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

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

CASE NO.: 5:18-md-02834-BLF

**NOTICE OF RELATED CASES
PURSUANT TO CIVIL L.R. 3-12 TO BE
FILED IN CASE NO. 5:18-md-02834;
ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES SHOULD
BE RELATED PURSUANT TO CIVIL L.R.
7-11**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on or about October 30, 2018, in the United States District Court
3 for the Northern District of California, PersonalWeb Technologies, LLC and Level 3
4 Communications, LLC (“Plaintiffs”) filed certain cases related to the within coordinated or
5 consolidated pretrial patent proceedings under 28 U.S.C. §1407. action. Pursuant to Civil Local
6 Rules 3-12(b) and 7-11 of the United States District Court for the Northern District of California,
7 and Paragraph 4 of the June 18, 2018 Order re Preliminary Case Management Conference issued by
8 the Honorable Beth Labson Freeman, presiding judge over this MDL matter [18-md-02834, Dkt.
9 19], Plaintiff *PersonalWeb Technologies LLC and Level 3 Communications* submit this
10 Administrative Motion to Consider Whether Cases Should Be Related.

11 **I. APPLICABLE STANDARD UNDER CIVIL L.R. 3-12**

12 Under Civil Local Rule 3-12(a), an “action is related to another when: (1) The actions concern
13 substantially the same parties, property, transaction or event; and (2) It appears likely that there will
14 be an unduly burdensome duplication of labor and expense or conflicting results if the case is
15 conducted by different judges.” Civil L.R. 7-11.”¹

16 **II. RELATED CASES**

17 The actions below should be related to the within action, *In re. PersonalWeb Technologies, LLC*
18 *et al.* because the related cases involve substantially the same issues, similar wrongful act or acts and
19 occurrences, and infringement of the same Patents by Defendants, namely: U.S. Patent No.
20 6,928,442 (the “442 patent”), U.S. Patent No. 7,802,310 (the “310 patent”), and U.S. Patent
21 No.8,099,420 (the “420 patent”), all owned by Plaintiffs:

CASE NAME:	CASE NO:	JUDGE
<i>PersonalWeb Technologies LLC, et al. v.</i>	3:18-cv-06615	Hon. Magistrate Judge
<i>Hootsuite, Inc.</i>		Thomas J. Hixson

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27 ¹ “In addition to complying with Civil L.R. 7-11, a copy of the motion, together with proof of
28 service pursuant to Civil L.R. 5-5, must be served on all known parties to each apparently related
action. A Chambers copy of the motion lodged with the assigned Judge in each apparently related
case under Civil L.R. 5-1(e).” Civil L.R. 3-12(b).

CASE NAME:	CASE NO:	JUDGE
<i>PersonalWeb Technologies LLC, et al. v. Optimizely, Inc.</i>	5:18-cv-06614	Hon. Magistrate Judge Susan van Keulen
<i>PersonalWeb Technologies LLC, et al. v. PopSugar, Inc.</i>	5:18-cv-06612	Hon. Magistrate Judge Susan van Keulen

As a result, the cases require determination of substantially the same questions of fact and law. Specifically, each case involves Defendants who operate or operated a website and have done so since before the expiration of the last to expire of the Patents-In-Suit, which provides webpage content to its users.

As such, the following similar questions of law and facts exist in one or more of the apparently related cases.

- Defendants have infringed at least claims 10 and 11 of the '442 patent by their manufacture, use, sale, importation, and/or offer for sale of products or services, and/or controlling the distribution of its webpage content. Defendants are liable for their infringement of the '442 patent pursuant to 35 U.S.C. § 271.
- Defendants have infringed at least claims 20 and/or 69 of the '310 patent by their manufacture, use, sale, importation, and/or offer for sale of products or services, and/or controlling the distribution of its webpage content. Defendants are liable for their infringement of the '310 patent pursuant to 35 U.S.C. § 271.
- Defendants have infringed claims 25, 26, 27, 29, 30, 32, 34-36 and 166 of the '420 patent by their manufacture, use, sale, importation, and/or offer for sale of products or services, and/or controlling the distribution of its webpage content. Defendants are liable for their infringement of the '420 patent pursuant to 35 U.S.C. § 271.

Accordingly, there will be an unduly burdensome duplication of labor and expense, and there will be a risk of conflicting results if the case set forth above is not related to the within action, *In re. PersonalWeb Technologies, LLC et al.*, and the cases proceed before different judges.

1 **III. STATUS OF SERVICE**

2 For each of the aforementioned defendants, the summons and complaint, and all related
3 documents are currently out for service pursuant FRCP Rule 4(c).

4 This Notice of Related Case will be served on Defendants.

5 Dated: November 1, 2018

Respectfully submitted,

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7 **STUBBS ALDERTON**
8 **& MARKILES, LLP**

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17 Dated: November 1, 2018

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Dated: November 1, 2018

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