

**Perfect 10, Inc. v. Amazon.com, Inc.,  
508 F.3d 1146 (9th Cir. 2007)**

Year	2007
Court	United States Court of Appeals for the Ninth Circuit
Key Facts	Plaintiff Perfect 10, Inc., a subscription website for images of nude models, alleged that defendants Google, Inc. and Amazon.com, Inc. infringed its copyrights. Plaintiff alleged that Google infringed because its search engine results for image searches included plaintiff's images. The image search results were shown as reduced-sized, lower resolution "thumbnail" versions of the original images. Another aspect of plaintiff's claim related to a business agreement Google had with Amazon.com that permitted Google's search engine to send search results, including plaintiff's images, to Amazon.com customers. Defendants appealed the district court's grant of a preliminary injunction enjoining Google from creating and publicly displaying thumbnail versions of plaintiff's images.
Issue	Whether defendants were likely to prevail on the argument that their use of thumbnail images was a fair use of plaintiff's images.
Holding	The court concluded that the use of thumbnail versions of plaintiff's images was a fair use and held that Google was likely to succeed in proving its fair use defense, thus vacating the preliminary injunction regarding Google's use of the thumbnail images. It deemed the use "highly transformative" because a search engine transformed an image into a pointer directing a user to a source of information and provided a social benefit by incorporating an original work into an electronic reference tool. The court held that market harm could not be presumed, given the highly transformative nature of the use, and that the potential harm to plaintiff's market was hypothetical.
Tags	Ninth Circuit; Internet/Digitization; Photograph
Outcome	Preliminary ruling, mixed result, or remand

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