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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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

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

AMAZON.COM, INC., and AMAZON WEB
SERVICES, INC.,
Plaintiffs/Counterdefendants,

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

v.

**STIPULATED AMENDED
PROTECTIVE ORDER**

PERSONALWEB TECHNOLOGIES, LLC and
LEVEL 3 COMMUNICATIONS, LLC,
Defendants/Counterclaimants.

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

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

v.

TWITCH INTERACTIVE, INC.,
Defendant.

1 This Stipulated Protective Order is meant to govern the use of, and protect from public
2 disclosure, any non-public and confidential or proprietary information used or disclosed in this
3 litigation.

4 **1. PURPOSES AND LIMITATIONS**

5 Disclosure and discovery activity in these Actions are likely to involve production of
6 confidential, proprietary, or private information for which special protection from public disclosure
7 and from use for any purpose other than prosecuting this litigation would be warranted.
8 Accordingly, the parties hereby stipulate and petition the Court to enter the following Stipulated
9 Protective Order (“Order”). The parties acknowledge that this Order does not confer blanket
10 protections on all disclosures or responses to discovery and that the protection it affords from public
11 disclosure and use extends only to the limited information or items that are entitled to confidential
12 treatment under the applicable legal principles. The parties further acknowledge, as set forth in
13 Section 15.4 below, that this Order does not entitle them to file confidential information under seal.
14 Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be
15 applied when a party seeks permission from the Court to file material under seal.

16 **2. DEFINITIONS**

17 2.1. Actions: *In re Personal Web Technologies, LLC et al., Patent Litigation*, Case No.
18 5:18-md-02834-BLF (N.D. Cal.), *PersonalWeb Technologies, LLC and Level 3 Communications,*
19 *LLC v. Amazon.com, Inc. and Amazon Web Services, Inc.*, Case No. 5:18-cv-00767-BLF (N.D.
20 Cal.) and *PersonalWeb Technologies, LLC and Level 3 Communications, LLC v. Twitch*
21 *Interactive, Inc.*, Case No. 5:18-cv-05619-BLF (N.D. Cal.)

22 2.2. Amazon: Amazon.com, Inc. and Amazon Web Services, Inc. and any past and
23 present parents, predecessors, successors, subsidiaries, affiliates, divisions, associated
24 organizations and joint ventures of Amazon.

25 2.3. Challenging Party: a Party or Non-Party that challenges the designation of
26 information or items under this Order.

27 2.4. “CONFIDENTIAL” Information or Items: information (regardless of how
28 generated, stored, or maintained) or tangible things that qualify for protection under Federal Rule

1 of Civil Procedure 26(c), including information that a Designating Party believes to be of a
2 proprietary business or technical nature and not readily available to competitors, potential
3 competitors, and/or other third parties.

4 2.5. Counsel (without qualifier): Outside counsel and House Counsel (as well as their
5 support staff).

6 2.6. Designated House Counsel: House Counsel who seek access to “CONFIDENTIAL”
7 information in this matter.

8 2.7. Designating Party: a Party or Non-party that designates information or items that it
9 produces in disclosures or in responses to discovery as “CONFIDENTIAL,” “HIGHLY
10 CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or “HIGHLY CONFIDENTIAL – SOURCE
11 CODE.”

12 2.8. Disclosure or Discovery Material: all items or information, regardless of the
13 medium or manner generated, stored, or maintained (including, among other things, testimony,
14 transcripts, and tangible things) that are produced or generated in disclosures or responses to
15 discovery in this matter.

16 2.9. Expert: a person with specialized knowledge or experience in a matter pertinent to
17 the Actions who (1) has been retained by a Party or its Counsel to serve as an expert witness or as
18 a consultant in these Actions, (2) is not a past or current employee of a Party or of a Party’s
19 competitor, and (3) at the time of retention, is not anticipated to become an employee of a Party or
20 of a Party’s competitor.

