

1 Michael A. Sherman (SBN 94783)
 masherman@stubbsalderton.com
 2 Jeffrey F. Gersh (SBN 87124)
 jgersh@stubbsalderton.com
 3 Sandeep Seth (SBN 195914)
 sseth@stubbsalderton.com
 4 Wesley W. Monroe (SBN 149211)
 wmonroe@stubbsalderton.com
 5 Stanley H. Thompson, Jr. (SBN 198825)
 sthompson@stubbsalderton.com
 6 Viviana Boero Hedrick (SBN 239359)
 vhedrick@stubbsalderton.com
 7 STUBBS, ALDERTON & MARKILES, LLP
 15260 Ventura Blvd., 20th Floor
 8 Sherman Oaks, CA 91403
 Telephone: (818) 444-4500
 9 Facsimile: (818) 444-4520

10 **Attorneys for Plaintiffs**
 [Additional Attorneys listed
 11 below]

12 UNITED STATES DISTRICT COURT
 13 NORTHERN DISTRICT OF CALIFORNIA
 14 SAN JOSE DIVISION

15 IN RE PERSONALWEB TECHNOLOGIES,
 16 LLC, ET AL., PATENT LITIGATION

CASE NO.: 5:18-md-02834-BLF
FIRST AMENDED COMPLAINT
DEMAND FOR JURY TRIAL

18 _____
 19 PERSONALWEB TECHNOLOGIES, LLC, a
 20 Texas limited liability company, and
 21 LEVEL 3 COMMUNICATIONS, LLC,
 a Delaware limited liability company,

Case No.: 5:18-cv-03582-BLF

22 Plaintiffs,

23 v.

24 FANDUEL INC., a Delaware corporation, and
 25 FANDUEL LIMITED, a United Kingdom
 limited company,

26 Defendant.

27
 28

1 Plaintiff PersonalWeb Technologies, LLC (“Plaintiff” or “PersonalWeb”) files this First
2 Amended Complaint (“Complaint”) for patent infringement against Defendant FanDuel, Inc. and
3 Defendant FanDuel Limited (collectively, “Defendant”). Plaintiff PersonalWeb Technologies, LLC
4 alleges:

5
6 **PRELIMINARY STATEMENT**

7 1. PersonalWeb and Level 3 Communications, LLC (“Level 3”) are parties to an
8 agreement between Kinetech, Inc. and Digital Island, Inc. dated September 1, 2000 (the “Agreement”).
9 Pursuant to the Agreement, PersonalWeb and Level 3 each own a fifty percent (50%) undivided
10 interest in and to the patents at issue in this action: U.S. Patent Nos. 6,928,442, 7,802,310, and
11 8,099,420 (“Patents-in-Suit”). Level 3 has joined in this Complaint pursuant to its contractual
12 obligations under the Agreement, at the request of PersonalWeb.

13 2. Pursuant to the Agreement, Level 3 has, among other rights, certain defined rights to
14 use, practice, license, sublicense and enforce and/or litigate the Patents-in-Suit in connection with a
15 particular field of use (“Level 3 Exclusive Field”). Pursuant to the Agreement PersonalWeb has,
16 among other rights, certain defined rights to use, practice, license, sublicense, enforce and/or litigate
17 the Patents-in-Suit in fields other than the Level 3 Exclusive Field (the “PersonalWeb Patent Field”).

18 3. All infringement allegations, statements describing PersonalWeb, statements
19 describing any Defendant (or any Defendant’s products) and any statements made regarding
20 jurisdiction and venue are made by PersonalWeb alone, and not by Level 3. PersonalWeb alleges that
21 the infringements at issue in this case all occur within, and are limited to, the PersonalWeb Patent
22 Field. Accordingly, PersonalWeb has not provided notice to Level 3—under Section 6.4.1 of the
23 Agreement or otherwise—that PersonalWeb desires to bring suit in the Level 3 Exclusive Field in its
24 own name on its own behalf or that PersonalWeb knows or suspects that Defendant is infringing or
25 has infringed any of Level 3’s rights in the patents.

26
27
28

THE PARTIES

1
2 4. Plaintiff PersonalWeb Technologies, LLC is a limited liability company duly organized
3 and existing under the laws of Texas with its principal place of business at 112 E. Line Street, Suite
4 204, Tyler, TX 75702.

5 5. Plaintiff Level 3 Communications, LLC is a limited liability company organized under
6 the laws of Delaware with its principal place of business at 100 CenturyLink Drive, Monroe,
7 Louisiana, 71203.

8 6. PersonalWeb’s infringement claims asserted in this case are asserted by PersonalWeb
9 and all fall outside the Level 3 Exclusive Field. Level 3 is currently not asserting patent infringement
10 in this case in the Level 3 Exclusive Field against any Defendant.

11 7. Defendant FanDuel, Inc. is, upon information and belief, a Delaware corporation
12 having a principal place of business and a regular and established business at 300 Park Avenue South,
13 14th Fl., New York, NY 10010.

