 develop the technology to identify attacks against infrastructure in near real-time.

5 3. I submit this declaration in support of Perfect 10. I have spent over a
6 thousand hours using and analyzing how the Google search engine functions. I
7 have also done many hours of research, study, and reading regarding search engine
8 operation. I have examined Exhibit 1 which is attached to this declaration, which I
9 obtained from Jeff Mausner. Page 1 of Exhibit 1 is the output of a computer
10 program that I created under the direction of Dr. Norman Zada. The program
11 allows Perfect 10 to select images from Google Image Search by checking a box
12 that the program makes available next to each Google thumbnail. The program
13 places the date the Google search was done in the upper right corner, and puts the
14 three links offered by Google for each image in the block corresponding to that
15 image. The first URL after the term "Image" is the URL associated with Google's
16 "See full-size image" link; the second URL after the term "Site" is the link Google
17 provides to the underlying third party website (often called a Web Page URL); and
18 the bottom URL after the term "Thumbnail" is the link to the location at which the
19 "thumbnail" resides on Google's server. The program also has a Web Search
20 option which allows Perfect 10 to save selected Google Web Search results.

21 4. If Google received page 1 of Exhibit 1 in a notice, it would have more
22 than enough information to readily locate and block all the URLs listed on page 1.
23 Adobe Acrobat has a feature which allows for the extraction of URLs. So Google
24 could cut and paste whatever URLs it wanted from page 1 of Exhibit 1 into a text
25 file or excel spreadsheet.

26 5. I have examined pages 2 through 7 of Exhibit 1. If Google received
27 any of those pages in a notice, it would have enough information to locate the

1 images on that page, and remove the images and the webpage from both its Image
2 Search and Web Search results. All Google needs to act is the Web Page URL,
3 which is contained on each of those pages. Once Google has the URL of the Web
4 Page containing an infringement, it can block it. The Web Page URL may be
5 thought of as the specification of a particular page in a particular book. It tells
6 Google where to go on the Internet to find the infringing material, equivalently,
7 which book to open and which page to turn to. On pages 3-6, the Web Page URL
8 is highlighted. On page 7, it appears in the browser bar. For page 2, Google has
9 the search term, “Ingrid Ostvat”, the base URL of the website where each image is
10 located, darkshadow.3xforum.ro, and what is sometimes called the “Thumbnail
11 Source URL.” This is the URL that is displayed in the address bar of a web
12 browser when a user clicks on the thumbnail. Page 8 of Exhibit 1 shows an
13 example of one such “Thumbnail Source URL.” The Thumbnail Source URL
14 contains both the “See full-size image” URL as well as the Web Page URL
15 embedded in it, along with information such as whether the user had their safe
16 search on and what browser they were using. It may be readily extracted using
17 Adobe’s URL extraction feature, as shown on page 9 of Exhibit 1. On page 9, the
18 first highlighted term is the “See full-size image” URL. The second highlighted
19 term is the web page URL.

20 6. Sometimes when a URL is too long, Google will replace it with a
21 URL that has ellipses in it. However, the original full URL can almost always be
22 found by doing a Google combination search on the base URL along with a
23 character string from the rest of the URL. Effectively, one searches on the two
24 portions of the URL that one has. The base URL is usually the URL of the home
25 page of the website, like google.com.

26 7. I have looked at what Google describes as a “post URL.” I have not
27 seen any post URLs on the blogger pages that contain full-size Perfect 10 images.

1 There is only one URL on those pages and that is the URL I would use to identify
2 their location. Attached as Exhibit 2 is a full-size image that I obtained from
3 Blogger. As can be seen from the URL at the bottom of the page, namely,
4 [http://bp3.blogger.com/_A228DePAsJQ/RdSh3J1hgQI/AAAAAAAAAAu0/p8Za-
6 c5rue8/s1600-h/marisa_miller_21.jpg](http://bp3.blogger.com/_A228DePAsJQ/RdSh3J1hgQI/AAAAAAAAAAu0/p8Za-
5 c5rue8/s1600-h/marisa_miller_21.jpg), the image is stored on blogger.com. The
7 only URL shown with this image is not a post URL. However, anyone can find the
8 image with this URL, by cutting and pasting the URL into their browser bar.

