

EXHIBIT 12
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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

AMAZON.COM, INC., ET AL.,)
Plaintiffs,)

v.)

PERSONAL WEB TECHNOLOGIES, LLC,)
ET AL.,)

Defendants.)

PERSONAL WEB TECHNOLOGIES, LLC)
and LEVEL 3 COMMUNICATIONS, LLC,)

Counterclaimants,)

v.)

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

Counterdefendants.)

CERTIFIED COPY

No. 5:18-md-02834

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1 Don't get me wrong.

10:56:52

[REDACTED]

10:56:54

[REDACTED]

10:56:58

[REDACTED]

10:56:58

[REDACTED]

10:57:01

[REDACTED]

10:57:04

[REDACTED]

10:57:04

[REDACTED]

10:57:05

[REDACTED]

10:57:09

[REDACTED]

10:57:09

[REDACTED]

10:57:10

[REDACTED]

10:57:12

[REDACTED]

10:57:15

[REDACTED]

10:57:19

[REDACTED]

10:57:25

[REDACTED]

10:57:31

[REDACTED]

10:57:34

[REDACTED]

10:57:36

[REDACTED]

10:57:38

[REDACTED]

10:57:45

[REDACTED]

10:57:57

[REDACTED]

10:58:00

[REDACTED]

10:58:03

[REDACTED]

10:58:12

[REDACTED]

10:58:25

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1	talking about.	11:10:56
2	Q. Fair enough.	11:10:57
3	A. That's not trying to be picayune. That's	11:10:58
4	actually very important.	11:11:05
5	Q. Let's rephrase the question. With respect to	11:11:05
6	the Amazon online customer agreement that existed as of	11:11:09
7	December 26th, 2016, Amazon had no obligation to	11:11:14
8	indemnify those customers with respect to claims of	11:11:20
9	infringement by third parties; correct?	11:11:28
10	A. Correct.	11:11:30
11	Q. And it wasn't until June 28, 2017, that Amazon	11:11:31
12	first had -- or allegedly had an obligation to indemnify	11:11:41
13	its online customers for claims of infringement by third	11:11:49
14	parties; correct?	11:11:52
15	MR. HADDEN: Object to the form.	11:11:53
16	A. Yeah. It wasn't until June 28, 2017, that	11:11:54
17	Amazon had included in its online customer agreement an	11:12:01
18	indemnification from Amazon to its customers whose use	11:12:07
19	of the services were governed by that agreement for	11:12:12
20	claims of infringement by third parties caused by the	11:12:15
21	use of Amazon's technology.	11:12:21
22	BY MR. GERSH:	11:12:23
23	Q. Is there any provision that you're aware of in	11:12:23
24	any Amazon online customer agreement that makes that	11:12:28
25	June 28, 2017 change or the indemnification as you refer	11:12:32

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1 sufficient immediacy and reality to empower the Court to 12:07:35
2 issue a declaratory judgment. 12:07:39
3 Q. There's no mention of indemnity in here, is 12:07:40
4 there? 12:07:45
5 A. Not expressly. One of the ways in which there 12:07:45
6 is a immediate and real controversy between us, one, 12:07:46
7 among many ways, is that Amazon is obligated to defend 12:07:50
8 the customers for your lawsuits against them. 12:07:54
9 Q. Well, you said Amazon is obligated to defendant. 12:07:57
10 You base that upon what? 12:08:01
11 A. On Section 9.2 of the customer agreement [REDACTED] 12:08:03
[REDACTED] 12:08:06
[REDACTED] 12:08:12
14 Q. Sticking only to the AWS agreement, that's the 12:08:12
15 one that was amended, as I understand it, June 28, 2017? 12:08:15
16 A. The customer agreement. The online customer 12:08:18
17 agreement. 12:08:21
18 Q. Correct. And nothing in that customer agreement 12:08:21
19 mentions at all indemnifying a customer for damages that 12:08:25
20 occurred prior to June 28, 2017; correct? 12:08:30
21 MR. HADDEN: Object to form. 12:08:34
22 A. That's not my understanding of -- of the 12:08:35
23 agreement. If you say that it doesn't mention it 12:08:38
24 expressly, you are correct. [REDACTED] 12:08:41
[REDACTED] 12:08:43

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