

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**
11 [ADDITIONAL ATTORNEYS LISTED
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-00166-BLF

22 Plaintiffs,

23 v.

24 UNDER ARMOUR, INC., a Maryland
corporation,

25 Defendant.
26
27
28

1 Plaintiff PersonalWeb Technologies, LLC (“Plaintiff” or “PersonalWeb”) files this First
2 Amended Complaint (“Complaint”) for patent infringement against Defendant Under Armour, Inc.
3 (“Defendant”). Plaintiff PersonalWeb Technologies, LLC alleges:

4
5 **PRELIMINARY STATEMENT**

6 1. PersonalWeb and Level 3 Communications, LLC (“Level 3”) are parties to an
7 agreement between Kinetech, Inc. and Digital Island, Inc. dated September 1, 2000 (the “Agreement”).
8 Pursuant to the Agreement, PersonalWeb and Level 3 each own a fifty percent (50%) undivided
9 interest in and to the patents at issue in this action: U.S. Patent Nos. 6,928,442, 7,802,310, 7,945,544,
10 and 8,099,420 (“Patents-in-Suit”). Level 3 has joined in this Complaint pursuant to its contractual
11 obligations under the Agreement, at the request of PersonalWeb.

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

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

25

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 Under Armour, Inc. is, upon information and belief, a Maryland corporation
12 having a principal place of business and regular and established place of business at 1020 Hull Street,
13 Baltimore, Maryland 21230. As originally alleged in the Complaint against Defendant filed on or
14 about January 8, 2018, PersonalWeb alleged on information and belief that MyFitnessPal, Inc. owned
15 the infringing website at issue in this action, myfitnesspal.com. MyFitnessPal, Inc.’s principal place
16 of business and regular and established place of business was on information and belief 525 Brannan
17 Street, Suite 300, San Francisco, California 94107. On information and belief, Under Armour Inc.
18 acquired MyFitnessPal, Inc., and MyFitnessPal, Inc. is now a surrendered entity. By this allegation,
19 PersonalWeb apprises Defendant Under Armour, Inc. of its intention to seek leave from the transferee
20 court to modify the stay in place in this action to permit transfer of venue pursuant to 28 U.S.C.
21 §1406(a) to the District of Maryland and such other relief consistent with the foregoing, including any
22 appropriate relief, if necessary, from the Judicial Panel on Multidistrict Litigation.

23
24 **JURISDICTION AND VENUE**

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

27
28

1 9. Venue is proper in this federal district pursuant to 28 U.S.C. §§ 1391(b)–(c) and
2 1400(b) because, on information and belief, Defendant has a regular and established place of business
3 in the District of Maryland and has committed acts of infringement in such District.

4 10. Venue is also proper in this Court because this action has been transferred to this Court
5 as a related case to the multidistrict litigation for coordinated or consolidated pretrial proceedings
6 pursuant to 28 U.S.C. § 1407.

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

12 12. On information and belief, Defendant is subject to this Court’s jurisdiction because this
13 action has been transferred to this Court by as a related case to the multidistrict litigation for
14 coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407.

15
16 **PERSONALWEB BACKGROUND**

17 13. The Patents-in-Suit cover fundamental aspects of cloud computing, including the
18 identification of files or data and the efficient retrieval thereof in a manner which reduces bandwidth
19 transmission and storage requirements.

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

25 15. Ronald Lachman and David Farber, the inventors of the Patents-in-Suit, recognized
26 that the conventional approach for naming, locating, and accessing data in computer networks could
27 not keep pace with ever-expanding, global data processing networks. New distributed storage systems
28 use files that are stored across different devices in dispersed geographic locations. These different

1 locations could use dissimilar conventions for identifying storage devices and data partitions.
2 Likewise, different users could give identical names to different files or parts of files—or unknowingly
3 give different names to identical files. No solution existed to ensure that identical file names referred
4 to the same data, and conversely, that different file names referred to different data. As a result,
5 expanding networks could not only become clogged with duplicate data, they also made locating and
6 controlling access to stored data more difficult.

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

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

22 18. These cryptographic hash functions would thus assign any sequence of bits, based on
23 content alone, with a substantially unique identifier. Lachman and Farber estimated that the odds of
24 these hash functions producing the same identifier for two different sequences of bits (i.e., the
25 “probability of collision”) would be about 1 in 2 to the 29th power. Lachman and Farber dubbed their
26 content-based identifier a “True Name.”

27 19. Using a True Name, Lachman and Farber conceived various data structures and
28 methods for managing data (each data item correlated with a single True Name) within a network—

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.