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

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA
19 SAN JOSE DIVISION
20

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

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

**STIPULATION AND [PROPOSED]
ORDER RE: (i) PERSONALWEB'S
NOTICE OF ERRATA FILED AS DKT.
NO. 364; AND (ii) AMAZON'S
WITHDRAWAL OF NOTICE OF
DEPOSITION OF COUNSEL FOR
LEVEL 3**

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

4 WHEREAS, on January 31, 2019, PersonalWeb and Level 3 filed an administrative motion
5 for leave to file a sur-reply to Amazon’s motion for summary judgment, attaching a proposed sur-
6 reply (Dkt. 354);

7 WHEREAS, by Order dated February 6, 2019, the proposed sur-reply was deemed filed
8 (Dkt. 360);

9 WHEREAS, on February 19, 2019, PersonalWeb and Level 3 filed a Notice of Errata (the
10 “Errata”) clarifying that the signature block of David D. Wier, co- counsel for Level 3 Communi-
11 cations LLC, was erroneously included within the Sur-Reply deemed filed by the Court at Dkt. No.
12 354-1 (Dkt. 364);

13 WHEREAS, Level 3 is a participant in this litigation with respect to the issues of standing
14 only due to Level 3’s contractual obligation, and all allegations in the complaints and counterclaims
15 against Amazon and other defendants are made by PersonalWeb alone and not by Level 3;

16 WHEREAS, Level 3 takes no position with respect to the legal arguments submitted to the
17 Court in the sur-reply, and any legal arguments in the Sur-Reply are attributable to PersonalWeb
18 only;

19 WHEREAS, in view of the representations herein, Amazon agrees to withdraw its notice of
20 deposition of Mr. Wier, served on February 15, 2019;

21 WHEREAS, Amazon reserves its right to seek a deposition of Mr. Wier as a percipient
22 witness for other topics relevant to the case and PersonalWeb and Level 3 reserve all their rights
23 and objections with respect thereto;

24 WHEREAS, Amazon agrees this stipulation resolves to its satisfaction the issues raised in
25 the second supplemental case management statement (Dkt. 366);

26 **BASED ON THE FOREGOING THE PARTIES HEREBY STIPULATE** as follows:

27 1. Level 3 takes no position with respect to the legal arguments now submitted to the
28 Court in the sur-reply (Dkt. 354-1), and any legal arguments in the sur-reply shall be attributable to

1 PersonalWeb only, and not to Level 3 or Mr. Wier;

2 2. Amazon withdraws its February 15, 2019 notice of deposition of counsel for Level
3 3 but reserves its right to seek a deposition of Mr. Wier as a percipient witness for other topics
4 relevant to the case. PersonalWeb and Level 3 reserve all objections to any noticed deposition,
5 subpoena or request for Mr. Wier's deposition; and

6 3. This stipulation resolves the issues raised in Amazon's second supplemental case
7 management statement (Dkt. 366).

8 Dated: February 26, 2019

FENWICK & WEST LLP

9 By: /s/ J. David Hadden

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18 Attorneys for AMAZON.COM, INC. and
19 AMAZON WEB SERVICES, INC.

20 Dated: February 26, 2019

STUBBS, ALDERTON & MARKILES, LLC

21 By: /s/ Michael A. Sherman

22 Michael A. Sherman
Jeffrey F. Gersh
23 Sandeep Seth
Wesley W. Monroe
24 Stanley H. Thompson, Jr.
Viviana Boero Hedrick

25 Attorneys for PERSONALWEB
26 TECHNOLOGIES, LLC AND LEVEL 3
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27
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1 Dated: February 26, 2019

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7 Attorney PERSONALWEB

TECHNOLOGIES, LLC

9 Dated: February 26, 2019

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10 By: /s/ David D. Wier

11 David D. Wier

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17 **ATTESTATION**

18 The undersigned attests that all signatories to this document have concurred in the filing of
19 the foregoing document, bearing their respective signatures.

20 Dated: February 26, 2019

STUBBS, ALDERTON & MARKILES, LLP

22 By: /s/ Michael A. Sherman

23 Michael A. Sherman

Attorney for PersonalWeb Technologies, LLC

and Level 3 Communications, LLC

24 PURSUANT TO STIPULATION, IT IS SO ORDERED.

25 Dated: _____

26 Honorable Beth Labson Freeman

27 United States District Judge

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PROOF OF SERVICE

I declare as follows:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 15260 Ventura Blvd., 20th Floor, Sherman Oaks, California 91403.

On February 26, 2019, I served the documents described as: **STIPULATION RE: (i) PERSONALWEB’S NOTICE OF ERRATA FILED AS DKT. NO. 364; AND (ii) AMAZON’S WITHDRAWAL OF NOTICE OF DEPOSITION OF COUNSEL FOR LEVEL 3** on the interested parties in this action as follows:

- BY U.S. MAIL:** By depositing for collection and mailing in the ordinary course of business. I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal Service on the same day with postage thereon fully prepaid at Sherman Oaks, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing on affidavit.
- BY ELECTRONIC COURT FILING: TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”) pursuant to FRCP, Rule 5(b)(2)(E) and JPML Rule 4.1** (Pursuant to controlling General Order(s) and Local Rule(s) (“LR”), the foregoing document will be served by the court via NEF and hyperlink to the document to counsel at the email address(s) listed below).
- BY ELECTRONIC MAIL:** Pursuant to stipulation for email service reached with counsel of record, I served the above documents to the emails listed in the service caption above. A true and correct copy of the transmittal will be produced if requested by any party or the court.
- BY OVERNIGHT DELIVERY:** I am personally and readily familiar with the business practice of Stubbs Alderton & Markiles, LLP for collection and processing of correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained by Federal Express for overnight delivery.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on February 26, 2019, at Sherman Oaks, California.

/s/ Elizabeth Saal de Casas
ELIZABETH SAAL DE CASAS