

EXHIBIT 4

From: Michael Sherman <masherman@stubbsalderton.com>
Sent: Monday, September 23, 2019 10:15 AM
To: David Hadden
Cc: Wesley Monroe; Sandy Seth; Stanley H. Thompson Jr.; Jeffrey Gersh; Viviana Boero Hedrick; Saina Shamilov; Todd Gregorian
Subject: Amazon DJ Action
Attachments: 2019-09-20- Amazon- Joint Stipulation of Non-Infringement and Motion for Final Judgment (003).docx

Dear Dave:

In my letter to you dated August 19 I proposed stipulating to judgment of non-infringement on the Amazon DJ action and to judgment of non-infringement as respects that '544 patent claims asserted against Twitch and all other website operators that are part of the MDL. In a call we had shortly after that letter, I reiterated our willingness and inquired about our working together to get some form of stipulation on file to accomplish same; you indicated you would raise with Amazon and get back to me.

I have not heard back from you on that issue, and to move the ball forward send to you a draft stipulation that accounts for the Amazon DJ action (it is attached). Please review and get back to me, and let's see if we can get this taken care of ASAP. In a manner of speaking, I do believe we both "owe" this to the Court, so that the Court needn't concern itself with the pending motion for judgement on the pleadings directed to CloudFront, set for hearing on October 3. I'm sure the Court will soon be working this up, and it seems as though the sooner we can get this or a comparable stipulation to the Court, the better, so as to save the Court the need for work-up on the motion for judgment issues.

As for the Twitch/'544 issues, on further reflection I presume you'd agree that there's no procedural mechanism that would now apply to a partial judgment on just that issue. You are certainly aware that we've not submitted an expert report on infringement as respects the '544 patent. Are you interested in the preparation of some joint stipulation to the Court, covering this issue?

Regards
Michael

V-card

Bio

Website



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<p>10 Attorneys for PersonalWeb Technologies, 11 LLC [Additional attorneys listed on signature page]</p>	<p>Attorneys for Amazon.com, Inc. and Amazon Web Services, Inc.</p>
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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

16 IN RE PERSONAL WEB TECHNOLOGIES, 17 LLC, ET AL., PATENT LITIGATION	CASE NO.: 5:18-md-02834-BLF
18 AMAZON.COM, INC., et al., 19 Plaintiffs, 20 v. 21 PERSONALWEB TECHNOLOGIES, LLC, et 22 al., 23 Defendants.	Case No.: 5:18-cv-00767-BLF JOINT STIPULATION OF NON- INFRINGEMENT AND MOTION FOR FINAL JUDGMENT
24 PERSONALWEB TECHNOLOGIES, LLC and LEVEL 3 COMMUNICATIONS, LLC, 25 Counterclaimants, 26 v. 27 AMAZON.COM, INC. and AMAZON WEB SERVICES, INC., 28 Counterdefendants.	

1 Based upon the below stipulations, and as a result of the Court’s construction of the disputed
2 terms “unauthorized or unlicensed” and “authorization” in the Claim Construction Order (Dkt. 485),
3 Plaintiff PersonalWeb Technologies, LLC (“PersonalWeb”) and Defendants Amazon.com, Inc. and
4 Amazon Web Services, Inc. (collectively, “Amazon”) move for: (1) entry of final judgment of non-
5 infringement of U.S. Patent Nos. 6,928,442 (the “442 patent”), 7,802,310 (the “310 patent”),
6 7,945,544 (the “544 patent”), and 8,099,420 (the “420 patent”) in favor of Amazon with respect to
7 Amazon’s claims for declaratory judgment of non-infringement by Amazon of the ‘442 patent, ‘310
8 patent, ‘420 patent, and ‘544 patent and PersonalWeb’s counterclaims of infringement by Amazon of
9 the ‘442 patent, ‘310 patent, and ‘420 patent; (2) entry of final declaratory judgment that claim
10 preclusion bars PersonalWeb’s claims against Amazon’s customers for infringement of the ‘442
11 patent, ‘420 patent, ‘310 patent, and ‘544 patent, based solely on their use of Amazon S3, and that the
12 *Kessler* doctrine bars PersonalWeb’s claims against Amazon’s customers for infringement of the ‘442,
13 ‘310, ‘544, and ‘420 patents based solely on their use of Amazon S3, both subject to reversal,
14 modification or vacation based on Appeal No. 19-1918, now pending before the United States Court
15 of Appeals for the Federal Circuit, and (3) dismissal without prejudice of all of Amazon’s remaining
16 claims for declaratory judgment, *e.g.*, of non-infringement of U.S. Patent No. 5,978,791 (the “791
17 patent”), and of Amazon’s defenses to PersonalWeb’s counterclaims of patent infringement, all
18 without prejudice to Amazon’s rights to reassert those claims or defenses in this action if the Court of
19 Appeals or the Supreme Court reverses, modifies or vacates the Final Judgment.

20 Based on the Court’s construction of the terms “unauthorized or unlicensed” and
21 “authorization” in the Claim Construction Order (Dkt. 485), PersonalWeb cannot meet its burden of
22 proving infringement. Entering final judgment of non-infringement in favor of Amazon in this case
23 for declaratory judgment will allow the parties to forego further litigation in this case (5:18-cv-00767-
24 BLF), while preserving PersonalWeb’s right to appeal the Court’s Claim Construction Order (Dkt.
25 485). PersonalWeb intends to appeal the Court’s forthcoming entry of a final judgment of non-
26 infringement.

27 **STIPULATION**

28

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