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11
 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

17
 18 AMAZON.COM, INC., et al.,

FIRST AMENDED COUNTERCLAIM

19 Plaintiffs,

Case No.: 5:18-cv-00767-BLF

20 v.

21 PERSONALWEB TECHNOLOGIES, LLC, et
 22 al.,

Defendants.

23 PERSONALWEB TECHNOLOGIES, LLC and
 24 LEVEL 3 COMMUNICATIONS, LLC,

25 Counterclaimants,

26 v.

27 AMAZON.COM, INC. and AMAZON WEB
 28 SERVICES, INC.,

Counterdefendants.

1 Counterclaimant PersonalWeb Technologies, LLC (“Counterclaimant” or “PersonalWeb”)
2 brings this Counterclaim for patent infringement against Counterdefendants Amazon.com, Inc.
3 (“Amazon.com”) and Amazon Web Services, Inc. (“AWS”) (collectively, “Amazon” or
4 “Counterdefendant”). Counterclaimant PersonalWeb 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 Counterdefendant (or any Counterdefendant’s products) and any statements made
20 regarding jurisdiction and venue are made by PersonalWeb alone, and not by Level 3. PersonalWeb
21 alleges that the infringements at issue in this case all occur within, and are limited to, the PersonalWeb
22 Patent Field. Accordingly, PersonalWeb has not provided notice to Level 3—under Section 6.4.1 of
23 the Agreement or otherwise—that PersonalWeb desires to bring suit in the Level 3 Exclusive Field in
24 its own name on its own behalf or that PersonalWeb knows or suspects that Counterdefendant is
25 infringing or has infringed any of Level 3’s rights in the patents.

26
27
28

THE PARTIES

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

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

11 7. Amazon alleges that Amazon.com, Inc. is a Delaware corporation with offices and
12 employees throughout several of the United States, including the Northern District of California.

13 8. Amazon alleges that AWS is a wholly-owned subsidiary of Amazon.
14

JURISDICTION AND VENUE

15
16 9. The court has subject matter jurisdiction of this counterclaim pursuant to 28 U.S.C.
17 §§ 1331 and 1338(a) because this counterclaim arises under the patent laws of the United States,
18 35 U.S.C. §§ 1 *et seq.*

19 10. Venue is proper in this federal district pursuant to 28 U.S.C. §§ 1391(b)–(c) and
20 1400(b) because, on information and belief, Counterdefendant has a regular and established place of
21 business in this District and has committed acts of infringement in this District.

22 11. This court has personal jurisdiction over Amazon.com because, in addition to the
23 allegations in above paragraphs, Amazon.com has purposely directed its declaratory judgment
24 activities related to the patents-in-suit into the Northern District of California. Further, on information
25 and belief, Amazon.com purposefully directed activities at residents of California, the claims in the
26 counterclaim arise out of and relate to those activities, and assertion of personal jurisdiction over
27 Amazon.com would be fair.
28

1 of a file, a page in memory, an object in an object-oriented program, a digital message, a digital
2 scanned image, a part of a video or audio signal, or any other entity which can be represented by a
3 sequence of bits.” Applied system-wide, this invention would permit any data item to be stored,
4 located, managed, synchronized, and accessed using its content-based identifier.

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

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

18 19. Using a True Name, Lachman and Farber conceived various data structures and
19 methods for managing data (each data item correlated with a single True Name) within a network—
20 no matter the complexity of the data or the network. These data structures provide a key-map
21 organization, allowing for a rapid identification of any particular data item anywhere in a network by
22 comparing a True Name for the data item against other True Names for data items already in the
23 network. In operation, managing data using True Names allows a user to determine the location of
24 any data in a network, determine whether access is authorized, and to selectively provide access to
25 specific content not possible using the conventional naming arts.

26 20. On April 11, 1995, Lachman and Farber filed their patent application, describing these
27 and other ways in which content-based “True Names” elevated data-processing systems over
28 conventional file-naming systems. The first True Name patent issued on November 2, 1999. The last

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