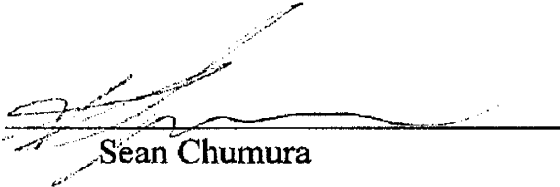
8 8. I have studied Google's current instructions for submitting DMCA
9 notices regarding Image Search, and its instructions for submitting DMCA notices
10 regarding Web Search. I do not believe that Google's Image Search instructions
11 are necessary or helpful in the vast majority of situations. In fact, they can be
12 unnecessarily burdensome when an infringing web page contains many infringing
13 images, as is illustrated by page 2 of Exhibit 1 to my declaration. Each of the first
14 fifteen thumbnails appearing on page 2 of Exhibit 1 is linked to, and appears on,
15 the same infringing web page, darkshadow.3xforum.ro. If Perfect 10 were to
16 follow Google's Image search instructions, it would have to provide at least 15
17 Image URLs (one for each of the images shown on page 2), but possibly many
18 more. Suppose on the other hand that Perfect 10 were to identify a single URL for
19 the infringing web page, darkshadow.3xforum.ro. In order to stop directly linking
20 to that infringing web page, Google would have to remove the first fifteen images
21 shown on page 2 of Exhibit 1 from its Image Search results, *as well as any other*
22 *image that Google was displaying in its search results from that web page, even if*
23 *it were not a P10 Image*. That is the only way that Google, given its current
24 method of linking infringing thumbnails back to infringing web pages, could block
25 all direct links to the identified infringing web page darkshadow.3xforum.ro. So
26 specifying a single web page URL does much more in this case than specifying
27 possibly hundreds of Image URLs. In fact, just specifying P10 Image URLs by
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1 themselves would not prevent Google from continuing to directly link to
2 darkshadow.3xforum.ro from a non-P10 thumbnail from that same web page. Of
3 course, once Google in-line links a user to that webpage, the user can view and/or
4 download any of the infringing images on that page, regardless of which Google
5 thumbnail he clicked on to get there. That is why it is necessary for Google to
6 remove all thumbnails that link to that webpage from its Image Search results,
7 rather than just a few thumbnails.

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

10 Executed on August 2, 2009, at Pittsburgh, Pennsylvania.

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Sean Chumura

Exhibit 1

GOOGLE Images

51 results for "Xenia Szabo"

7/8/2008

1



Search string: "**Xenia Szabo**"Image http://img133.imagevenue.com/loc173/th_64278_21.jpgSite <http://forum.phun.org/showthread.php?p=729907>Image Info: 106x160 Size: 7Kb

Thumbnail http://tbn0.google.com/images?q=tbn:Vs0blZd_jqxVPM: http://img133.imagevenue.com/loc173/th_64278_21.jpg

2



Search string: "**Xenia Szabo**"Image http://www.imagerise.com/images.php/t4766_XeniaSzabo22.jpgSite <http://titsandhentai.wordpress.com/2008/04/16/xenia-szabo/>Image Info: 99x150 Size: 6Kb

Thumbnail http://tbn0.google.com/images?q=tbn:MYCIndOeHiRYpM: http://www.imagerise.com/images.php/t4766_XeniaSzabo22.jpg

3



Search string: "**Xenia Szabo**"Image http://www.imagerise.com/images.php/t4755_XeniaSzabo01.jpgSite <http://titsandhentai.wordpress.com/2008/04/16/xenia-szabo/>Image Info: 99x150 Size: 6Kb