21 2.10. “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or
22 Items: extremely sensitive “Confidential Information or Items,” disclosure of which to another
23 Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less
24 restrictive means. Subject to such qualifier, such information may fall into one or more of the
25 following categories: business plans, business development, product development, product designs,
26 engineering information, product specifications, software, trade secrets, market analysis,
27 competitor analysis, customer information, vendor information, internal financial/accounting
28 information, operations information, production information, distributor agreements, license

1 agreements, development agreements, sales agreements, pricing information, cost information, and
2 information regarding business relationships with third parties.

3 2.11. “HIGHLY CONFIDENTIAL – SOURCE CODE” Information or Items: extremely
4 sensitive “Confidential Information or Items” representing computer code and associated
5 comments and revision histories, formulas, engineering specifications, schematics that define or
6 otherwise describe in detail the algorithms or structure of software or hardware designs, or similar
7 sensitive computer code related materials, disclosure of which to another Party or non-Party would
8 create a substantial risk of serious harm that could not be avoided by less restrictive means.

9 2.12. House Counsel: attorneys who are employees of a Party to these Actions. House
10 Counsel does not include Outside Counsel of Record or any other outside counsel.

11 2.13. Level3: Level3 Communications, LLC and any past and present parents,
12 predecessors, successors, subsidiaries, affiliates, divisions, associated organizations and joint
13 ventures of Level3.

14 2.14. Non-Party: any natural person, partnership, corporation, association or other legal
15 entity not named as a Party to these Actions.

16 2.15. Outside Counsel of Record: attorneys who are not employees of a party to these
17 Actions but are retained to represent or advise a party to these Actions and have appeared in these
18 Actions on behalf of that party or are affiliated with a law firm which has appeared on behalf of
19 that party, along with their associated support staff.

20 2.16. Party: any party to these Actions, including all of its officers, directors, employees,
21 consultants, Experts, House Counsel, and Outside Counsel of Record (and their support staffs).

22 2.17. PersonalWeb: PersonalWeb Technologies, LLC and any past and present parents,
23 predecessors, successors, subsidiaries, affiliates, divisions, associated organizations and joint
24 ventures of PersonalWeb.

25 2.18. Producing Party: a Party or non-party that produces Disclosure or Discovery
26 Material in these Actions.

27 2.19. Professional Vendors: persons or entities that provide litigation support services
28 (e.g., photocopying; videotaping; translating; preparing exhibits or demonstrations; organizing,

1 storing, or retrieving data in any form or medium; jury consultation services; trial presentation
2 services, etc.) and their employees and subcontractors.

3 2.20. Protected Material: any Disclosure or Discovery Material that is designated as
4 “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY,” or
5 “HIGHLY CONFIDENTIAL – SOURCE CODE.”

6 2.21. Receiving Party: a Party that receives Disclosure or Discovery Material from a
7 Producing Party.

8 2.22. Twitch: Twitch Interactive, Inc. and any past and present parents, predecessors,
9 successors, subsidiaries, affiliates, divisions, associated organizations and joint ventures of Twitch.

10 **3. SCOPE**

11 The protections conferred by this Order cover not only Protected Material (as defined
12 above), but also (1) any information copied or extracted from Protected Material; (2) all copies,
13 excerpts, summaries, or compilations of Protected Material; and (3) any testimony, conversations,
14 or presentations by the parties or their Counsel that might reveal Protected Material. However, the
15 protections conferred by this Stipulation and Order do not cover the following information: (a) any
16 information that is in the public domain at the time of disclosure to a Receiving Party or becomes
17 part of the public domain after its disclosure to a Receiving Party as a result of publication not
18 involving a violation of this Order, including becoming part of the public record through trial or
19 otherwise; and (b) any information known to the Receiving Party prior to the disclosure or obtained
20 by the Receiving Party after the disclosure from a source who obtained the information lawfully
21 and under no obligation of confidentiality to the Designating Party. Any use of Protected Material
22 at trial shall be governed by a separate agreement or order.

23 **4. DURATION**

24 Even after final disposition of this litigation, the confidentiality obligations imposed by this
25 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
26 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims
27 and defenses in these Actions, with or without prejudice; and (2) final judgment herein after the
28 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of these Actions,

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