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12   UNITED STATES DISTRICT COURT

13   NORTHERN DISTRICT OF CALIFORNIA

14   SAN JOSE DIVISION

15 IN RE PERSONALWEB TECHNOLOGIES,   **CASE NO.: 5:18-md-02834-BLF**
    LLC, ET AL., PATENT LITIGATION
16
                                             FIRST AMENDED COMPLAINT
17
                                             DEMAND FOR JURY TRIAL
18 _____

19 PERSONALWEB TECHNOLOGIES, LLC,
    ET AL.,   **Case No.: 5:18-cv-03583-BLF**
20
                   Plaintiffs,
21
    v.
22
23 ROCKETHUB, INC., a New York corporation
    and ELEQT GROUP LTD., a United Kingdom
24 limited company,

25   Defendants.

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1   Plaintiff PersonalWeb Technologies, LLC ("Plaintiff" or "PersonalWeb") files this First
2   Amended Complaint ("Complaint") for patent infringement against Defendant Rockethub Inc. and
3   Defendant ELEQT Group Ltd. (collectively "Defendant"). Plaintiff PersonalWeb Technologies, LLC
4   alleges:

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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, 7,945,544,
11   and 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.

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FIRST AMENDED COMPLAINT   **CASE NO. 5:18-MD-02834-BLF**
                                              CASE NO. 5:18-CV-03583-BLF

THE PARTIES

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

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

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

7.   Defendant ELEQT Group Ltd. is, upon information and belief, a United Kingdom limited company having a principal place of business or regular and established place of business at 142 Cromwell Road, London, SW7 4EF, United Kingdom.

8.   Defendant Rockethub Inc. is, upon information and belief, a New York corporation having a principal place of business or regular and established place of business at 340 W. 42nd Street, Suite 880, New York, NY, 10008. Upon information and belief, RocketHub Inc. is a subsidiary of ELEQT Group Ltd.

JURISDICTION AND VENUE

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

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

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FIRST AMENDED COMPLAINT   **CASE NO. 5:18-MD-02834-BLF**
                                                             CASE NO. 5:18-CV-03583-BLF

1   11.   Defendant ELEQT Group Ltd., on information and belief, is not a resident of the United

2   States and thus may be sued in any judicial district. Alternatively, on information and belief,

3   Defendant ELEQT Group Ltd. has a regular and established place of business in the Southern District

4   of New York and has committed acts of infringement in such District.

5   12.   Venue is also proper in this Court because this action has been transferred to this

6   District by the Judicial Panel on Multidistrict Litigation for consolidated pretrial proceedings pursuant

7   to 28 U.S.C. § 1407.

8   13.   This court has personal jurisdiction over Defendant Rockethub Inc. because, in addition

9   to the allegations in above paragraphs, on information and belief, Defendant Rockethub Inc. is

10   domiciled in the Southern District of New York. Further, Defendant Rockethub Inc. purposefully

11   directed activities at residents of New York, the claims herein arise out of and relate to those activities,

12   and assertion of personal jurisdiction over Defendant Rockethub Inc. would be fair.

13   14.   This court has personal jurisdiction over Defendant ELEQT Group Ltd. pursuant to

14   Rule 4(k)(2) of the Federal Rules of Civil Procedure because, on information and belief, Defendant

15   ELEQT Group Ltd., a United Kingdom limited company, is not incorporated in the United States and

16   Defendant ELEQT Group Ltd.'s principal place of business in not in the United States. Defendant

17   ELEQT Group Ltd. has sufficient contacts with the United States such that exercise of jurisdiction

18   over Defendant ELEQT Group Ltd. comports with due process.

19   15.   On information and belief, Defendant is subject to this Court's jurisdiction because this

20   action has been transferred to this District by the Judicial Panel on Multidistrict Litigation for

21   consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407.

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23   **PERSONALWEB BACKGROUND**

24   16.   The Patents-in-Suit cover fundamental aspects of cloud computing, including the

25   identification of files or data and the efficient retrieval thereof in a manner which reduces bandwidth

26   transmission and storage requirements.

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FIRST AMENDED COMPLAINT   **CASE NO. 5:18-MD-02834-BLF**
                                              CASE NO. 5:18-CV-03583-BLF

17.   The ability to reliably identify and access specific data is essential to any computer system or network. On a single computer or within a small network, the task is relatively easy: simply name the file, identify it by that name and its stored location on the computer or within the network, and access it by name and location. Early operating systems facilitated this approach with standardized naming conventions, storage device identifiers, and folder structures.

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

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

20.   To create a substantially unique, content-based identifier, Lachman and Farber turned to cryptography. Cryptographic hash functions, including MD4, MD5, and SHA, had been used in computer systems to verify the integrity of retrieved data—a so-called "checksum." Lachman and Farber recognized that these same hash functions could be devoted to a vital new purpose: if a cryptographic hash function was applied to a sequence of bits (a "data item"), it would produce a

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FIRST AMENDED COMPLAINT   **CASE NO. 5:18-MD-02834-BLF**
                                                CASE NO. 5:18-CV-03583-BLF

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