Thumbnail http://tbn0.google.com/images?q=tbn:YSICEWI5K6tg6M: http://www.imagerise.com/images.php/t4755_XeniaSzabo01.jpg

4



Search string: "**Xenia Szabo**"Image http://img11.imagevenue.com/loc229/th_16866_01.jpgSite <http://www.szatar.com/showthread.php?p=1367574>Image Info: 106x160 Size: 7Kb

Thumbnail http://tbn0.google.com/images?q=tbn:kSvskXqpK00tXM: http://img11.imagevenue.com/loc229/th_16866_01.jpg

5



Search string: "**Xenia Szabo**"Image <http://blog7.fc2.com/a/aitaine/file/20060525.jpg>Site <http://aitaine.blog7.fc2.com/blog-date-200605.html>Image Info: 300x451 Size: 49Kb

Thumbnail <http://tbn0.google.com/images?q=tbn:zfMv2sApk-Kw4M: http://blog7.fc2.com/a/aitaine/file/20060525.jpg>



[SafeSearch is off](#)

[Advanced Image Search](#)
[Preferences](#)

Images Showing: All image sizes Any content [All colors](#) ▼ Results **19 - 36** of about **130** (0.04 seconds)



PERFECT10 com - The World s Most ...
99 x 150 - 7k - jpg
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...
99 x 150 - 6k - jpg
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...
99 x 150 - 5k - jpg
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...
99 x 150 - 4k - jpg
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...
99 x 150 - 5k - jpg
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PERFECT10 com - The World s Most ...
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PERFECT10 com - The World s Most ...
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PERFECT10 com - The World s Most ...
99 x 150 - 6k - jpg
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...
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PERFECT10 com - The World s Most ...
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PERFECT10 com - The World s Most ...
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PERFECT10 com - The World s Most ...
99 x 150 - 4k - jpg
[darkshadow.3xforum.ro](#)



PERFECT10 com - The World s Most ...
99 x 150 - 6k - jpg
[darkshadow.3xforum.ro](#)



This is Google's cache of <http://www.monitor.hr/belle/0112/011206.htm>. It is a snapshot of the page as it appeared on 16 Sep 2008 18:14:02 GMT. The [current page](#) could have changed in the meantime. [Learn more](#)

[Text-only version](#)

These search terms are highlighted: **zoya konyieva**

Zoya Konyieva

[Monitor home](#) | [Belle indeks](#) | [Prosinac 2001](#) | [Prije](#) | [Poslije](#)



Exh. 1, Pg. 3

Zoya Konyieva

Monitor home | Belle indeks | Prosinac 2001 | Prije | Poslije



Monitor home | Belle indeks | Prosinac 2001 | Prije | Poslije



See full-size image.
wallpapers.wallpapercar.com/russian-girl/russ...
140 x 111 - 6k
Image may be scaled down and subject to copyright.

Remove Frame
Image Results

Below is the image in its original context on the page: wallpapers.wallpapercar.com/russian-girl/

Beautiful Russian Girls
Find a soul mate, love and marriage from our Ukraine and Russian women

Armenian Match - Barev
Smart, Sexy Armenians Meet Here. Find your Armenian Match Here!

Meet Beautiful Singles
Browse photos of Millions of Users Find True Love today

Totally Free Wallpapers
Get Bikini Com Girls Wallpaper Download Now! Quick & Easy

Ads by Google

Ads by Google







Interesting to have panties which match your top...I have to say I love her shoes. Lovely long legs are set off so well with the right shoes...

corset girl

Hot Lingerie Links Tiny Panties! Cleavage! Boosting Bras Naughty Links

[Lace Lingerie](#)

Find great deals and save! Compare products, prices & stores

[Panty of the Month](#)

As Seen on CNN and in Playboy! New Sexy Lingerie Set Every Month

Ads by Google

POSTED BY JENNIFER AT 12:46 AM 0 COMMENTS

FRIDAY, DECEMBER 03, 2004

Black Lace Scarf



A black thong and a, well, scarf?? Once again the idea of lingerie is concealment as well as provocation and this long shot is a little of both...Why is Natalia Sirocka walking down a country road wearing very little? Another mystery for the ages...

