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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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

Case No.: 5:18-md-02834-BLF

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

Plaintiffs,

v.

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

Defendants.

STIPULATED PROTECTIVE ORDER

PERSONALWEB TECHNOLOGIES, LLC and
LEVEL 3 COMMUNICATIONS, LLC,

Counterclaimants,

v.

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

Counterdefendants.

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

1 This Stipulated Protective Order is meant to govern the use of, and protect from public
2 disclosure, any non-public and confidential or proprietary information used or disclosed in this
3 litigation.

4 **1. PURPOSES AND LIMITATIONS**

5 Disclosure and discovery activity in this Action are likely to involve production of
6 confidential, proprietary, or private information for which special protection from public disclosure
7 and from use for any purpose other than prosecuting this litigation would be warranted.
8 Accordingly, the parties hereby stipulate and petition the Court to enter the following Stipulated
9 Protective Order (“Order”). The parties acknowledge that this Order does not confer blanket
10 protections on all disclosures or responses to discovery and that the protection it affords from public
11 disclosure and use extends only to the limited information or items that are entitled to confidential
12 treatment under the applicable legal principles. The parties further acknowledge, as set forth in
13 Section 15.4 below, that this Order does not entitle them to file confidential information under seal.
14 Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be
15 applied when a party seeks permission from the Court to file material under seal.

16 **2. DEFINITIONS**

17 2.1. Action: the instant litigation, *In re Personal Web Technologies, LLC et al., Patent*
18 *Litigation*, Case No. 5:18-md-02834-BLF (N.D. Cal.).

19 2.2. Amazon: Amazon.com, Inc. and Amazon Web Services, Inc. and any past and
20 present parents, predecessors, successors, subsidiaries, affiliates, divisions, associated
21 organizations and joint ventures of Amazon.

22 2.3. Challenging Party: a Party or Non-Party that challenges the designation of
23 information or items under this Order.

24 2.4. “CONFIDENTIAL” Information or Items: information (regardless of how
25 generated, stored, or maintained) or tangible things that qualify for protection under Federal Rule
26 of Civil Procedure 26(c), including information that a Designating Party believes to be of a
27 proprietary business or technical nature and not readily available to competitors, potential
28 competitors, and/or other third parties.

1 2.5. Counsel (without qualifier): Outside counsel and House Counsel (as well as their
2 support staff).

3 2.6. Designated House Counsel: House Counsel who seek access to “CONFIDENTIAL”
4 information in this matter.

5 2.7. Designating Party: a Party or Non-party that designates information or items that it
6 produces in disclosures or in responses to discovery as “CONFIDENTIAL,” “HIGHLY
7 CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE
8 CODE.”

9 2.8. Disclosure or Discovery Material: all items or information, regardless of the
10 medium or manner generated, stored, or maintained (including, among other things, testimony,
11 transcripts, and tangible things) that are produced or generated in disclosures or responses to
12 discovery in this matter.

13 2.9. Expert: a person with specialized knowledge or experience in a matter pertinent to
14 the Action who (1) has been retained by a Party or its Counsel to serve as an expert witness or as a
15 consultant in this Action, (2) is not a past or current employee of a Party or of a Party’s competitor,
16 and (3) at the time of retention, is not anticipated to become an employee of a Party or of a Party’s
17 competitor.

18 2.10. “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or
19 Items: extremely sensitive “Confidential Information or Items,” disclosure of which to another
20 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less
21 restrictive means. Subject to such qualifier, such information may fall into one or more of the
22 following categories: business plans, business development, product development, product designs,
23 engineering information, product specifications, software, trade secrets, market analysis,
24 competitor analysis, customer information, vendor information, internal financial/accounting
25 information, operations information, production information, distributor agreements, license
26 agreements, development agreements, sales agreements, pricing information, cost information, and
27 information regarding business relationships with third parties.

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1 2.11. “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items: extremely
2 sensitive “Confidential Information or Items” representing computer code and associated
3 comments and revision histories, formulas, engineering specifications, schematics that define or
4 otherwise describe in detail the algorithms or structure of software or hardware designs, or similar
5 sensitive computer code related materials, disclosure of which to another Party or non-Party would
6 create a substantial risk of serious harm that could not be avoided by less restrictive means.

7 2.12. House Counsel: attorneys who are employees of a Party to this Action. House
8 Counsel does not include Outside Counsel of Record or any other outside counsel.

9 2.13. Level3: Level3 Communications, LLC and any past and present parents,
10 predecessors, successors, subsidiaries, affiliates, divisions, associated organizations and joint
11 ventures of Level3.

12 2.14. Non-Party: any natural person, partnership, corporation, association or other legal
13 entity not named as a Party to this Action.

14 2.15. Outside Counsel of Record: attorneys who are not employees of a party to this action
15 but are retained to represent or advise a party to this action and have appeared in this action on
16 behalf of that party or are affiliated with a law firm which has appeared on behalf of that party,
17 along with their associated support staff.

18 2.16. Party: any party to this Action, including all of its officers, directors, employees,
19 consultants, Experts, House Counsel, and Outside Counsel of Record (and their support staffs).

20 2.17. PersonalWeb: PersonalWeb Technologies, LLC and any past and present parents,
21 predecessors, successors, subsidiaries, affiliates, divisions, associated organizations and joint
22 ventures of PersonalWeb.

23 2.18. Producing Party: a Party or non-party that produces Disclosure or Discovery
24 Material in this Action.

25 2.19. Professional Vendors: persons or entities that provide litigation support services
26 (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing,
27 storing, or retrieving data in any form or medium; jury consultation services; trial presentation
28 services, etc.) and their employees and subcontractors.

1 2.20. Protected Material: any Disclosure or Discovery Material that is designated as
2 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or
3 “HIGHLY CONFIDENTIAL – SOURCE CODE.”

4 2.21. Receiving Party: a Party that receives Disclosure or Discovery Material from a
5 Producing Party.

6 **3. SCOPE**

7 The protections conferred by this Order cover not only Protected Material (as defined
8 above), but also (1) any information copied or extracted from Protected Material; (2) all copies,
9 excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations,
10 or presentations by the parties or their Counsel that might reveal Protected Material. However, the
11 protections conferred by this Stipulation and Order do not cover the following information: (a) any
12 information that is in the public domain at the time of disclosure to a Receiving Party or becomes
13 part of the public domain after its disclosure to a Receiving Party as a result of publication not
14 involving a violation of this Order, including becoming part of the public record through trial or
15 otherwise; and (b) any information known to the Receiving Party prior to the disclosure or obtained
16 by the Receiving Party after the disclosure from a source who obtained the information lawfully
17 and under no obligation of confidentiality to the Designating Party. Any use of Protected Material
18 at trial shall be governed by a separate agreement or order.

19 **4. DURATION**

20 Even after final disposition of this litigation, the confidentiality obligations imposed by this
21 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
22 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims
23 and defenses in this Action, with or without prejudice; and (2) final judgment herein after the
24 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
25 including the time limits for filing any motions or applications for extension of time pursuant to
26 applicable law.

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