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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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

Case No. 18-md-02834-BLF (SVK)

Case No. 5:18-cv-00767- BLF (SVK)

**ORDER REGARDING THE PARTIES’
DISCOVERY DISPUTE RELATING
TO MOTION FOR SUMMARY
JUDGMENT**

Re: Dkt. No. 320

Before the Court is the Parties’ December 11, 2018 discovery dispute in which PersonalWeb Technologies, LLC and Level 3 Communications, LLC (collectively “PersonalWeb”) seek to compel Amazon.com, Inc., and Amazon Web Services, Inc. (collectively “Amazon”) to produce discovery responses related to Amazon’s indemnification of its customers. ECF 320. PersonalWeb specifically seeks an order compelling Amazon to produce a 30(b)(6) witness on indemnification topics by December 21, 2018, and to serve its responses to PersonalWeb’s December 7, 2018 interrogatories and requests for admission by December 18, 2018. ECF 323. PersonalWeb additionally requests that the Court extend the deadline for discovery disputes regarding those two issues. *Id.* Pursuant to Civil Local Rule 7-1(b), the Court finds this matter suitable for disposition without oral argument.

Under Rule 26(b), a party “may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case.” Fed. R. Civ. P. 26(b)(1). The Court therefore balances “the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the

1 goes to a central issue in the case—the scope of Amazon’s indemnity obligations to its customers
2 and whether those obligations support privity and thus collateral estoppel. Indeed, Amazon’s own
3 motion for summary judgement demonstrates the relevance of the indemnity issue. *See* ECF 315
4 at 9.

5 Amazon argues that PersonalWeb actually seeks discovery regarding Amazon’s position
6 on a disputed legal issue. ECF 320 at 4. While the Parties do dispute the scope of indemnification
7 necessary to satisfy privity, the Parties also dispute the facts underlying the scope of Amazon’s
8 indemnity obligations to its customers. PersonalWeb is entitled to discovery regarding those facts
9 for the purposes of opposing Amazon’s motion for summary judgment. As a result, Amazon must
10 produce discovery regarding the facts that form the basis of its indemnity obligations to its
11 customers.

12 Accordingly, the Court **ORDERS** as follows:

- 13 1. By **December 21, 2018**, Amazon is to produce a 30(b)(6) witness on the topics identified
14 by PersonalWeb in its 30(b)(6) notice under the heading “Indemnification,” and the topics
15 identified by PersonalWeb in the December 11 statement, to the extent those topics are not
16 covered by the 30(b)(6) notice. *See* ECF 320-1 at 26-33; ECF 320 at 2–3.
- 17 2. PersonalWeb may raise a discovery dispute related only to the deposition of Amazon’s
18 30(b)(6) indemnification witness by **January 2, 2019**. The Court will not consider
19 discovery disputes outside this limited scope. The Court advises the Parties that it will be
20 unavailable December 24, 2018–January 1, 2019.
- 21 3. The Court the denies PersonalWeb’s request to expedite Amazon’s responses to the
22 December 7, 2018 interrogatories and requests for admission. PersonalWeb fails to offer a
23 reason for its delay in serving its December 7, 2018 interrogatories and requests for
24 admission, and PersonalWeb will still receive Amazon’s responses prior to PersonalWeb’s
25 January 9, 2019 deadline to file its opposition to Amazon’s motion for summary judgment.

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4. The Court denies PersonalWeb’s request to extend the deadline to file a discovery dispute related to Amazon’s responses to its December 7, 2018 interrogatories and requests for admission.

SO ORDERED.

Dated: December 13, 2018



SUSAN VAN KEULEN
United States Magistrate Judge

United States District Court
Northern District of California