Hot Lingerie Links Tiny Panties! Cleavage! Boosting Bras Naughty Links

POSTED BY JENNIFER AT 1:53 AM 1 COMMENTS

Raised slip

- [babeslog](#)
- [babe-a-licious](#)
- [unique peek](#)
- [blonde blog](#)
- [your dirty mind](#)
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- [we are making porn](#)
- [babes kick ass we are](#)
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PICTURE SITES

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- [beauty girls](#)
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NAUGHTY BLOGS

- [Sexoteric](#)
- [A New York Escorts](#)
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- [Daze Reader](#)
- [newlywed satisfaction](#)
- [Prurient Obscenities](#)
- [SLA](#)
- [TwiddlyBits](#)
- [Word Oyster](#)
- [panty perv](#)

SYNDICATED AT

- [web nymph](#)



"Ingrid Ostvat" - Google Image Search

[Web](#) [Images](#) [Maps](#) [News](#) [Video](#) [Gmail](#) [more](#) ▼

[Sign in](#)



"Ingrid Ostvat"

Search Images

Search the Web

[Advanced Image Search Preferences](#)

[SafeSearch is off](#)

Images Showing: [All image sizes](#) [Any content](#) [All colors](#) ▼

Results 19 - 36 of about 130 (0.04 seconds)



http://images.google.com/imgres?imgurl=http://www.imagerise.com/images.php/t133_AlexandraBerejnova42copy.jpg&imgrefurl=http://darkshadow.3xforum.ro/post/1532/1/PERFECT10_com_-_The_World_s_Most_Beautiful_Natural_women/&usg=__RtMcrOXj2G7_XIP-9Fv6Flbwxxw=8&h=150&w=99&sz=7&hl=en&start=19&um=1&tbid=d7MunlvjsDS9eM:&tbid=96&tbid=63&prev=/images%3Fq%3D%2522Ingrid%2BOstvat%2522%26ndsp%3D18%26hl%3Den%26safe%3Doff%26client%3Dfirefox-a%26channel%3Ds%26rls%3Dorg.mozilla:en-US:official%26sa%3DN%26start%3D18%26um%3D1

PERFECT10 com - The World s Most ...
99 x 150 - 6k - jpg
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PERFECT10 com - The World s Most ...
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PERFECT10 com - The World s Most ...
99 x 150 - 5k - jpg
darkshadow.3xforum.ro



PERFECT10 com - The World s Most ...
99 x 150 - 4k - jpg
darkshadow.3xforum.ro



PERFECT10 com - The World s Most ...
99 x 150 - 5k - jpg
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PERFECT10 com - The World s Most ...
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PERFECT10 com - The World s Most ...
99 x 150 - 4k - jpg



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99 x 150 - 6k - jpg



PERFECT10 com - The World s Most ...
99 x 150 - 5k - jpg

May 2009

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					1	2
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24	25	26	27	28	29	30

http://images.google.com/imgres?imgurl=http://www.imagerise.com/images.php/t133_AlexandraBerejnova42copy.jpg&imgrefurl=http://darkshadow.3xforum.ro/post/1532/1/PERFECT10.com - The World's Most Beautiful Natural women /&usq=RtMcrOXj2G7_XliP-9Fv6Flbwxw=&h=150&w=99&sz=7&hl=en&start=11&um=1&tbnid=d7MunlVjsDS9eM:&tbnh=96&tbnw=63&prev=/images%3Fq%3Dsite:www.imagerise.com%2B%2522Ingrid%2BOstvat%2522%2Bdarkshadow.3xforum.ro%26hl%3Den%26safe%3Doff%26client%3Dfirefox-a%26channel%3Ds%26rls%3Dorg.mozilla:en-US:official%26um%3D1

Exhibit 2



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PERFECT10.COM