

EXHIBIT 3

Wesley Monroe

From: Ravi Ranganath <rranganath@fenwick.com>
Sent: Tuesday, May 14, 2019 5:35 PM
To: Wesley Monroe; Phillip Haack; Amazon_PersonalWeb_Team
Cc: Michael Sherman; Sandy Seth; Stanley H. Thompson Jr.; Ted Maceiko; Viviana Boero Hedrick; Jeffrey Gersh
Subject: RE: Proposed Amended Infringement Contentions - Amazon

Wes,

Amazon opposes PersonalWeb's requested amendment.

The patent rules are "designed specifically to require parties to crystallize their theories of the case early in the litigation so as to prevent the shifting sands approach to claim construction." *O2 Micro Int'l Ltd. v. Monolithic Power Sys., Inc.*, 467 F.3d 1355, 1364 (Fed. Cir. 2006) (internal quotation marks omitted). PersonalWeb's requested amendment—provided after the parties filed their claim construction briefs and just days before the *Markman* hearing—is exactly the sort of "shifting sands" approach the patent rules are meant to prevent. PersonalWeb must establish good cause for its amendment by showing it acted with diligence promptly after discovery of new evidence. *Apple Inc. v. Samsung Elecs. Co.*, No. 12-cv-0630-LHK PSG, 2013 WL 3246094, *1 (N.D. Cal. June 26, 2013). Based on your email, PersonalWeb's amendment is explicitly in response to Amazon and Twitch's legal contentions regarding claim construction, and not as a result of any newly discovered evidence. As another court in this district observed, "[c]oncern over the possibility of a loss at claim construction does not amount to good cause." *Id.* at *4.

Best regards,

RAVI RANGANATH

Associate | Fenwick & West LLP | +1 650-335-7614 | rranganath@fenwick.com
Admitted to practice in California.

From: Wesley Monroe [mailto:wmonroe@stubbsalderton.com]
Sent: Wednesday, May 8, 2019 9:15 PM
To: Phillip Haack <phaack@fenwick.com>; Amazon_PersonalWeb_Team <Amazon_PersonalWeb_Team@fenwick.com>
Cc: Michael Sherman <masherman@stubbsalderton.com>; Sandy Seth <sseth@stubbsalderton.com>; Stanley H. Thompson Jr. <sthompson@stubbsalderton.com>; Ted Maceiko <ted@maceikoip.com>; Viviana Boero Hedrick <vhedrick@stubbsalderton.com>; Jeffrey Gersh <jgersh@stubbsalderton.com>
Subject: RE: Proposed Amended Infringement Contentions - Amazon

Counsel,

Attached are PersonalWeb's proposed First Amended Infringement Contentions for Twitch as discussed in our email below of April 18, 2019.

In addition to the proposed amendments of the nature discussed in our April 18 email, the attached Twitch Infringement Contentions also incorporate changes necessitated by positions taken by Amazon in their Responsive Claim Construction Brief, as explained in more detail in the attached Twitch Infringement Contentions.

We look forward to receiving your response as to whether Amazon and Twitch will consent to PersonalWeb to make these amendments and/or will not oppose a request by PersonalWeb to the Court for leave to so amend its Infringement Contentions.

Best regards,

Wes

From: Wesley Monroe

Sent: Thursday, April 18, 2019 12:46 PM

To: Phillip Haack (phaack@fenwick.com) <phaack@fenwick.com>; Amazon_PersonalWeb_Team <Amazon_PersonalWeb_Team@fenwick.com>

Cc: Michael Sherman (masherman@stubbsalderton.com) <masherman@stubbsalderton.com>; Sandy Seth (sseth@stubbsalderton.com) <sseth@stubbsalderton.com>; Stanley H. Thompson Jr. (sthompson@stubbsalderton.com) <sthompson@stubbsalderton.com>; Ted Maceiko <ted@maceikoip.com>; Viviana Boero Hedrick <vhedrick@stubbsalderton.com>; Jeffrey Gersh (jgersh@stubbsalderton.com) <jgersh@stubbsalderton.com>

Subject: Proposed Amended Infringement Contentions - Amazon

Counsel,

In view of various discussions between counsel for PersonalWeb and Amazon regarding selection of claim construction terms as well as other developments in the cases, PersonalWeb seeks to amend its Infringement Contentions for both Amazon and Twitch and hereby requests Amazon's and Twitch's consent for PersonalWeb to make this amendment.

Attached are redline copies of the original Infringement Contentions and Exhibits A-C showing the proposed changes that PersonalWeb seeks to make. As you will see, there are relatively few changes. Several of them are just clarifying language and changes for consistency between the different Exhibits. Claims 29 and 30 of the '420 have been removed from Exhibit C to reflect PersonalWeb's withdrawal of those claims as discussed in our claim construction conferences of counsel. The table of asserted claims on page 2 of the Infringement Contention pleading has been changed to correspond to the claims listed in the Exhibits. Last, clarifications regarding the treatment of unlicensed content has been added to the Exhibits.

Redline copies of the original Infringement Contentions and Exhibits regarding Twitch will be sent shortly in a separate email. The proposed amendments in the Twitch Infringement Contentions generally correspond with the proposed amendments in the Amazon Infringement Contentions.

We are not aware of any prejudice to Amazon or Twitch that would result from PersonalWeb making the proposed amendments.

Please advise if Amazon and Twitch if they consent to PersonalWeb to make this amendment and/or will not oppose a request by PersonalWeb to the Court for leave to so amend its Infringement Contentions.

Best regards,

Wes Monroe

[V-card](#)

[Website](#)



Wesley Monroe
Of Counsel
wmonroe@stubbsalderton.com

Stubbs Alderton & Markiles, LLP
15260 Ventura Blvd., 20th Floor
Sherman Oaks, CA 91403

Bus/Text: 818.444.9279
Fax: 818.446.1246

1453 3rd Street Promenade, Suite 300
Santa Monica, CA 90401

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