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

16 IN RE: PERSONAL WEB TECHNOLOGIES,  
LLC ET AL., PATENT LITIGATION

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

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

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

18 Plaintiffs,

19 v.

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

21 Defendants.

**NOTICE OF MOTION AND MOTION  
FOR SUMMARY JUDGMENT OF  
AMAZON.COM, INC. AND AMAZON  
WEB SERVICES, INC. ON  
DECLARATORY JUDGMENT  
CLAIMS AND DEFENSES UNDER  
THE CLAIM PRECLUSION AND  
KESSLER DOCTRINES**

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

24 Counterclaimants,

25 v.

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

27 Counterdefendants.

Date: February 7, 2019  
Time: 2:00 p.m.  
Dept: Courtroom 3, 5th Floor  
Judge: Hon. Beth L. Freeman  
Trial Date: March 16, 2020

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**NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT****TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that, on February 7, 2019, at 2:00 p.m., at the United States District Court for the Northern District of California, 280 South First Street, San Jose, California, in the courtroom of the Honorable Beth L. Freeman, Amazon.com, Inc., and Amazon Web Services, Inc. (collectively “Amazon”) will and hereby do move the Court under Federal Rule of Civil Procedure 56 for an order rendering summary judgment in favor of Amazon and against PersonalWeb Technologies, LLC and Level 3 Communications, LLC (collectively “PersonalWeb”), declaring that PersonalWeb’s infringement claims against Amazon and its customers are barred by the doctrine of claim preclusion and the Supreme Court’s decision in *Kessler v. Eldred*, 206 U.S. 285 (1907).

PersonalWeb previously sued Amazon alleging infringement of the same patents at issue here based on the same technology at issue here. PersonalWeb voluntarily dismissed those claims with prejudice. Now, PersonalWeb seeks to exhume those claims and sue 85 Amazon customers, once again asserting the same patents against the same technology. This vexatious campaign violates both the law of claim preclusion and the *Kessler* doctrine, which together serve to protect prevailing patent defendants from having to defend the same technology in serial lawsuits asserting essentially the same claims.

Amazon bases its motion on this notice, the accompanying memorandum of points and authorities, the supporting declarations of Saina S. Shamilov, Dr. Prashant Shenoy, and Seth Markle, and all pleadings and documents on file in this action, and such other materials or argument as the Court may consider.

**MEMORANDUM OF POINTS AND AUTHORITIES****I. INTRODUCTION**

PersonalWeb sued Amazon and its customer Dropbox years ago in the Eastern District of Texas, alleging infringement of the same patents by the same technology: Amazon’s Simple Storage Service or “S3.” PersonalWeb lost—it recovered nothing and dismissed its claims with prejudice.

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