

# EXHIBIT 5

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12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN JOSE DIVISION  
15

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

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

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

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

**PATENT L.R. 4-2 DISCLOSURE OF  
AMAZON.COM, INC. AND AMAZON  
WEB SERVICES, INC.**

19 Plaintiffs,

v.

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

Defendants.

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

Counterclaimants,

24 v.  
25

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

Counterdefendants.  
28

**I. INTRODUCTION**

Pursuant to Patent Local Rule 4-2 Amazon.com, Inc. and Amazon Web Services, Inc. (collectively “Amazon”) make the following disclosure of proposed constructions for each claim term, phrase, or clause that was previously identified for construction by any party. Amazon also identifies references from the specifications or prosecution histories of the patents-in-suit that support its proposed constructions, and any other intrinsic evidence, as well as extrinsic evidence in support of its claim construction positions. Amazon reserves the right to identify additional intrinsic and extrinsic evidence in response to constructions proposed and any evidenced advanced by PersonalWeb Technologies, LLC (“PersonalWeb”) and Level 3 Communications, LLC (“Level 3”) (collectively “Counterclaimants”) and/or as the result of the upcoming conferences of counsel relating to claim construction. Accordingly, the identification of supporting evidence in the attached is not exhaustive. Amazon further reserves its right to modify or refine the identifications of intrinsic and extrinsic evidence based on information learned through the course of discovery. Amazon also reserves the right to rely on extrinsic evidence that is not in its possession because PersonalWeb and Level 3 have failed to produce documents, for example, from related proceedings, in advance of the deadline for this disclosure as requested by Amazon.

Further, because of upcoming conferences concerning the proposed claim constructions, Amazon reserves the right individually to withdraw or modify any of the proposed constructions. Amazon also reserves the right to modify claim terms it proposed for construction. For example, Amazon reserves the right to seek construction of constituent portions of identified terms, phrases, and clauses if unable to reach agreement regarding the entire identified terms, phrases, and clauses. Pursuant to Patent Local Rule 4-2(c), Amazon is prepared to meet and confer with PersonalWeb and Level 3 at a mutually agreeable time and place for the purposes of finalizing a combined list, narrowing or resolving differences, facilitating the ultimate preparation of a Joint Claim Construction and Prehearing Statement, and establishing the procedures for exchanging expert disclosures, if any, relating to claim construction.

Amazon’s proposed constructions are preliminary, and Amazon expressly reserves the right to amend, supplement, and/or remove terms, phrases, and clauses and constructions from this list

1 to the full extent permitted under the Federal Rules, Local Rules, and the Patent Local Rules. Ac-  
2 cordingly, Amazon reserves the right to amend, modify, or supplement this disclosure as it deems  
3 appropriate.

4 To support its preliminary constructions identified in Exhibit A, and any modifications to  
5 them that may be made during the meet and confer process mandated by Patent Local Rule 4-2(c)  
6 or otherwise, Amazon may rely on expert testimony to address the parties' respective claim con-  
7 struction positions, the substance of that testimony to include 1) an identification of the level of one  
8 of ordinary skill in the art relevant to the Patents-in-Suit; 2) how one of ordinary skill in the art  
9 would understand the claim terms, phrases and clauses identified in Exhibit A in light of the speci-  
10 fication and statements made by the applicants to the Patent Office during prosecution and reexam-  
11 ination of the Patents-in-Suit; 3) ordinary meaning of the terms, phrases and clauses identified in  
12 Exhibit A as understood by such a person skilled in the art at the time of filing of the Patents-in-  
13 Suit; 4) structures, if any, described in the specification as performing the functions recited in claim  
14 terms governed by 35 U.S.C. § 112 ¶ 6; and 5) rebuttal to claim constructions and positions of  
15 Counterclaimants. Any such expert witnesses may also offer declaration testimony if necessary to  
16 respond to Counterclaimants' contentions or for the Court's benefit.

17  
18 Dated: January 28, 2019

FENWICK & WEST LLP

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28 Counsel for AMAZON.COM, INC. and AMA-  
ZON WEB SERVICES, INC.

**PROOF OF SERVICE**

I hereby certify that on this 28th day of January, 2019, a true and correct copy of Amazon’s Patent Local Rule 4-2 disclosure was served on each party through their counsel of record via email.

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