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

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA

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

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

22 Plaintiffs,

23 v.

24 PERSONAL WEB TECHNOLOGIES, LLC, and
25 LEVEL 3 COMMUNICATIONS, LLC,

26 Defendants.

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

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

**JOINT STIPULATION AND
[PROPOSED] ORDER EXTENDING
DEADLINE TO SUBMIT POTENTIAL
DISCOVERY DISPUTES TO THE
MAGISTRATE JUDGE REGARDING
CLAIM PRECLUSION / KESSLER
MOTION**

1 PersonalWeb Technologies, LLC and Level 3 Communications, LLC (collectively,
2 “PersonalWeb”) and Amazon.com, Inc. and Amazon Web Services, Inc. (collectively, “Amazon”)
3 hereby stipulate and recite as follows:

4 WHEREAS, on October 1, 2018, PersonalWeb personally served certain discovery, including
5 Requests for Production of Documents (Set One), on Amazon, which discovery included, among
6 other things, requests regarding claim preclusion and Kessler issues;

7 WHEREAS, on November 1, 2018, Amazon responded to the foregoing discovery with
8 objections, other responses and produced certain documents, and subsequently supplemented those
9 responses and produced additional documents after the parties met and conferred;

10 WHEREAS, on November 28, 2018, Amazon filed its motion for summary judgment on its
11 declaratory judgment claims and defenses under the claim preclusion and Kessler doctrines (the
12 “Kessler motion”) (Dkt. No. 315);

13 WHEREAS, PersonalWeb’s opposition to the Kessler motion is due on January 9, 2019 and
14 Amazon’s reply to PersonalWeb’s opposition is due on January 24, 2019 (Dkt. No. 312);

15 WHEREAS, at the November 2, 2018 Case Management Conference (“CMC”) counsel for
16 PersonalWeb stated it needed to take the deposition of a 30(b)(6) witness for Amazon in connection
17 with the anticipated and yet to be filed Kessler motion.

18 WHEREAS, in the Court’s Case Management Order No. 2 the Court ordered “[a]s to
19 discovery required for the Kessler motion, the parties shall submit any disputes to Magistrate Judge
20 van Keulen by December 4, 2018” (Dkt. No. 306);

21 WHEREAS, PersonalWeb noticed a deposition of Amazon pursuant to Federal Rule of Civil
22 Procedure 30(b)(6) and was advised that Amazon’s witness is only available on December 5, 2018,
23 which is the date now set for the deposition to occur;

24 WHEREAS, PersonalWeb has requested, and Amazon has agreed to, an extension, until
25 December 13, of the deadline to submit discovery disputes related to the Kessler motion to the
26 Magistrate Judge, so that it can raise any discovery disputes that it believes remain following that
27 deposition;

28

1 WHEREAS, the parties do not believe that the requested extension will affect the briefing
2 schedule on the Kessler motion or any other deadline set by the Court;

3 THE PARTIES HEREBY STIPULATE and jointly request that the deadline to submit
4 discovery disputes related to the Kessler motion to Magistrate Judge van Keulen shall be extended
5 to December 13, 2018.

6 Respectfully submitted,

7
8 Dated: December 4, 2018

STUBBS ALDERTON & MARKILES, LLP

9 By: /s/ Michael Sherman

10 Michael A. Sherman
11 Jeffrey F. Gersh
12 Sandeep Seth
Wesley W. Monroe
Viviana Boero Hedrick

13 Dated: December 4, 2018

MACEIKO IP

14
15 By: /s/ Theodore S. Maceiko

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21 Texas limited liability company

22 Dated: December 4, 2018

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Attorney for Plaintiff
LEVEL 3 COMMUNICATIONS, LLC

Dated: December 4, 2018

FENWICK & WEST LLP

By: /s/ Saina S. Shamilov
Saina S. Shamilov

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

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

Honorable Susan van Keulen
United States Magistrate Judge

ATTESTATION

The undersigned attests that concurrence in the filing of the foregoing document was obtained from all of its signatories.

Dated: December 4, 2018

STUBBS ALDERTON & MARKILES, LLP

By: /s/ Jeffrey F. Gersh
Jeffrey F. Gersh
Attorneys for Plaintiff
PERSONALWEB TECHNOLOGIES, LLC, a
Texas limited liability company

CERTIFICATE OF SERVICE

1
2 I, Elizabeth Saál de Casas, certify that on this 4th day of December 2018, I caused the
3 foregoing **JOINT STIPULATION AND [PROPOSED] ORDER EXTENDING DEADLINE**
4 **TO SUBMIT POTENTIAL DISCOVERY DISPUTES TO THE MAGISTRATE JUDGE**
5 **REGARDING CLAIM PRECLUSION / *KESSLER* MOTION** to be served by electronic mail
6 to:

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17 FENWICK & WEST LLP

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

19 *Attorney for Amazon.com, Inc. and Amazon Web*
20 *Services, Inc.*

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STUBBS, ALDERTON & MARKILES, LLP

By: /s/ Elizabeth Saál de Casas
Elizabeth Saal de Casas