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11 AMAZON WEB SERVICES, INC.

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

FENWICK & WEST LLP
ATTORNEYS AT LAW

16 IN RE: PERSONALWEB TECHNOLOGIES,
17 LLC ET AL., PATENT LITIGATION,

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

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

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

19 Plaintiffs,

20 v.

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

**RESPONSIVE CLAIM
CONSTRUCTION BRIEF OF
AMAZON.COM INC., AMAZON WEB
SERVICES, INC. AND TWITCH
INTERACTIVE, INC.**

22 Defendants.

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

25 Counterclaimants,

26 v.

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

28 Counterdefendants.

1 PERSONALWEB TECHNOLOGIES, LLC, A
2 Texas limited liability company, and
3 LEVEL 3 COMMUNICATIONS, LLC, a
4 Delaware limited liability company,

5 Plaintiffs,

6 v.

7 TWITCH INTERACTIVE, INC. a Delaware
8 corporation,

9 Defendants.

Case No. 5:18-cv-05619-BLF

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TABLE OF AUTHORITIES

| <i>Cases</i> | <i>Page(s)</i> |
|--|----------------|
| <i>Alloc, Inc. v. Int'l Trade Comm'n</i> , 342 F.3d 1361 (Fed. Cir. 2003) ----- | 20 |
| <i>Baran v. Med. Device Techs., Inc.</i> , 616 F.3d 1309 (Fed. Cir. 2010) ----- | 6 |
| <i>EcoNova, Inc. v. DPS Utah</i> , No. 1:12-CV-174, 2013 WL 65460 (D. Utah Jan. 4, 2013)----- | 6 |
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| <i>MySpace, Inc. v. GraphOn Corp.</i> , 672 F.3d 1250 (Fed. Cir. 2012.) ----- | 8 |
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| <i>Other Authorities:</i> | |
| Microsoft Computer Dictionary (2nd ed. 1994)----- | 15 |
| Newton's Telecom Dictionary (1994)----- | 15 |

1 **I. INTRODUCTION**

2 The patents in suit purport to solve the problem of consistently locating files (i.e., “data
3 items”) in a computer system, and controlling access to files that contain licensed content to prevent
4 unauthorized sharing. To accomplish this, files are identified using “True Names”—names
5 computed from the data in the file itself—instead of other less reliable means such as user-provided
6 file names. According to the patents, this allows a file to be uniquely identified regardless of its
7 context, which in turn allows a system to reliably limit access to the file to authorized or licensed
8 users.

9 In these cases, PersonalWeb accuses the use of ETags in conditional GET requests on the
10 Web. But on the Web, URLs with user-provided file names and paths are used to locate and access
11 files, not ETags. Nor are ETags used to control access to licensed content. ETags as used in the
12 accused conditional GET requests to determine whether a user already has the latest version of a
13 requested file stored locally. That determination is anonymous. No authorization or content license
14 is checked, and no user requesting a file is denied access to it. If the ETag of the local file matches
15 the ETag of the latest version, the user receives a confirmation that the version of the file is current.
16 If those ETags don’t match, the user receives the current version of the file. In this scenario, the
17 user also still has and can continue to freely access the earlier version of the file.

18 PersonalWeb cannot “construe” its patents to cover this basic Web technology that has
19 nothing to do with the purported invention of the patents. The claim language, the specification,
20 and the prosecution history—including a series of IPRs that were filed during PersonalWeb’s past
21 round of litigations—do not allow it.

22 **II. THE TRUE NAME PATENTS**

23 The patents address what the inventors saw as a fundamental problem with existing
24 computer systems: the use of user-provided names and file system directories to identify and access
25 files or other data items. The purported invention replaced these conventional names with True
26 Names calculated solely from the data in the data item itself:

27 This invention provides, in a data processing system, a method and apparatus for
28 identifying a data item in the system, where the identity of the data item depends

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