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12 AMAZON WEB SERVICES, INC., and  
13 TWITCH INTERACTIVE, INC.

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

17 IN RE: PERSONAL WEB TECHNOLOGIES,  
LLC ET AL., PATENT LITIGATION

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

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

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

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

19 Plaintiffs

20 v.

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

22 Defendants,

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

24 Counterclaimants,

25 v.

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

27 Counterdefendants.

**ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL EXHIBITS 1-2, 4, 7 TO  
DECLARATION OF SAINA S.  
SHAMILOV IN SUPPORT OF MOTION  
OF AMAZON.COM, INC., AND  
AMAZON WEB SERVICES, INC.,  
FOR SUMMARY JUDGMENT OF  
NONINFRINGEMENT AND MOTION  
OF TWITCH INTERACTIVE, INC. FOR  
SUMMARY JUDGMENT OF  
NONINFRINGEMENT AND TO  
EXCLUDE THE TESTIMONY OF  
ERIK DE LA IGLESIA**

Date: November 15, 2019  
Time: 9:00 a.m.  
Dept: Courtroom 3, 5th floor  
Judge: Hon. Beth L. Freeman

28 Administrative Motion to File Under Seal

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

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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.

Trial Date: March 16, 2020

1 Pursuant to Civil Local Rules 7-11 and 79-5(d), Amazon.com, Inc., and Amazon Web  
2 Services, Inc. (collectively, “Amazon”), and Twitch Interactive, Inc. (“Twitch”) hereby move for  
3 administrative relief to file the following items under seal in connection with Amazon’s Motion for  
4 Summary Judgment of Noninfringement and Twitch’s Motion for Summary Judgment of  
5 Noninfringement and to Exclude the Testimony of Erik de la Iglesia (“Motions”).

- 6 • Amazon’s Motion for Summary Judgment of Noninfringement at page:line nos.:  
7 14:2-3, 14:4-5.
- 8 • **Exhibit 1** to the Declaration of Saina S. Shamilov in Support of Amazon and  
9 Twitch’s Motions (“Shamilov Declaration”) is the technical report of PersonalWeb  
10 Technologies, LLC’s (“PersonalWeb”) expert Erik de la Iglesia on infringement.
- 11 • **Exhibit 2** to the Shamilov Declaration is the responsive report of Amazon and  
12 Twitch’s expert, Dr. Jon B. Weissman, on non-infringement.
- 13 • **Exhibit 4** to the Shamilov Declaration is an excerpt from the deposition of James  
14 Richard (“Richard”).
- 15 • **Exhibit 7** to the Shamilov Declaration is an excerpt from the deposition of Ronald  
16 Lachman (“Lachman”).

17 Amazon and Twitch request leave to file Exhibits 1-2, 4, and 7 under seal.

18 Exhibit 1 is the technical expert report of PersonalWeb’s expert, Erik de la Iglesia, on  
19 infringement. PersonalWeb Technologies, LLC (“PersonalWeb”) has designated this report as  
20 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the Stipulated Protective  
21 Order entered by the Court in the pending actions, Case Nos. 5:18-md-02834-BLF (Dkt. No. 290)  
22 and 5:18-cv-00767-BLF (“Current Actions).” Specifically, the expert report attached as Exhibit 1  
23 includes references to and characterizations of Twitch’s proprietary source code and excerpts of the  
24 deposition testimony of Twitch’s technical witnesses. The Court previously granted Amazon and  
25 Twitch’s Administrative Motion to Seal Exhibit 1 for substantially the same reasons. (Dkt. 535.)  
26 As to information *other* than the Amazon and Twitch confidential information discussed above,  
27 Amazon and Twitch file this administrative motion to abide by the terms of the Stipulated Protective  
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1 Order and to facilitate the filing of their Motions.

2 Exhibit 2 is the responsive expert report of Amazon and Twitch's expert, Dr. Jon B.  
3 Weissman, on non-infringement. Amazon and Twitch designated this report as "HIGHLY  
4 CONFIDENTIAL – ATTORNEYS' EYES ONLY" under the Stipulated Protective Order entered  
5 by the Court in the Current Actions. Exhibit 2 similarly includes references to and characterizations  
6 of Amazon and Twitch's proprietary source code and excerpts of the deposition testimony of  
7 Amazon and Twitch's technical witnesses. Both this highly confidential source code and the  
8 deposition transcript have been designated under the Stipulated Protective Order, and consist of  
9 sensitive information that Amazon and Twitch maintain as confidential and do not reveal to the  
10 general public.