14 8. Defendant FanDuel Limited is, upon information and belief, a United Kingdom limited
15 company having a principal place of business or regular and established place of business at 15
16 Lauriston Place, Quartermile One, 4th Floor, EH3 9EN, Edinburgh, United Kingdom. Upon
17 information and belief, FanDuel Limited is a subsidiary of, affiliate of, or commonly owned with
18 FanDuel, Inc.

19
20 **JURISDICTION AND VENUE**

21 9. The court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a)
22 because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

23 10. Venue is proper in this federal district pursuant to 28 U.S.C. §§ 1391(b)–(c) and
24 1400(b) because, on information and belief, Defendant FanDuel, Inc. has a regular and established
25 place of business in the Southern District of New York and has committed acts of infringement in such
26 District.

27 11. Defendant FanDuel Limited, on information and belief, is not a resident of the United
28 States and thus may be sued in any judicial district. Alternatively, on information and belief,

1 Defendant FanDuel Limited has a regular and established place of business in the Southern District of
2 New York and has committed acts of infringement in such District.

3 12. Venue is also proper in this Court because this action has been transferred to this
4 District by the Judicial Panel on Multidistrict Litigation for consolidated pretrial proceedings pursuant
5 to 28 U.S.C. § 1407.

6 13. This court has personal jurisdiction over Defendant because, in addition to the
7 allegations in above paragraphs, on information and belief, Defendant FanDuel, Inc. is domiciled in
8 the Southern District of New York. Further, on information and belief, Defendant FanDuel, Inc.
9 purposefully directed activities at residents of New York, the claims herein arise out of and relate to
10 those activities, and assertion of personal jurisdiction over Defendant FanDuel, Inc. would be fair.

11 14. This court has personal jurisdiction over Defendant FanDuel Limited pursuant to Rule
12 4(k)(2) of the Federal Rules of Civil Procedure because, on information and belief, Defendant FanDuel
13 Limited, a United Kingdom limited company, is not incorporated in the United States and Defendant
14 FanDuel Limited's principal place of business is not in the United States. Defendant FanDuel Limited
15 has sufficient contacts with the United States such that exercise of jurisdiction over Defendant
16 FanDuel Limited comports with due process.

17 15. On information and belief, Defendant is subject to this Court's jurisdiction because this
18 action has been transferred to this District by the Judicial Panel on Multidistrict Litigation for
19 consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407.

20
21 **PERSONALWEB BACKGROUND**

22 16. The Patents-in-Suit cover fundamental aspects of cloud computing, including the
23 identification of files or data and the efficient retrieval thereof in a manner which reduces bandwidth
24 transmission and storage requirements.

25 17. The ability to reliably identify and access specific data is essential to any computer
26 system or network. On a single computer or within a small network, the task is relatively easy: simply
27 name the file, identify it by that name and its stored location on the computer or within the network,
28

1 and access it by name and location. Early operating systems facilitated this approach with standardized
2 naming conventions, storage device identifiers, and folder structures.

3 18. Ronald Lachman and David Farber, the inventors of the Patents-in-Suit, recognized
4 that the conventional approach for naming, locating, and accessing data in computer networks could
5 not keep pace with ever-expanding, global data processing networks. New distributed storage systems
6 use files that are stored across different devices in dispersed geographic locations. These different
7 locations could use dissimilar conventions for identifying storage devices and data partitions.
8 Likewise, different users could give identical names to different files or parts of files—or unknowingly
9 give different names to identical files. No solution existed to ensure that identical file names referred
10 to the same data, and conversely, that different file names referred to different data. As a result,
11 expanding networks could not only become clogged with duplicate data, they also made locating and
12 controlling access to stored data more difficult.

13 19. Lachman and Farber developed a solution: replacing conventional naming and storing
14 conventions with system-wide “substantially unique,” content-based identifiers. Their approach
15 assigned substantially unique identifiers to “data items” of any type: “the contents of a file, a portion
16 of a file, a page in memory, an object in an object-oriented program, a digital message, a digital
17 scanned image, a part of a video or audio signal, or any other entity which can be represented by a
18 sequence of bits.” Applied system-wide, this invention would permit any data item to be stored,
19 located, managed, synchronized, and accessed using its content-based identifier.

20 20. To create a substantially unique, content-based identifier, Lachman and Farber turned
21 to cryptography. Cryptographic hash functions, including MD4, MD5, and SHA, had been used in
22 computer systems to verify the integrity of retrieved data—a so-called “checksum.” Lachman and
23 Farber recognized that these same hash functions could be devoted to a vital new purpose: if a
24 cryptographic hash function was applied to a sequence of bits (a “data item”), it would produce a
25 substantially unique result value, one that: (1) virtually guarantees a different result value if the data
26 item is changed; (2) is computationally difficult to reproduce with a different sequence of bits; and
27 (3) cannot be used to recreate the original sequence of bits.

28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.