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11  
 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., et., al.,

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

18 Plaintiffs,

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

19 v.

**PERSONALWEB TECHNOLOGIES,  
 20 LLC'S REPLY TO AMAZON'S  
 21 OPPOSITION TO CLAIM  
 22 CONSTRUCTION BRIEF**

20 PERSONALWEB TECHNOLOGIES, LLC,  
 21 et., al.,

22 Defendants.

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

24 Counterclaimants,

25 v.

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

28 Counterdefendants.

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PERSONALWEB TECHNOLOGIES, LLC, a  
Texas limited liability company, and  
LEVEL 3 COMMUNICATIONS, LLC,  
a Delaware limited liability company,  
  
Plaintiffs,  
  
v.  
  
TWITCH INTERACTIVE, INC. a Delaware  
corporation,  
  
Defendant.

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1 **I. INTRODUCTION**

2 Amazon's proposed constructions are all cooked from the same recipe. First, propose an  
3 unduly narrow characterization of invention in the patents-in-suit. Second, based on that narrow  
4 characterization, argue to incorporate only the most limiting preferred embodiment into the  
5 constructions of the terms in the asserted claims.

6 But the invention and claims are not as narrow as Amazon asserts. The invention in the patents-  
7 in-suit is about improving the operation of a system of networked devices using several mechanisms  
8 to improve its efficiency. The Web is a system of networked devices that benefits from the mechanisms  
9 taught in the patents-in-suit. Although the specification provides examples of ways such a system can  
10 be constructed, it does not limit the scope of the asserted claims to those examples.

11 Amazon also repeatedly—and improperly—refers to the accused instrumentalities to bolster  
12 its arguments. The law is clear that the Court should reject attempts to fashion claim constructions  
13 from the operation of the accused infringing instrumentality, rather than from the language of the  
14 claims and teachings of the specification. *Wilson Sporting Goods Co. v. Hillerich & Bradsby Co.*, 442  
15 F.3d 1322, 1330–31 (Fed. Cir. 2006) (“This court, of course, repeats its rule that claims may not be  
16 construed with reference to the accused device.”) (Citations and internal quotation marks omitted).  
17 Because Amazon supports its proposed constructions with misrepresentations about the accused  
18 instrumentalities and PersonalWeb's infringement contentions, PersonalWeb will correct those  
19 misrepresentations herein, but not engage in infringement and invalidity argument that is beyond the  
20 scope of the present claim construction proceedings.

21 Further, besides repeatedly misrepresenting statements made in the file histories of the patents-  
22 in-suit, Amazon improperly relies extensively on these statements without the required showing that  
23 by these statements, PersonalWeb *expressly* relinquished claim scope. *See Epistar Corp. v. Int'l Trade*  
24 *Comm'n*, 566 F.3d 1321, 1334 (Fed.Cir.2009) (“A heavy presumption exists that claim terms carry  
25 their full ordinary and customary meaning, unless it can be shown the patentee *expressly* relinquished  
26 claim scope.” (emphasis added)).

27 Adopting Amazon's proposed constructions would be contrary to law and thus they should be  
28 rejected.

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