11 In the Ninth Circuit, a district court may override the presumption of public access to judicial  
12 documents where "good cause" is shown. *See Phillips ex rel. Estates of Byrd v. General Motors*  
13 *Corp.*, 307 F.3d 1206, 1210 (9th Cir. 2002). "For good cause to exist, the party seeking protection  
14 bears the burden of showing specific prejudice or harm will result if no protective order is granted."  
15 *Id.* at 1211 (internal citations omitted). A party seeking to file documents under seal in connection  
16 with a dispositive motion must establish compelling reasons for doing so to rebut the presumption  
17 against public access. *See Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136 (9th Cir.  
18 2003). As explained in the accompanying Declaration of Ravi R. Ranganath in Support of  
19 Administrative Motion to File Under Seal Exhibits 1-2, 4, 7 ("Ranganath MFUS Declaration"), the  
20 confidential and proprietary source code and the excerpted deposition testimony meets this standard.  
21 *See, e.g., Opperman v. Path, Inc.*, No. 3-cv-00453-JST, 2017 WL 1036652, at \*2 (N.D. Cal. Mar.  
22 17, 2017) (sealing excerpts of developers' proprietary source code in summary judgment pleadings).

23 Amazon and Twitch have designated the Weissman report as "HIGHLY CONFIDENTIAL  
24 – ATTORNEYS' EYES ONLY" in its entirety. Disclosure of confidential and proprietary source  
25 code and excerpts of depositions of Amazon and Twitch's technical witnesses would put these  
26 entities at a competitive disadvantage with respect to competitors and competing services.

27 Amazon and Twitch also request leave to file Exhibit 4 under seal. Exhibit 4 contains an  
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1 excerpt of deposition testimony regarding non-public aspects of the internal operation of Twitch's  
2 web servers. Amazon and Twitch designated this item as "HIGHLY CONFIDENTIAL –  
3 ATTORNEYS' EYES ONLY" in the Current Actions.

4 As further explained in the Ranganath MFUS Declaration, the confidential deposition  
5 testimony Amazon and Twitch seek to file under seal meets the *Foltz* standard. *See Phoenix*  
6 *Technologies Ltd. v. VMware, Inc.*, No. 15-cv-01414-HSG, 2018 WL 1169188, at \*2 (N.D. Cal. Feb.  
7 14, 2018) (good cause exists to protect business information that might harm a litigant's competitive  
8 standing if disclosed, and where the redaction is "sufficiently narrowly tailored" to only seal portions  
9 of the exhibit that might put sensitive business information at risk). Disclosure of non-public details  
10 regarding the operation of Twitch's services would put it at a competitive disadvantage with respect  
11 to competitors and competing services.

12 Amazon and Twitch also request leave to file Exhibit 7 under seal. The deposition transcript  
13 was designated "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" ("AEO") in its  
14 entirety by PersonalWeb. With respect to this exhibit, Amazon and Twitch seek leave to file under  
15 seal only to abide by the terms of the Stipulated Protective Order in the Current Actions and to  
16 facilitate the filing of their Motions. By filing this administrative motion, Amazon and Twitch do  
17 not waive their right to contest PersonalWeb's designations and expressly reserve their rights to  
18 contest the propriety of the designations, in whole or in part. Because PersonalWeb has designated  
19 this exhibit as highly confidential, Amazon and Twitch also seek leave to file the corresponding  
20 excerpt in Amazon's Motion under seal for the same reason outlined above.

21  
22 Respectfully submitted,

23 Dated: October 4, 2019

FENWICK & WEST LLP

24  
25 By: /s/ Ravi R. Ranganath

Ravi R. Ranganath (CSB No. 272981)

26 Counsel for AMAZON.COM, INC.,  
27 AMAZON WEB SERVICES, INC., and  
28 TWITCH INTERACTIVE, INC.