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6 Attorneys for Defendant and Counter-Plaintiff
7 LEVEL 3 COMMUNICATIONS, LLC

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

11 IN RE PERSONALWEB TECHNOLOGIES,
12 LLC, ET AL., PATENT LITIGATION,

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

13 AMAZON.COM, INC. and AMAZON WEB
14 SERVICES, INC.

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

15 Plaintiffs,

16 v.

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

18 Defendants.

**LEVEL 3 COMMUNICATIONS, LLC'S
STATEMENT ON THE MOTION OF
AMAZON.COM, INC. AND AMAZON
WEB SERVICES, INC. FOR JUDGMENT
ON THE PLEADINGS ON
INFRINGEMENT CLAIMS AGAINST
CLOUDFRONT**

Date: October 3, 2019

Time: 9:00 a.m.

Place: Courtroom 3, 5th Floor

Judge: Hon. Beth Freeman

Trial Date: March 16, 2020

19 PERSONALWEB TECHNOLOGIES, LLC, and
20 LEVEL 3 COMMUNICATIONS, LLC

21 Counter-Plaintiffs,

22 v.

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

24 Counter-Defendants.
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1 Defendant and Counter-Plaintiff Level 3 Communications, LLC (“Level 3”) hereby files a
2 Statement regarding Amazon’s Motion for Judgment on the Pleadings on Infringement Claims Against
3 CloudFront. (Dkt. 413 in Case No. 5:18-md-02834-BLF).

4 Paragraph 3 of the operative complaints states: “All infringement allegations, statements
5 describing PersonalWeb, statements describing any Defendant (or any Defendant’s products) and any
6 statements made regarding jurisdiction and venue are made by PersonalWeb alone, and not by Level 3.
7 PersonalWeb alleges that the infringements at issue in this case all occur within, and are limited to, the
8 PersonalWeb Patent Field. Accordingly, PersonalWeb has not provided notice to Level 3—under Section
9 6.4.1 of the Agreement or otherwise—that PersonalWeb desires to bring suit in the Level 3 Exclusive
10 Field in its own name on its own behalf or that PersonalWeb knows or suspects that Defendant is infringing
11 or has infringed any of Level 3’s rights in the patents.” (*See, e.g.*, Dkt. 175 at 1).

12 Paragraph 6 of the operative complaints states: “PersonalWeb’s infringement claims asserted in
13 this case are asserted by PersonalWeb and all fall outside the Level 3 Exclusive Field. Level 3 is currently
14 not asserting patent infringement in this case in the Level 3 Exclusive Field against any Defendant.” (*See,*
15 *e.g.*, Dkt. 175 at 2).

16 Level 3 understands that, based on the following language in the Court’s Order Granting in Part
17 and Denying in Part Amazon’s Motion for Summary Judgment, the Court seeks Level 3’s input on whether
18 Level 3 asserts patent infringement in the Level 3 Exclusive Field: “Although PersonalWeb argues that
19 the Kinetech-Digital Island Agreement does not preclude its right to assert these infringement claims
20 against Amazon’s CloudFront product, the Court will not analyze and resolve this issue without input
21 from Level 3. Amazon is free to challenge the inclusion of CloudFront in a separate motion and the Court
22 will expect Level 3 to either join in PersonalWeb’s opposition or to file a separate opposition.” (Dkt. 394
23 at 10).

24 Level 3 hereby confirms it is not asserting patent infringement in this case in the Level 3 Exclusive
25 Field against any Defendant, including Amazon, or against any Defendant’s product, including
26 CloudFront. Level 3 takes no position regarding Amazon’s Motion for Judgment on the Pleadings.
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1 Dated: May 8, 2019

Respectfully submitted,

2 **FOLEY & LARDNER LLP**

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4 */s/ Jose L. Patiño*

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