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

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

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

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

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

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

19 Plaintiffs,

v.

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

22 Defendants.

**ADMINISTRATIVE MOTION TO
FILE UNDER SEAL CERTAIN
LIMITED PORTIONS OF EXHIBITS 3
AND 4 TO JOINT STATEMENT
REGARDING DISCOVERY DISPUTE
RELATING TO MOTION FOR
SUMMARY JUDGMENT**

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

Counterclaimants,

v.

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

27 Counterdefendants.

28

1 Pursuant to Civil Local Rules 7-11 and 79-5(d), Amazon.com, Inc. and Amazon Web
2 Services, Inc. (collectively, “Amazon”) hereby move for administrative relief to file under seal
3 certain limited portions of Exhibits 3 and 4 to the joint statement regarding discovery dispute relating
4 to motion for summary judgment (“Joint Statement”).

5 Amazon requests leave to file certain limited portions of these exhibits under seal because
6 they contain highly confidential business information. Specifically, the redacted portions reveal the
7 specific terms of Amazon’s indemnification of its customers in the present lawsuit. Amazon does
8 not make these terms publicly available.

9 In the Ninth Circuit, a district court may override the presumption of public access to judicial
10 documents where “good cause” is shown. *See Phillips ex rel. Estates of Byrd v. General Motors*
11 *Corp.*, 307 F.3d 1206, 1210 (9th Cir. 2002). “For good cause to exist, the party seeking protection
12 bears the burden of showing specific prejudice or harm will result if no protective order is granted.”
13 *Id.* at 1211 (internal citations omitted). As further explained in the declaration of Ravi R. Ranganath
14 in Support of Amazon’s administrative motion to file under seal (“Ranganath Declaration”), Exhibits
15 3 and 4, redacted to protect only the confidential terms of Amazon’s indemnity obligations to its
16 customers, meet this standard. *See Nicolosi Distributing, Inc. v. Finishmaster, Inc.*, No. 18-cv-
17 03587-BLF, 2018 WL 3932554, at *3 (N.D. Cal. Aug. 16, 2018) (N.D. Cal. Aug. 16, 2018) (good
18 cause to seal contracts exists where they contain confidential business practices); *see also Phoenix*
19 *Technologies Ltd. v. VMware, Inc.*, No. 15-cv-01414-HSG, 2018 WL 1169188, at *2 (N.D. Cal. Feb.
20 14, 2018) (good cause exists to protect business information that might harm a litigant’s competitive
21 standing if disclosed, and where the redaction is “sufficiently narrowly tailored” to only seal portions
22 of the exhibit that might put sensitive business information at risk).

23 Disclosure of the terms of Amazon’s indemnification of its customers in this case will reveal
24 information about its litigation-related negotiations with third parties, and disadvantage Amazon in
25 future indemnity negotiations. Amazon has designated information relating to the terms of its
26 indemnity agreements as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the
27 protective order in this case.

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1 For these reasons, Amazon respectfully requests that the Court grant this motion for leave to
2 file under seal certain limited portions of Exhibits 3 and 4 to the Joint Statement.

3
4 Respectfully submitted,

5 Dated: December 11, 2018

FENWICK & WEST LLP

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7 By: /s/ Ravi R. Ranganath

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12 AMAZON WEB SERVICES, INC.

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